This draft Order supersedes the draft of the same title which was laid before the Scottish Parliament on 16 January 2026 and published on 16 January 2026 (ISBN 978-0-11-106503-7). It is being issued free of charge to all known recipients of that draft Order.

Draft Order laid before the Scottish Parliament under section 141(4)(a) of the Antisocial Behaviour etc. (Scotland) Act 2004, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

ANTI-SOCIAL BEHAVIOUR

The Antisocial Behaviour (Fixed Penalty Offences) (Miscellaneous Amendment) (Scotland) Order 2026

Made - - - -	*2026*
Coming into force - -	*26th March 2026*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 128(2)(b), 130(1) and 141(2)(b) of the Antisocial Behaviour etc. (Scotland) Act 2004(**a**) and all other powers enabling them to do so.

In accordance with section 141(4)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(**b**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Antisocial Behaviour (Fixed Penalty Offences) (Miscellaneous Amendment) (Scotland) Order 2026 and comes into force on 26 March 2026.

(2) In this Order—

"the 2004 Act" means the Antisocial Behaviour etc. (Scotland) Act 2004,

"the 2005 Order" means the Antisocial Behaviour (Amount of Fixed Penalty) (Scotland) Order 2005(**c**).

(**a**) 2004 asp 8.

(**b**) By virtue of section 141(4)(a) of the Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act"), as modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) ("the 2010 Act"), orders made under section 128(2) of the 2004 Act are subject to the affirmative procedure. By virtue of section 141(3) of the 2004 Act, as modified by paragraph 2 of schedule 3 of the 2010 Act, orders made under section 130(1) of the 2004 Act are subject to the negative procedure. These powers are being exercised together to make this Order by virtue of section 33(2) of the 2010 Act, section 33(3) of which makes this Order subject to the affirmative procedure.

(**c**) S.S.I. 2005/110.

Amendment to the 2004 Act

2.—(1) Section 128(1) (fixed penalty offences) of the 2004 Act(**a**) is amended in accordance with paragraph (2).

(2) In Part 1 of the table, after the entry for section 52(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (vandalism), insert—

"Section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 10)	Threatening or abusive behaviour".

Amendment to the 2005 Order

3. In article 2 of the 2005 Order (amount of fixed penalty) for "£40" substitute "£70".

Saving provision

4. Articles 2 and 3 do not apply in respect of offences committed prior to 26 March 2026.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments which apply in relation to fixed penalty notices under section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act").

Article 2 adds the offence of threatening or abusive behaviour to the list of offences in section 128(1) of the 2004 Act. This means that it will now be possible for a constable to issue a fixed penalty notice for such an offence.

Article 3 amends article 2 of the Antisocial Behaviour (Amount of Fixed Penalty) (Scotland) Order 2005 to increase the level of fine which can be imposed by a fixed penalty notice from £40 to £70.

Article 4 provides that the changes being made by articles 2 and 3 do not apply in respect of offences committed before 26 March 2026.

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(**a**) Section 128(1) was relevantly amended by S.S.I. 2009/248.

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