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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 23**

**The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011**

**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 2011 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.

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).

(2) Where a person is issued with a fixed penalty notice (“the fixed penalty notice”) and that person has been the subject of previous enforcement action within the prescribed period the amounts prescribed for the purposes of paragraph 4(1)(a) and (b) of schedule 1 to the Act are set out in the table in the Schedule to these Regulations.

(3) The prescribed period is two years ending on the date the fixed penalty notice is issued.

(4) In this regulation, “enforcement action” means the issue of a fixed penalty notice which is not subsequently withdrawn or the conviction of an offence under Chapter 1 or 2 of Part 1 of the Act.

St Andrew’s House,  
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18th January 2011

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers