



ST HELENA

REVISED EDITION OF THE LAWS, 2017

CRIME AND CRIMINAL PROCEDURE

CRIMINAL JUSTICE (FIXED PENALTIES) ORDINANCE, 2020¹

Ordinance 9 of 2020

In force 15 April 2020

No subsidiary legislation has been issued under this Ordinance

CRIMINAL JUSTICE (FIXED PENALTIES) ORDINANCE, 2020

AN ORDINANCE to make provision for fixed penalties to be issued in respect of certain offences; and for matters connected therewith or incidental thereto.

Short title

1. This Ordinance may be cited as the Criminal Justice (Fixed Penalties) Ordinance, 2020.

Interpretation

2. In this Ordinance, unless the context otherwise indicates—
“**fixed penalty notice**” means a notice issued and served in the prescribed manner by an officer to a person considered by the officer to have committed a prescribed offence which gives the person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a prescribed penalty;
“**motor vehicle**” has the same meaning as that given to this term in the Road Traffic Ordinance, 1985;
“**officer**” means a police officer as defined in the Interpretation Ordinance 1968 or a person appointed, in the manner prescribed, by the Governor to issue or serve a fixed penalty notice; and
“**prescribed offence**” means an offence prescribed in Regulations under section 9(a).

Evidential Test

3. The evidential test for the prosecution of an offence must be met before a fixed penalty notice may be issued.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 15 April 2020.

Service of notification and payment of penalty

4. (1) An officer who has reason to believe that a person has committed a prescribed offence for which a fixed penalty notice may be issued, must cause notification of the offence to be served on the person in accordance with subsection (2).

(2) The notification served under subsection (1) must be in the prescribed form and must require the person upon whom the notification is served to either accept or refuse to accept a fixed penalty notice in relation to the offence of which the person is accused.

(3) Notification under subsection (1) is considered to be served on the person named in the fixed penalty notice who is accused of having committed the offence contained therein if the notification is—

- (a)* handed to the person by an officer;
- (b)* delivered to the person by registered post;
- (c)* left by an officer at the last known address of the person; or
- (d)* placed securely on a motor vehicle involved in the commission of a prescribed offence for which provision is made under the Road Traffic Ordinance, 1985.

(4) A person served with notification of a fixed penalty notice may be eligible to pay a reduced amount as prescribed if payment of the penalty in the fixed penalty notice is made within a time prescribed.

Action that may be taken on service of notification of a fixed penalty notice

5. A person who is served with notification of a fixed penalty notice may within the period prescribed by Regulations—

- (a)* accept the fixed penalty notice in the manner prescribed and pay the penalty specified in the fixed penalty notice; or
- (b)* deny the offence by returning the notification of the fixed penalty notice in the manner prescribed.

Contents of fixed penalty notice

6. A fixed penalty notice must be in the form prescribed and must—

- (a)* specify the alleged offence (and give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence);
- (b)* specify the amount of the penalty and the period for payment thereof;
- (c)* contain an option for a person served with a fixed penalty notice to pay a reduced amount before a specified date in the fixed penalty notice that is earlier than the date specified pursuant to paragraph *(b)*;
- (d)* state the consequences of not paying the penalty before the end of the period mentioned in the notice;
- (e)* specify the person to whom and the address at which payment may be made;
- (f)* state that the person named in the fixed penalty notice has a right to deny the offence of which the person is accused, be tried for the offence and explain how that right may be exercised.

Effect of fixed penalty notice and payment

7. (1) Proceedings for an offence in respect of which a fixed penalty notice is issued may not be commenced before the end of the period specified in the fixed penalty notice for payment of the penalty stated in the fixed penalty notice.

(2) If the penalty specified in the fixed penalty notice is paid before the end of the period stated in the fixed penalty notice, no proceedings for the offence may be commenced.

Withdrawal of fixed penalty notice

8. (1) Notwithstanding any provision contained in this Ordinance if the Director of Police, any police officer of the rank of Inspector or above or person appointed by the Governor, considers that a fixed penalty notice should not have been issued or served, the fixed penalty notice may be withdrawn by the Director of Police, the police officer of the rank of Inspector or above or person appointed by the Governor, as the case may be.

(2) If a fixed penalty notice is withdrawn in accordance with subsection (1) any amount which has been paid by way of penalty in pursuance of the fixed penalty notice must be refunded.

(3) If a fixed penalty notice is withdrawn pursuant to this section the Director of Police or police officer of the rank of Inspector or above withdrawing the fixed penalty notice must cause notice of the withdrawal to be served on the person who was served with the fixed penalty notice.

(4) For the purpose of subsection (1) “person appointed by the Governor” means a person who is the chief officer of a department of Government who the Governor may appoint, by Order, to issue or withdraw a fixed penalty notice for a prescribed offence.

Regulations

9. The Governor in Council may make regulations necessary or convenient for the purposes of this Ordinance and, without prejudice to the generality of this provision, may specifically prescribe—

- (a) the offences in respect of which fixed penalty notices may be issued;
 - (b) the form of the notification for a fixed penalty notice;
 - (c) the form of a fixed penalty notice issued under this Ordinance;
 - (d) the amount of the penalty for purposes of this Ordinance;
 - (e) who must be appointed and the manner in which a person must be appointed to be an officer for the purpose of this Ordinance; and
 - (f) generally for carrying into effect the provisions of this Ordinance.
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