SCOTTISH STATUTORY INSTRUMENTS

2025 No. 28

ENVIRONMENTAL PROTECTION

The Environmental Protection (Injurious Articles) (Fixed Penalty Notices and Miscellaneous Amendments) (Scotland) Regulations 2025

Made - - - -	*5th February 2025*
Laid before the Scottish Parliament	*7th February 2025*
Coming into force - -	*31st March 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 140(1), (3)(a) and (c), and (10A) to (10D) of the Environmental Protection Act 1990(**a**) and all other powers enabling them to do so.

In accordance with section 140(6)(**b**) of that Act, they have published notices in the London Gazette and in the Edinburgh Gazette and have considered the representations made to them in accordance with those notices.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Environmental Protection (Injurious Articles) (Fixed Penalty Notices and Miscellaneous Amendments) (Scotland) Regulations 2025 and come into force on 31 March 2025.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

"the 2018 Regulations" means the Environmental Protection (Microbeads) (Scotland) Regulations 2018(**c**),

(**a**) 1990 c. 43. Section 140(10A) to (10D) was inserted by the Circular Economy (Scotland) Act 2024 (asp 13), and section 140(3)(c) was amended by S.I. 1999/1108. The functions of the Secretary of State under section 140, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**b**) Section 140(6) was amended by S.I. 2012/1923.
(**c**) S.S.I. 2018/162.

"the 2019 Regulations" means the Environmental Protection (Cotton Buds) (Scotland) Regulations 2019(**a**),

"the 2021 Regulations" means the Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021(**b**),

"the 2024 Regulations" means the Environmental Protection (Single-use Vapes) (Scotland) Regulations 2024(**c**).

PART 2

Amendment of the 2018 Regulations

3.—(1) The 2018 Regulations are amended in accordance with paragraph (2).

(2) After regulation 6, insert—

"Power to give a fixed penalty notice

7.—(1) An enforcement officer may, if having reason to believe that a person is committing or has committed an offence under regulation 3(1) or (2) of these Regulations, give that person a fixed penalty notice.

(2) A fixed penalty notice for an offence under regulation 3(1) or (2) of these Regulations may not be given more than 14 days after the day on which the offence took place.

(3) Where a person is given a fixed penalty notice in respect of an offence under regulation 3(1) or (2) of these Regulations—

(a) no proceedings may be instituted for that offence before the end of the period of 28 days beginning with the date of the notice, and

(b) the person may not be convicted of the offence if—

(i) the discounted amount is paid before the end of the period of 14 days beginning with the date of the notice, or

(ii) the fixed penalty is paid before the end of the period of 28 days beginning with the date of the notice.

(4) A fixed penalty payable in pursuance of a fixed penalty notice under this regulation is to be paid to the local authority in whose area the offence was committed.

(5) In any proceedings, a certificate which—

(a) purports to be signed by the person having responsibility for the financial affairs of the local authority to which the fixed penalty is to be paid, and

(b) states that payment of a fixed penalty or discounted amount was or was not received by the date specified in the certificate,

is evidence of the facts stated.

(6) An enforcement officer may require a person to give their name, address and date of birth, if the enforcement officer proposes to give the person a fixed penalty notice.

(7) A person commits an offence if the person—

(a) fails to give a name, address or date of birth when required to so under paragraph (6), or

(b) gives a false of inaccurate name, address or date of birth in response to a requirement under that paragraph.

(**a**) S.S.I. 2019/271.
(**b**) S.S.I. 2021/410.
(**c**) S.S.I. 2024/269.

(8) A person who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) In this regulation and regulations 8 and 9, "fixed penalty notice" means a notice offering a person the opportunity of discharging any liability to conviction for an offence under regulation 3(1) or (2) of these Regulations by payment of a fixed penalty.

Contents of a fixed penalty notice

8. A fixed penalty notice must—

(a) set out the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,

(b) set out the period during which, by virtue of regulation 7(3)(a), proceedings will not be instituted for the offence,

(c) set out the amount of the fixed penalty, including the discounted amount that applies where payment is made before the end of the period of 14 days beginning with the date of the notice,

(d) set out the period within which the fixed penalty must be paid, including the period within which discounted amount must be paid in order for the discount to apply,

(e) explain that the fixed penalty notice contains an offer to discharge liability for the offence by payment of a fixed penalty and that the person is not required to accept that offer,

(f) explain that should the person choose not to accept the offer to discharge liability for the offence by payment of a fixed penalty, that person may be prosecuted for that offence,

(g) state the person to whom the fixed penalty may be paid, and the address at which the fixed penalty may be paid.

Fixed penalty amounts and payment periods

9.—(1) Subject to paragraph (2), the fixed penalty amount and the discounted amount for an offence under regulation 3(1) or (2) are—

(a) £200 (fixed penalty), and

(b) £100 (discounted amount).

(2) Where a person has accepted the offer of a fixed penalty, the fixed penalty must be paid—

(a) in order for the discounted amount to apply, before the end of the period of 14 days beginning with the date of the notice,

(b) in any other case, before the end of the period of 28 days beginning with the date of the notice.".

PART 3

Amendment of the 2019 Regulations

4.—(1) The 2019 Regulations are amended in accordance with paragraph (2).

(2) After regulation 6, insert—

"Power to give a fixed penalty notice

7.—(1) An enforcement officer may, if having reason to believe that a person is committing or has committed an offence under regulation 3(1) or (2) of these Regulations, give that person a fixed penalty notice.

(2) A fixed penalty notice for an offence under regulation 3(1) or (2) of these Regulations may not be given more than 14 days after the day on which the offence took place.

(3) Where a person is given a fixed penalty notice in respect of an offence under regulation 3(1) or (2) of these Regulations—

(a) no proceedings may be instituted for that offence before the end of the period of 28 days beginning with the date of the notice, and

(b) the person may not be convicted of the offence if—

(i) the discounted amount is paid before the end of the period of 14 days beginning with the date of the notice, or

(ii) the fixed penalty is paid before the end of the period of 28 days beginning with the date of the notice.

(4) A fixed penalty payable in pursuance of a fixed penalty notice under this regulation is to be paid to the local authority in whose area the offence was committed.

(5) In any proceedings, a certificate which—

(a) purports to be signed by the person having responsibility for the financial affairs of the local authority to which the fixed penalty is to be paid, and

(b) states that payment of a fixed penalty or a discounted amount was or was not received by the date specified in the certificate,

is evidence of the facts stated.

(6) An enforcement officer may require a person to give their name, address and date of birth, if the enforcement officer proposes to give the person a fixed penalty notice.

(7) A person commits an offence if the person—

(a) fails to give a name, address or date of birth when required to so under paragraph (6), or

(b) gives a false of inaccurate name, address or date of birth in response to a requirement under that paragraph.

(8) A person who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) In this regulation and regulations 8 and 9, "fixed penalty notice" means a notice offering a person the opportunity of discharging any liability to conviction for an offence under regulation 3(1) or (2) of these Regulations by payment of a fixed penalty.

Contents of a fixed penalty notice

8. A fixed penalty notice must—

(a) set out the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,

(b) set out the period during which, by virtue of regulation 7(3)(a), proceedings will not be instituted for the offence,

(c) set out the amount of the fixed penalty, including any discounted amount that applies where payment is made before the end of the period of 14 days beginning with the date of the notice,

(d) set out the period within which the fixed penalty must be paid, including the period within which the discounted amount must be paid in order for the discount to apply,

(e) explain that the fixed penalty notice contains an offer to discharge liability for the offence by payment of a fixed penalty and that the person is not required to accept that offer,

(f) explain that should the person choose not to accept the offer to discharge liability for the offence by payment of a fixed penalty, that person may be prosecuted for that offence,

(g) state the person to whom the fixed penalty may be paid, and the address at which the fixed penalty may be paid.

Fixed penalty amounts and payment periods

9.—(1) Subject to paragraph (2), the fixed penalty amount and discounted amount for an offence under regulation 3(1) or (2) are—

(a) £200 (fixed penalty), and

(b) £100 (discounted amount).

(2) Where a person has accepted the offer of a fixed penalty, the fixed penalty must be paid—

(a) in order for the discounted amount to apply, before the end of the period of 14 days beginning with the date of the notice,

(b) in any other case, before the end of the period of 28 days beginning with the date of the notice.".

PART 4

Amendment of the 2021 Regulations

5.—(1) The 2021 Regulations are amended in accordance with paragraph (2).

(2) After regulation 15, insert—

"**Power to give a fixed penalty notice**

16.—(1) An enforcement officer may, if having reason to believe that a person is committing or has committed an offence under regulations 3(1), (2) or (3), 4(1) or 5(1) of these Regulations, give that person a fixed penalty notice.

(2) A fixed penalty notice for an offence under regulations 3(1), (2) or (3), 4(1) or 5(1) of these Regulations may not be given more than 14 days after the day on which the offence took place.

(3) Where a person is given a fixed penalty notice in respect of an offence under regulations 3(1), (2) or (3), 4(1) or 5(1) of these Regulations—

(a) no proceedings may be instituted for that offence before the end of the period of 28 days beginning with the date of the notice, and

(b) the person may not be convicted of the offence if—

(i) the discounted amount is paid before the end of the period of 14 days beginning with the date of the notice, or

(ii) the fixed penalty is paid before the end of the period of 28 days beginning with the date of the notice.

(4) A fixed penalty payable in pursuance of a fixed penalty notice under this regulation is to be paid to the local authority in whose area the offence was committed.

(5) In any proceedings, a certificate which—

(a) purports to be signed by the person having responsibility for the financial affairs of the local authority to which the fixed penalty is to be paid, and

(b) states that payment of a fixed penalty or discounted amount was or was not received by the date specified in the certificate,

is evidence of the facts stated.

(6) An enforcement officer may require a person to give their name, address and date of birth, if the enforcement officer proposes to give the person a fixed penalty notice.

(7) A person commits an offence if the person—

(a) fails to give a name, address or date of birth when required to so under paragraph (6), or

(b) gives a false of inaccurate name, address or date of birth in response to a requirement under that paragraph.

(8) A person who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) In this Part, "fixed penalty notice" means a notice offering a person the opportunity of discharging any liability to conviction for an offence under regulations 3(1), (2) or (3), 4(1) or 5(1) of these Regulations by payment of a fixed penalty.

Contents of a fixed penalty notice

17. A fixed penalty notice must—

(a) set out the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,

(b) set out the period during which, by virtue of regulation 16(3)(a), proceedings will not be instituted for the offence,

(c) set out the amount of the fixed penalty, including any discounted amount that applies where payment is made before the end of the period of 14 days beginning with the date of the notice,

(d) set out the period within which the fixed penalty must be paid, including the period within which the discounted amount must be paid in order for the discount to apply,

(e) explain that the fixed penalty notice contains an offer to discharge liability for the offence by payment of a fixed penalty and that the person is not required to accept that offer,

(f) explain that should the person choose not to accept the offer to discharge liability for the offence by payment of a fixed penalty, that person may be prosecuted for that offence,

(g) state the person to whom the fixed penalty may be paid, and the address at which the fixed penalty may be paid.

Fixed penalty amounts and payment periods

18.—(1) Subject to paragraph (2), the fixed penalty amount and the discounted amount for an offence under Part 2 of these Regulations are—

(a) £200 (fixed penalty), and

(b) £100 (discounted amount).

(2) Where a person has accepted the offer of a fixed penalty, the fixed penalty must be paid—

(a) in order for the discounted amount to apply, before the end of the period of 14 days beginning with the date of the notice,

(b) in any other case, before the end of the period of 28 days beginning with the date of the notice.".

PART 5

Amendment of the 2024 Regulations

6. The 2024 Regulations are amended in accordance with Regulations 7 to 10.

Amendment of regulation 1 (citation, commencement and extent)

7. In regulation 1(1) (citation, commencement and extent), for "April" substitute "June".

Amendment of regulation 5 (offence: failure to comply with an enforcement requirement)

8. In regulation 5(1) (offence: failure to comply with an enforcement requirement), for "enforcement's officers", substitute "enforcement officer's".

Amendment of regulation 9 (powers of entry, investigation and examination etc.)

9. In regulation 9(1) (powers of entry, investigation and examination etc.)—

(a) for sub-paragraph (e), substitute—

"(e) to take any samples, or cause samples to be taken, of any vape or component of a vape, which appears to that enforcement officer to be a single-use vape or component of single-use vape found in or on any premises which an enforcement officer has power to enter under sub-paragraph (a), and to cause any such samples to be analysed or tested,",

(b) for sub-paragraph (f), substitute—

"(f) in the case of any vape or component of a vape which appears to that enforcement officer to be a single-use vape or component of a single-use vape found in any premises which an enforcement officer has power to enter, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it, unless that is necessary),",

(c) in sub-paragraph (g)—

(i) in the opening words, for "single-use vapes", substitute—

"vape or component of a vape which appears to that enforcement officer to be a single-use vape or component of a single-use vape",

(ii) after head (iii), insert—

"(iv) to ensure that it is retained for the purposes of compliance with any direction given by the Scottish Ministers under regulation 14,".

Fixed penalty notices and disposal of single-use vapes

10. After regulation 10 (warrants), insert—

"**Power to give a fixed penalty notice**

11.—(1) If an enforcement officer has reason to believe that a person is committing or has committed an offence under regulation 4(1) of these Regulations, the enforcement officer may give that person a fixed penalty notice.

(2) A fixed penalty notice for an offence under regulation 4(1) of these Regulations may not be given more than 14 days after the day on which the offence took place.

(3) Where a person is given a fixed penalty notice in respect of an offence under regulation 4(1) of these Regulations—

(a) no proceedings may be instituted for that offence before the end of the period of 28 days beginning with the date of the notice, and

(b) the person may not be convicted of the offence if—

(i) the discounted amount is paid before the end of the period of 14 days beginning with the date of the notice, or

(ii) the fixed penalty is paid before the end of the period of 28 days beginning with the date of the notice.

(4) A fixed penalty payable in pursuance of a fixed penalty notice under this regulation is to be paid to the local authority in whose area the offence was committed.

(5) In any proceedings, a certificate which—

(a) purports to be signed by the person having responsibility for the financial affairs of the local authority to which the fixed penalty is to be paid, and

(b) states that payment of a fixed penalty or discounted amount was or was not received by the date specified in the certificate,

is evidence of the facts stated.

(6) An enforcement officer may require a person to give their name, address and date of birth if the enforcement officer proposes to give the person a fixed penalty notice.

(7) A person commits an offence if the person—

(a) fails to give a name, address or date of birth when required to so under paragraph (6), or

(b) gives a false of inaccurate name, address or date of birth in response to a requirement under that paragraph.

(8) A person who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) In this Part, "fixed penalty notice" means a notice offering a person the opportunity of discharging any liability to conviction for an offence under regulation 4(1) of these Regulations by payment of a fixed penalty.

Contents of a fixed penalty notice

12. A fixed penalty notice must—

(a) set out the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,

(b) set out the period during which, by virtue of regulation 11(3)(a), proceedings will not be instituted for the offence,

(c) set out the amount of the fixed penalty, including any discounted amount that applies where payment is made before the end of the period of 14 days beginning with the date of the notice,

(d) set out the period within which the fixed penalty must be paid, including the period within which the discounted amount must be paid in order for the discount to apply,

(e) explain that the fixed penalty notice contains an offer to discharge liability for the offence by payment of a fixed penalty and that the person is not required to accept that offer,

(f) explain that should the person choose not to accept the offer to discharge liability for the offence by payment of a fixed penalty, that person may be prosecuted for that offence,

(g) state the person to whom the fixed penalty may be paid, and the address at which the fixed penalty may be paid.

Fixed penalty amounts and payment periods

13.—(1) Subject to paragraph (2), the fixed penalty amount and discounted amount for an offence under regulation 4(1) are—

(a) £200 (fixed penalty), and

(b) £150 (discounted amount).

(2) Where a person is issued with a fixed penalty notice and that person has been the subject of previous enforcement action within the preceding three years, the fixed penalty amounts and discounted amounts are as set out in Table 1.

(3) Where a person has accepted the offer of a fixed penalty, the fixed penalty must be paid—

(a) in order for the discounted amount to apply, before the end of the period of 14 days beginning with the date of the notice,

(b) in any other case, before the end of the period of 28 days beginning with the date of the notice.

(4) In this regulation, "enforcement action" means the giving of a fixed penalty notice or the conviction for an offence under regulation 4(1).

Table 1

Number of previous enforcement actions	*Amount of fixed penalty* £	*Discounted amount* £
One	400	350
Two	600	550
Three	800	750

Disposal of single-use vapes

14.—(1) The Scottish Ministers may direct that single-use vapes of a description specified in paragraph (2) are to be treated as waste and disposed of or otherwise treated as the Scottish Ministers consider necessary.

(2) The single-use vapes referred to in paragraph (1) are any single-use vapes which have been supplied, offered for supply or held in a person's possession for supply in contravention of regulation 4(1), and include any single-use vapes in respect of which an enforcement officer has issued a fixed penalty notice under regulation 11 and the fixed penalty has subsequently been paid in accordance with regulation 13(3).

(3) A direction under paragraph (1)—

(a) may be given to any one or more local authorities in connection with any enforcement action taken under these Regulations,

(b) may be applicable in respect of single-use vapes retained by any enforcement officer,

(c) must not be executed by the local authority concerned (or by a person acting on the local authority's behalf until any right of appeal in relation to the offence is exhausted.".

ALASDAIR ALLAN
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
5th February 2025

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for a fixed penalty notice procedure in relation to offences under the Environmental Protection (Microbeads) (Scotland) Regulations 2018 ("the 2018 Regulations"), the Environmental Protection (Cotton Buds) (Scotland) Regulations 2019 ("the 2019 Regulations"), the Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 ("the 2021 Regulations"), and the Environmental Protection (Single-use Vapes) (Scotland) Regulations 2024 ("the 2024 Regulations").

These Regulations also make amendments to the 2024 Regulations to provide for a later coming into force date, to clarify the circumstances in which an enforcement officer may take vapes or components of vapes into their possession, and to correct a minor typographical error.

Part 2 of these Regulations provides for a fixed penalty notice procedure in relation to offences under regulation 3(1) or (2) of the 2018 Regulations. New regulation 7 of the 2018 Regulations inserted by regulation 3 outlines the circumstances in which an enforcement officer may give a fixed penalty notice to a person, the effect of either accepting or refusing the offer to pay the fixed penalty, the time period during which a fixed penalty notice may be given, and during which no other proceedings may be commenced in relation to an offence under regulation 3(1) or (2) of the 2018 Regulations. It additionally provides an enforcement officer with a power to require that a person to be issued with a fixed penalty notice give their name, address and date of birth, and a related offence for refusing to provide that information or giving false information. New regulation 8 of the 2018 Regulations sets out the particulars that must be included in a fixed penalty notice given under new regulation 7, and new regulation 9 provides for the amount of the fixed penalty and the discounted amount that applies when paid within the period identified.

Parts 3 and 4 provide for similar amendments to the 2019 Regulations and the 2021 Regulations so as to provide for a fixed penalty notice procedure in respect of offences under regulation 3(1) or (2) of the 2019 Regulations and regulations 3(1), (2) or (3), 4(1) or 5(1) of the 2021 Regulations.

Part 5 of these Regulations makes amendments to the 2024 Regulations. Regulation 7 amends the coming into force date of the 2024 Regulations from 1 April 2025 to 1 June 2025. Regulation 9 amends regulation 9(1)(e), (f) and (g) of the 2024 Regulations to clarify that an enforcement officer in exercise of their powers under regulation 9(1)(e), (f) or (g) may take into their possession any vape or component of a vape found in any premises the enforcement officer has the power to enter, which appears to that enforcement officer to be a single-use vape or component of a single-use vape. Regulation 7 additionally amends regulation 9(1)(g) to provide that an enforcement officer may retain single-use vapes in their possession for the purposes of compliance with a direction issued under new regulation 14.

Regulation 10 inserts provision into the 2024 Regulations which provides for a fixed penalty notice procedure in relation to offences under regulation 4(1) of the 2024 Regulations in similar terms to the amendments made to the 2018 Regulations, the 2019 Regulations and the 2021 Regulations. New regulation 13 provides for the amount of the fixed penalty, the discounted amount that applies when paid within the period identified, and also for different fixed payment amounts and discounted amounts in circumstances where there has been prior enforcement action within the previous three years. New regulation 14 provides for the Scottish Ministers to give a direction that single-use vapes in respect of which an offence under regulation 4(1) has been committed are to be treated as waste and for the disposal or other treatment of those single-use vapes. A direction under new regulation 14 will apply to any single-use vapes in respect of which an offer of fixed penalty has been accepted, and the fixed penalty has been paid in accordance with new regulation 13.

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