



SAINT VINCENT AND THE GRENADINES

Government Gazette

(E X T R A O R D I N A R Y)

Published by Authority

[Vol. 154]

Saint Vincent and the Grenadines, Friday 12th February, 2021 – (No. 12)

GOVERNMENT NOTICE

No. 21

LEGISLATION

The following Document is published in today's issue of the Gazette and can be purchased at the Government Printing Office, Campden Park Industrial Estate:-

S. R. & O. No. 7 of 2021:- Public Health (Fixed Penalty) Rules, 2021.

12th February, 2021.

BY COMMAND

KATTIAN BARNWELL-SCOTT

Secretary to Cabinet
Prime Minister's Office

Prime Minister's Office
St. Vincent and the Grenadines.

12th February, 2021.

Printed by the Government Printer at the Government Printing Office,
Campden Park Industrial Estate, St. Vincent and the Grenadines.

SAINT VINCENT AND THE GRENADINES
PUBLIC HEALTH (FIXED PENALTY) RULES, 2021
ARRANGEMENT OF RULES

RULE

1. Citation
2. Interpretation
3. Fixed penalty notice
4. Name and address of persons on whom notice served
5. Contents of notice
6. Extension of time to pay
7. Payment by instalments
8. Disputing the notice
9. Payment of fixed penalty if notice not withdrawn
10. Refund of fixed penalty if notice withdrawn
11. Payment of fixed penalty
12. Effect of payment of fixed penalty
13. Notification of payment of fixed penalty
14. Admission under rule 5 (1) (g)
15. Evidence for hearing
16. Matters not to be taken into account in determining sentence
17. Service of notice
18. Notice not compulsory

SAINT VINCENT AND THE GRENADINES

STATUTORY RULES AND ORDERS

2021 NO. 7

(Gazetted 12th February, 2021)

IN EXERCISE of the powers conferred by sections 144A and 147 of the Public Health Act, Chapter 300, the Minister makes the following Rules –

PUBLIC HEALTH (FIXED PENALTY) RULES, 2021

1. These Rules may be cited as the Public Health (Fixed Penalty) Rules, 2021. **Citation**
2. In these Rules – **Interpretation**
 - “Act” means the Public Health Act; **Cap. 300**
 - “fixed penalty” means the penalty specified in column 3 of the table in Schedule 1 in relation to an offence specified in column 1; **Schedule 1**
 - “health officer” has the meaning assigned in the Act;
 - “notice” means a fixed penalty notice served under rule 3 and includes a duplicate of the notice;
 - “offence” means an offence specified in column 1 of the table in Schedule 1.
3. (1) A health officer may serve, or cause to be served, a fixed penalty notice on a person the health officer has reasonable grounds to believe – **Fixed penalty notice**
 - (a) has committed an offence; and
 - (b) is aged eighteen or over.
- (2) A notice shall be in the form set out in Schedule 2. **Schedule 2**

**Name and
address of
persons on
whom notice
served**

4. If a notice is served on a person at a port, the health officer may require the person to –

- (a) give the health officer the person's name and address in Saint Vincent and the Grenadines; and
- (b) show to the officer evidence of the person's identity.

**Contents of
notice**

5. (1) A notice must set out the following –

- (a) the name and address of the person served;
- (b) the provision of the Act, Rules or Order that it is alleged has been contravened;
- (c) details of the alleged offence, including –
 - (i) the day, and if (appropriate) the time, on which it is alleged to have been committed; and
 - (ii) the place at which it is alleged to have been committed;
- (d) the amount payable as the fixed penalty;
- (e) a statement that, if the person prefers that the matter not be dealt with by a magistrate's court, he may signify that preference by paying the fixed penalty –
 - (i) before the end of twenty eight days after the date of service of the notice;
 - (ii) if a further period is allowed under rule 6, before the end of that further period; or
 - (iii) if payment of instalments is permitted under rule 7, in accordance with the permission;
- (f) how, and where, the fixed penalty may be paid;
- (g) a statement, that if, before the end of twenty eight days after the date of service of the notice, the person notifies

the Medical Officer of Health, in the manner set out in the notice, of any facts or matters that the person believes ought to be taken into account in relation to the alleged offence, time for payment of the fixed penalty will be extended to the extent necessary to enable a decision to be made in relation to those facts or matters;

- (h) a statement that, if the fixed penalty is paid in time –
 - (i) the person's liability in respect of the offence is discharged;
 - (ii) further proceedings cannot be taken against the person for the offence;
 - (iii) the person is not taken to have been convicted of the offence;
- (i) a statement that, if none of the things mentioned in paragraph (e) or (g) is done within the time specified, the notice is deemed to be a complaint and a magistrate's court will issue a summons under the Criminal Procedure Code to compel the person's attendance before the court to answer a charge for the offence; and
- (j) the name of the health officer by whom the notice is issued.

Cap. 172

(2) A notice may contain any other information that a health officer considers necessary.

(3) A notice may be served on a person who is reasonably believed to have committed an offence not more than 12 months after the alleged commission of the offence.

6. (1) On written application by a person on whom a notice has been served, the Medical Officer of Health may permit, if satisfied that in all the circumstances it is proper to do so, a further period for payment of the fixed penalty.

Extension of
time to pay

(2) An application under sub-rule (1) must be made before the end of twenty eight days after the date of service of the notice.

- (3) The Medical Officer of Health –
 - (a) may grant or refuse a further period;
 - (b) shall give the applicant written notice of the decision; and
 - (c) if the decision is a refusal, shall mention in the written notice the reasons for refusal.
- (4) The person shall pay the fixed penalty –
 - (a) if a further period is granted, before the end of that period; or
 - (b) if the decision is a refusal, before –
 - (i) the end of seven days after receiving notice of the refusal; or
 - (ii) the end of twenty eight days after the date of service of the notice,

whichever event occurs later.

Payment by instalments

7. (1) If the Medical Officer of Health is satisfied that in all circumstances it is proper to do so, he may make an arrangement with a person on whom a notice has been served (before the period of twenty eight days after the date of service of the notice has ended) for payment of the fixed penalty by instalments.

- (2) The Medical Officer of Health –
 - (a) may grant or refuse a further period;
 - (b) shall give the applicant written notice of the decision; and
 - (c) if the decision is a refusal, shall mention in the written notice the reasons for refusal.
- (3) The person shall pay the fixed penalty –

- (a) if an arrangement is made, in accordance with the arrangement; or
- (b) if the decision is a refusal, before –
 - (i) the end of seven days after receiving notice of the refusal; or
 - (ii) the end of twenty eight days after the date of service of the notice,

whichever event occurs later.

8. (1) Whether or not written notification is received under sub-rule (2), the Medical Officer of Health, if satisfied that in all the circumstances it is proper to do so, may withdraw a notice.

**Disputing the
notice**

(2) If, before the end of twenty eight days after the date of service of a notice, a person gives the Medical Officer of Health written notification under rule 5 (1) (g), the Medical Officer of Health shall decide whether to withdraw the notice.

(3) The Medical Officer of Health –

- (a) may withdraw, or refuse to withdraw the written notice;
- (b) shall give the applicant written notice of the decision; and
- (c) if the decision is a refusal, shall mention in the notice the reasons for refusal.

(4) If the Medical Officer of Health decides to refuse to withdraw a notice, notice of that decision shall state –

- (a) that if the amount of the fixed penalty is paid within twenty eight days after notice of the decision is given to the person, the person will not be prosecuted for the alleged offence; and
- (b) that if that amount is not paid, the person will be prosecuted for the alleged offence.

(5) In making a decision, the Medical Officer of Health shall consider –

- (a) the facts or matters set out in the notice, if any, given under rule 5 (1) (g);
- (b) the circumstances in which the offence mentioned in the notice is alleged to have been committed;
- (c) whether the person has been convicted previously of an offence under Part III, IV or VI of the Act or an Order or the Rules made under those parts of the Act;
- (d) whether a notice has previously been given to the person for an offence of the same kind as the offence mentioned in the notice; and
- (e) any other matter the Medical Officer of Health considers relevant to the decision.

**Payment of
fixed penalty if
notice not
withdrawn**

9. If the Medical Officer of Health refuses to withdraw a notice, the applicant for withdrawal shall pay the fixed penalty before the end of twenty eight days after receiving the notice of the refusal.

**Refund of fixed
penalty if
notice
withdrawn**

10. If a fixed penalty is paid in accordance with a notice that is subsequently withdrawn, the Medical Officer of Health shall arrange for payment of an amount equal to the amount so paid, in refund to the person who paid the fixed penalty.

**Payment of
fixed penalty**

11. (1) Payment of the fixed penalty shall be made to –

- (a) the clerk of the magistrate's court having jurisdiction for the district in which the offence is alleged to have been committed; or
- (b) the clerk of the revenue office as stated in the notice.

(2) The person paying a fixed penalty must produce the notice to enable the clerk of the magistrate's court or revenue office to identify the notice by its number.

(3) If owing to the failure of the person paying the fixed penalty to comply with sub-rule (2), the clerk of the magistrate's court or revenue

office is unable to identify the relevant notice, the clerk of the magistrate's court or revenue office shall not accept payment of the fixed penalty.

12. (1) If a person served with a notice pays the fixed penalty in accordance with these Rules –

**Effect of
payment of
fixed penalty**

- (a) the person's liability in respect of the offence is discharged;
- (b) further proceedings cannot be taken against the person for the offence; and
- (c) the person is not convicted of the offence.

(2) Sub-rule (1) applies to a person who makes an arrangement to pay the fixed penalty by instalments, only if the person makes payments in accordance with the arrangements.

13. The magistrate's court or revenue office shall –

**Notification of
payment of
fixed penalty**

- (a) issue a receipt to the person paying the fixed penalty for payment of the fixed penalty; and
- (b) as soon as practicable after payment of the fixed penalty, notify the Medical Officer of Health that payment has been made.

14. Evidence of admission made by a person in a notice under rule 5 (1) (g) is inadmissible in proceedings against the person for the alleged offence.

**A d m i s s i o n
under rule 5 (1)
(g)**

15. (1) At the hearing of a prosecution for an alleged offence specified in a notice –

**Evidence for
hearing**

- (a) a certificate signed by a health officer stating the notice was duly served on the alleged offender is evidence of the fact;
- (b) a certificate signed by the clerk of the magistrate's court or revenue office and stating that the fixed penalty has not been paid in accordance with these Rules is evidence of the fact; and

- (c) a certificate signed by the Medical Officer of Health and stating that the notice was withdrawn on a day specified in the certificate is evidence of the fact.

(2) A certificate that purports to have been signed by a health officer or clerk under this rule is taken to have been signed by that officer or clerk unless the contrary is proved.

**Matters not to
be taken into
account in
determining
sentence**

16. (1) This rule applies if a person served with a notice –

- (a) elects not to pay the fixed penalty; and
- (b) is prosecuted for, and convicted of, the alleged offence mentioned in the notice.

(2) In determining the penalty to be imposed, the court shall not take into account the fact that the person chose not to pay the fixed penalty.

**Service of
notice**

17. A notice may be served by delivering the notice in person to the person who is reasonably believed to have committed the offence.

**Notice not
compulsory**

18. Nothing in these Rules is to be taken to –

- (a) require that a person reasonably believed to have committed an offence to be served a notice;
- (b) affect the liability of a person to be prosecuted for an alleged offence, if –
 - (i) a notice is not served on the person for the offence; or
 - (ii) a notice is served, and withdrawn; or
- (c) limit the penalty that may be imposed by a magistrate's court on a person convicted of an offence.

SCHEDULE 1

(rule 2)

FIXED PENALTY

	Column 1	Column 2	Column 3
	Offence	Relevant section of Act/Rules/Order	Fixed penalty
1.	For contravening the order of a health officer made under section 27A of the Public Health Act	Public Health Act, section 27Y	\$750.00
2.	For contravening section 4 (3) of the Public Health (Port Regulation) (No. 2) Order 2020	Public Health Act, section 75 (2a)	\$200.00
3.	For contravening section 4 (4) of the Public Health (Port Regulation) (No. 2) Order 2020	Public Health Act, section 75 (2a)	\$750.00
4.	For contravening section 4 (5) of the Public Health (Port Regulation) (No. 2) Order 2020	Public Health Act, section 75 (2a)	\$750.00

SCHEDULE 2
FIXED PENALTY NOTICE

(rule 3(2))

(Rule 3 (2) Public Health (Fixed Penalty) Rules 2021)

Fixed Penalty Notice No:

Date of notice:

Enforcement authority

This notice is issued by: [*name of health officer*]

Address for correspondence:

Details of person to whom fixed penalty notice issued

Full name:

Full address:

*Date of birth:

*Gender:

*Occupation:

*Telephone number:

*Specify only if known

Alleged offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged offence:

Fixed penalty payable:

Signature of health officer:

Service details

This fixed penalty notice was served by [*method of service*] at [*full address of service*] on [*date*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

This notice sets out an alleged fixed penalty offence.

Payments

1. If you prefer that the matter not be dealt with by a magistrate's court, you may signify that preference by paying the fixed penalty –

- (a) before the end of twenty eight days after the date of service of this notice;
- (b) before the end of any further period allowed by the Medical Officer of Health; or
- (c) in accordance with any instalment arrangement permitted by the Medical Officer of Health.

2. If the fixed penalty is paid in accordance with paragraph 1 –

- (a) your liability for the fixed penalty offence is discharged;
- (b) further proceedings cannot be taken against you for the offence; and
- (c) you are not taken to have been convicted of the offence.

3. If you would like a further period to pay the fixed penalty, or to pay the fixed penalty in accordance with an instalment arrangement, you must apply in writing to the Medical Officer of Health before the end of the period of twenty eight days after the date of service of this notice.

4. The fixed penalty may be paid at a magistrates' court in the district which the offence is alleged to have been committed or a revenue office at [*address of revenue office*].

5. When paying the fixed penalty you must produce this notice to enable the magistrate's court or revenue office to identify the notice.

6. All cheques must be made payable to the Accountant-General.

Defence

7. You have a complete defence against proceedings for a fixed penalty offence if the fixed penalty is paid in the manner specified in this notice.

Disputing the notice

8. You may dispute the notice by notifying the Medical Officer of Health of any facts or matters that you believe ought to be taken into account in relation to the alleged offence

and time for payment of the fixed penalty will be extended to the extent necessary to enable a decision to be made in relation to those facts or matters.

9. To take action listed in paragraph 8, you must write to the Medical Officer of Health at the address shown on this notice. You must sign the letter and it must be delivered before the end of twenty eight days after the date of service of this notice.

Failure to pay fixed penalty

10. If you fail to pay the fixed penalty in accordance with paragraph 1, this notice is deemed to be a complaint and a magistrate's court will issue a summons under the Criminal Procedure Code to compel your attendance before the court to answer a charge for the offence.

Correspondence

11. When writing, please specify –

- (a) the date of the alleged offence;
- (b) the fixed penalty notice number; and
- (c) your full name and address for replies.

12. All correspondence regarding the offence must be directed to the Medical Officer of Health at the address shown on this notice.

13. Correspondences may be sent by electronic communication.

Dated this 12th day of February, 2021.

ST. CLAIR PRINCE

Minister of Health, Wellness and
the Environment.

Printed by the Government Printer at the Government Printing Office,
Campden Park Industrial Estate, St. Vincent and the Grenadines.