

## SCHEDULES

### SCHEDULE 23

Section 132

#### PENALTY NOTICES FOR DISORDERLY BEHAVIOUR

##### *Criminal Justice and Police Act 2001 (c. 16)*

- 1 Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (on the spot penalties for disorderly behaviour) is amended as follows.
- 2 In section 1 (offences leading to penalties on the spot) omit subsections (4) and (5) (provision about orders under subsections (2) and (3) of that section).
- 3 (1) Section 2 (penalty notices) is amended as follows
  - (2) In subsection (1) for “10” substitute “18”.
  - (3) After subsection (1) insert—

“(1A) If the offence mentioned in subsection (1) is a relevant penalty offence, the constable may give the person a penalty notice with an education option.”
  - (4) Omit subsection (2) (requirement that constable giving a penalty notice other than at a police station be in uniform).
  - (5) Omit subsection (3) (requirement that constable giving a penalty notice at a police station be an authorised constable).
  - (6) In subsection (4)—
    - (a) after “Chapter”, in the first place it appears, insert “— approved educational course” means an educational course run as part of an educational course scheme established by—
      - (a) in the case of a notice given by a constable of the British Transport Police Force, the Chief Constable of that force, and
      - (b) in any other case, the chief officer of police for the area in which the notice is given;
    - (b) at the end insert “; penalty notice with an education option” means a penalty notice that also offers the opportunity to discharge any liability to be convicted of the offence to which the notice relates by—
      - (a) completing an approved educational course, and
      - (b) paying the course fee.”
  - (7) After subsection (4) insert—

“(4A) In this section, “relevant penalty offence” means a penalty offence in relation to which there is an approved educational course.

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*Status: This is the original version (as it was originally enacted).*

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(4B) The Secretary of State may by regulations make provision about the revocation of penalty notices.”

(8) Omit subsection (5) (definition of “authorised constable”).

(9) Omit subsections (6) to (9) (Secretary of State order making power and associated provision).

4 After section 2 (penalty notices) insert—

**“2A Educational course schemes**

(1) A chief officer of police may establish an educational course scheme under this section in relation to one or more kinds of penalty offence committed in the chief officer’s area.

(2) An educational course scheme must include arrangements—

(a) for educational courses relating to the penalty offences to which the scheme relates to be provided to persons who are given penalty notices with an education option, and

(b) for a course fee set by the chief officer of police—

(i) to be paid by a person who attends an educational course, and

(ii) to be refunded in such circumstances (if any) as the chief officer considers appropriate.

(3) The purpose of an educational course mentioned in subsection (2) must be to reduce the likelihood of those who take the course committing the penalty offence, or penalty offences, to which the course relates.

(4) An educational course may be provided by any person who, and have any content that, the chief officer of police considers appropriate given its purpose.

(5) The Secretary of State may by regulations—

(a) provide that the fee mentioned in subsection (2)(b) may not be—

(i) less than an amount specified in the regulations, or

(ii) more than an amount so specified;

(b) make provision for and in connection with the disclosure, for the purpose of running an educational course scheme, of relevant personal information between—

(i) a person who is involved in the provision of an educational course under the scheme,

(ii) the chief officer of police who established the scheme, and

(iii) any other person specified or described in the regulations;

(c) make provision about the use of relevant personal information for that purpose;

(d) place restrictions on the disclosure or use of relevant personal information.

(6) In subsection (5) “relevant personal information” means any information that relates to, and identifies, a person who has been given a penalty notice with an education option.

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*Status: This is the original version (as it was originally enacted).*

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- (7) In this section’s application in relation to the Chief Constable of the British Transport Police Force, subsection (1) has effect as if the reference to one or more kinds of penalty offence committed in a chief officer of police’s area were a reference to one or more kinds of penalty offence—
- (a) committed at, or in relation to, any of the places mentioned in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 (places where a constable of the British Transport Police Force has the powers of a constable), or
  - (b) otherwise relating to a railway.
- (8) In subsection (7) “railway” means—
- (a) a railway within the meaning given by section 67(1) of the Transport and Works Act 1992 (interpretation), or
  - (b) a tramway within the meaning given by that section.”
- 5 (1) Section 3 (amount of penalty and form of penalty notice) is amended as follows.
- (2) Omit subsection (1A) (Secretary of State may specify different penalties for persons of different ages).
- (3) After subsection (3) insert—
- “(3A) The Secretary of State may by regulations require information in addition to that mentioned in subsection (3) to be included in, or to be provided with, a penalty notice with an education option.”
- (4) Omit subsections (5) and (6) (provision relating to orders under that section).
- 6 (1) Section 4 (effect of penalty notice) is amended as follows.
- (2) In subsection (5) for “If” substitute “In the case of a penalty notice that is not a penalty notice with an education option, if”.
- (3) After subsection (5) insert—
- “(6) In the case of a penalty notice with an education option, a sum equal to one and a half times the amount of the penalty may be registered under section 8 for enforcement against A as a fine if subsection (7) or (8) applies.
- (7) This subsection applies if, by the end of the suspended enforcement period, A does not—
- (a) ask to attend an approved educational course relating to the offence to which the notice relates,
  - (b) pay the penalty, or
  - (c) request to be tried.
- (8) This subsection applies if—
- (a) A has asked, by the end of the suspended enforcement period, to attend an approved educational course of the kind mentioned in subsection (7)(a), and
  - (b) A does not, in accordance with regulations made under subsection (9)—
    - (i) pay the course fee,
    - (ii) start such a course, or

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*Status: This is the original version (as it was originally enacted).*

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(iii) complete such a course.

(9) The Secretary of State may by regulations make provision—

- (a) as to the time by which A is required to do each of the things mentioned in subsection (8)(b)(i) to (iii) (including provision allowing those times to be specified by a chief officer of police for the purposes of an educational course scheme established by that officer);
- (b) allowing A to request an extension of the time to do the things mentioned in subsection (8)(b)(i) to (iii) (including provision as to who should determine such a request and on what basis);
- (c) as to the procedure to be followed in relation to requests for extensions of time (including provision allowing the procedure to be determined by a chief officer of police for the purposes of an educational course scheme established by that officer);
- (d) as to the consequences of a request for an extension of time being granted (including provision specifying circumstances in which a chief officer of police may require a course fee to be paid again in order to avoid a sum being registered for enforcement as a fine under section 8);
- (e) as to the consequences of A failing to attend a course that A has arranged to attend (including provision as to who should determine what those consequences are and on what basis);
- (f) specifying circumstances in which A is, for the purposes of this Chapter, to be regarded as having completed, or having not completed, an approved educational course (including provision as to who should determine whether those circumstances have arisen and how that should be determined).

(10) Regulations made under subsection (9)(b), (e) or (f) may permit a person to delegate the function of making a determination.”

7 (1) Section 5 (general restriction on proceedings) is amended as follows.

(2) In subsection (1) for “until the end of” substitute “during”.

(3) After subsection (2) insert—

“(2A) Proceedings for an offence to which a penalty notice with an education option relates may not be brought against a person who has, by the end of the suspended enforcement period, asked to attend an approved educational course relating to the offence, unless section 4(8) applies.

(2B) If the person to whom a penalty notice with an education option is given—

- (a) completes, in accordance with regulations made under section 4(9), an approved educational course relating to the offence to which the notice relates, and
  - (b) pays the course fee in accordance with those regulations,
- no proceedings may be brought for the offence.”

8 In section 6 (Secretary of State’s guidance) after paragraph (b) insert—

“(ba) about educational course schemes;”.

9 In section 8(4) (registration certificates) after “section 4(5)” insert “or (6)”.

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*Status: This is the original version (as it was originally enacted).*

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- 10 (1) Section 10 (enforcement of fines) is amended as follows.
- (2) In subsection (6) for “If” substitute “Subject to any regulations made under subsection (7), if”.
- (3) After subsection (6) insert—
- “(7) The Secretary of State may by regulations make provision as to the directions that the court may, or must, give or the orders it may, or must, make if it sets aside a fine relating to a sum registered under section 8 on the basis that section 4(8) applies.”
- 11 After section 10 insert—

*“Orders and regulations*

**10A Orders and regulations under Chapter 1**

- (1) Any power of the Secretary of State to make an order or regulations under this Chapter is exercisable by statutory instrument.
- (2) Any power of the Secretary of State to make an order or regulations under this Chapter includes—
- (a) power to make different provision for different cases, circumstances or areas, and
- (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (3) The Secretary of State may not make an order under section 1(2) unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument that contains an order or regulations made under this Chapter and is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, both Houses of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.”
- 12 (1) Section 11 (interpretation of Chapter 1) is amended as follows.
- (2) Before the definition of “chief officer of police” insert—
- ““approved educational course” has the meaning given in section 2(4);”.
- (3) After the definition of “defaulter” insert—
- ““educational course scheme” has the meaning given in section 2(4);”.
- (4) After the definition of “penalty notice” insert—
- ““penalty notice with an education option” has the meaning given in section 2(4);”.

*Consequential amendments*

- 13 In section 64A of the Police and Criminal Evidence Act 1984 (photographing of suspects etc) in subsection (1B)(d) omit “in uniform” in the first place those words appear.
- 14 (1) The Police Reform Act 2002 is amended as follows.
- (2) In section 43(7) (railway safety accreditation schemes: Secretary of State power to give an accredited person the powers of a constable in uniform, or an authorised constable, to issue fixed penalty notices) omit “in uniform and of an authorised constable”.
- (3) In paragraph 1 of Schedule 4 (community support officers’ powers to issue fixed penalty notices) in sub-paragraph (2)(a) omit “in uniform and of an authorised constable”.
- (4) In paragraph 1 of Schedule 5 (accredited persons’ powers to issue fixed penalty notices) in sub-paragraph (2)(aa) omit “in uniform”.
- (5) In paragraph 1 of Schedule 5A (accredited inspectors’ powers to issue fixed penalty notices) in sub-paragraph (2) omit “in uniform”.
- 15 In consequence of the amendments made by paragraphs 3 and 5 of this Schedule, omit section 87 of the Anti-social Behaviour Act 2003.