Public Health etc. (Scotland) Act 2008

2008 asp 5

PART 8

REGULATION OF PROVISION OF SUNBEDS

Enforcement

105 Fixed penalties for offences under section 95, 98, 100 or 101

(1) Where an authorised officer of a local authority has reason to believe that an operator of sunbed premises in the area of that authority has committed an offence under section 95, 98, 100 or 101, the authorised officer may give the operator a notice (a "fixed penalty notice") offering the operator the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) A fixed penalty notice must—

(a) identify the offence to which it relates; and

(b) give reasonable particulars of the circumstances alleged to constitute the offence.

(3) A fixed penalty notice must also state—

(a) the amount of the fixed penalty;

(b) the period within which it may be paid;

(c) the—

(i) person to whom; and

(ii) address at which,

payment may be made;

(d) the method or methods by which payment may be made;

(e) the consequences of not making payment before the end of the period for payment of the fixed penalty.

(4) The amount of the fixed penalty is—

(a) in the case of an offence under section 95, £100;

(b) in the case of an offence under section 98, 100 or 101, £50.

(5) The period for payment of the fixed penalty is 28 days beginning with the day on which the notice was given.

(6) The local authority may extend the period for payment of the fixed penalty in any particular case if they consider it appropriate to do so, by giving notice to the operator.

(7) No proceedings for an offence under section 95, 98, 100 or 101 may be commenced before the end of the period for payment of the fixed penalty.

(8) No such proceedings may be commenced or continued if payment of the penalty is made before the end of the period for payment or is accepted by the local authority after the end of that period.

(9) In proceedings for an offence under section 95, 98, 100 or 101, a certificate which—

(a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the local authority; and

(b) states that payment of the amount specified in the fixed penalty notice was or was not received by the expiry of the period within which that fixed penalty may be paid,

is sufficient evidence of the facts stated.

(10) Any sum received by a local authority under this section accrues to that authority.

(11) The Scottish Ministers may by regulations—

(a) provide that fixed penalty notices may not be given in such circumstances as may be prescribed;

(b) provide for the form of a fixed penalty notice;

(c) provide for the method or methods by which fixed penalties may be paid;

(d) modify subsection (4) so as to substitute a different amount (not exceeding level 2 on the standard scale) for an amount for the time being specified there;

(e) modify subsection (5) so as to substitute a different period for the period for the time being specified there;

(f) provide for the keeping of accounts, and the preparation and publication of statements of account relating to fixed penalties under this section.

Commencement Information

I1 S. 105 in force at 1.12.2009 by S.S.I. 2009/404, art. 2(1), **Sch. 1**

Changes to legislation:
There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 105.