

SCHEDULE 2

Regulation 12

Fixed Monetary Penalties

Civil sanctions

1.—(1) A food authority may by notice impose a fixed monetary penalty on a person in relation to an offence under regulation 11.

(2) Before doing so, the food authority must be satisfied beyond reasonable doubt that the person has committed an offence.

(3) For the purposes of this paragraph, “fixed monetary penalty” means a fine of £2,500.

Notice of intent

2.—(1) When a food authority proposes to impose a fixed monetary penalty on a person, it must serve on that person a notice of what is proposed (“a notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for the proposal to impose the fixed monetary penalty;
- (b) the amount of the penalty;
- (c) a statement that the liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day in which the notice was received;
- (d) information as to—
 - (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
 - (ii) the circumstances in which the food authority may not impose the requirement (including any defences relating to the offence in relation to which the notice is served).

Discharge of liability

3. The penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Making representations and objections

4. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the food authority in relation to the proposed imposition of the fixed monetary penalty.

Service of final notice

5.—(1) If the person who has received notice of intent does not discharge liability within 28 days, the food authority may serve a final notice imposing a fixed monetary penalty.

(2) The food authority may not serve a final notice on a person where it is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) Where a food authority serves a final notice relating to a fixed monetary penalty, it may not serve any other notice under these Regulations in relation to the offence.

Contents of final notice

6. A final notice must include information as to—
- (a) the amount of the penalty;
 - (b) the grounds for imposing the penalty;
 - (c) how payment may be made;
 - (d) the period of 28 days within which payment must be made;
 - (e) details of the early payment discount and late payment penalties;
 - (f) rights of appeal;
 - (g) the consequences of non-payment.

Discount for early payment

7. If a person who was served with a notice of intent made representations or objections concerning that notice within the time limit, that person may discharge the final notice by paying 50% of the penalty within 14 days beginning with the day on which the final notice was received.

Grounds of appeal

- 8.—(1) The person receiving the final notice may appeal against it.
- (2) The grounds for appeal are—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable;
 - (d) that the decision was wrong for any other reason.

Appeals

- 9.—(1) An appeal under paragraph 9 is to the First-tier Tribunal.
- (2) A final notice is suspended pending the determination or withdrawal of the appeal.
- (3) The First-tier Tribunal may—
- (a) withdraw, confirm or vary a final notice;
 - (b) take such steps as the food authority could have taken in relation to the act or omission giving rise to a final notice; or
 - (c) remit the decision whether to confirm a final notice, or any other matter relating to that decision, to the food authority.

Non-payment after 28 days

- 10.—(1) The penalty must be paid within 28 days of receipt of the final notice.
- (2) If the penalty is not paid within 56 days, the amount payable is increased by 50%.
- (3) In the case of an appeal the penalty (whether varied or confirmed by the First-Tier Tribunal) is payable within 14 days of the determination of the appeal, and if it is not paid within 14 days the amount of the penalty is increased by 50%.

Recovery of payments

11. A food authority may recover any penalty imposed under this Schedule as if payable under a court order.

Criminal proceedings

12.—(1) If a notice of intent for a fixed monetary penalty is served on any person—

- (a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice related before 28 days from the date on which the notice of intent is received; and
- (b) if that person discharges liability, that person may not at any time be convicted of the offence in relation to that act or omission.

(2) If a fixed monetary penalty is imposed on any person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.