

Draft Regulations laid before the Scottish Parliament under section 40(4) of the Tobacco and Primary Medical Services (Scotland) Act 2010, for approval by resolution of the Scottish Parliament. These draft Regulations replace those laid on 22 November 2010 and are being issued free of charge to all known recipients of those draft Regulations.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2010 No.

PUBLIC HEALTH

The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010

Made - - - - -

Coming into force - - - *1st April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 24 and 40(2) of and paragraphs 3 and 4 of schedule 1 to the Tobacco and Primary Medical Services (Scotland) Act 2010⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 40(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010 and come into force on 1st April 2011.

(2) In these Regulations—

“the Act” means the Tobacco and Primary Medical Services (Scotland) Act 2010;

“moveable premises” means premises consisting of a vehicle or other moveable structure from which the applicant proposes to carry on a tobacco business but excluding a vessel.

Application of Chapter 2 of the Act (Register of Tobacco Retailers) to vehicles and other moveable structures (excluding vessels)

2. If premises are moveable premises, Chapter 2 of Part 1 of the Act applies subject to the modifications in regulations 3 and 4.

(1) [2010 asp 3](#). Section 35 of the 2010 Act contains a definition of “prescribed” which is relevant to the making of these Regulations.

3.—(1) For—

- (a) “the addresses of all premises at which the applicant proposes to carry on a tobacco business” in section 11(2)(b) of the Act; and
- (b) “the address of the further premises at which the applicant proposes to carry on a tobacco business” in section 11(2)(c) of the Act,

substitute in accordance with paragraph (2).

(2) Where it is proposed to carry on business from moveable premises—

- (a) in a fixed location substitute—

“:—

- (i) a description which identifies the location of all premises at which; and
- (ii) the type and registration number of the vehicle or a description and dimensions of the moveable structure being the premises from which, the applicant proposes to carry on a tobacco business”.

- (b) in a location which is not fixed substitute—

“:—

- (i) a description which identifies each street or area at which; and
- (ii) the type and registration number of the vehicle or a description and dimensions of the moveable structure being the premises from which, the applicant proposes to carry on a tobacco business”.

4. The references in the Act to—

- (i) “addresses” in section 11(4)(b); and
- (ii) “address” in sections 11(5), and 13(1)(b)

are to be read in accordance with the substitutions in regulation 3.

Time after which a fixed penalty notice may not be given

5. The time prescribed for the purpose of paragraph 3 of schedule 1 to the Act is 7 days after the day on which the offence took place.

Amount of fixed penalty and discounted amount for offences under sections 5 and 7 of the Act

6. The amount prescribed for the purposes of paragraph 4(1)(a) and (b) of schedule 1 to the Act for offences under sections 5 and 7 of the Act are respectively—

- (a) £50 (fixed penalty); and
- (b) £30 (discounted amount).

Amount of fixed penalty and discounted amount for all other offences under Chapters 1 and 2 of Part 1 of the Act

7.—(1) Subject to paragraph (2), the amounts prescribed for the purposes of paragraph 4(1)(a) and (b) of schedule 1 to the Act for offences under Chapters 1 and 2 of Part 1 of the Act other than sections 5 and 7 are respectively—

- (a) £200 (fixed penalty); and
- (b) £150 (discounted amount).