

STREET TRADING ACT (NORTHERN IRELAND) 2001

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Street Trading Act (Northern Ireland) 2001. They have been prepared by the Department for Social Development in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Act replaces the provisions of the Street Trading (Regulation) Act (Northern Ireland) 1929 (“the 1929 Act”) which relate to the licensing of street trading and enable district councils in Northern Ireland to regulate street trading in their districts.
4. The Act has proved necessary because, in recent years, there has been a marked increase in the number of unlicensed street traders operating in Northern Ireland. This is particularly evident in town and city centres and especially at peak times such as Christmas and other holiday periods. The 1929 Act has become outdated and, in many respects, ineffective and a number of district councils, retailers, police, etc., have lobbied for some time for the provision of an effective deterrent to unlicensed trading.
5. The policy objectives of the Act are to enable district councils to control and regulate street trading in their districts in such a way as to prevent undue nuisance, interference and inconvenience to persons and vehicles. The Act includes more effective measures to allow councils to control the activities of those trading without a licence or outside the conditions of their licence.

CONSULTATION

6. In an effort to ensure that as much detail as possible was available on the street trading situation, the Department instigated an information gathering exercise in March 1998. This included contacting all 26 district councils, retailers, street traders, etc., seeking their comments on the existing problems and suggestions on possible ways forward.
7. Following an examination of the responses, a formal consultation document on proposals for new legislation was issued in September 1998 with a 3-month consultation period. This paper was issued to some 120 individuals and organisations including councils, retail outlets, street traders, Chambers of Commerce, police, etc. In addition, the paper was placed on the Department's web-site and notices were placed in the daily and provincial papers soliciting views on the subject. As well as setting out proposals for the future, the paper sought comments on financial implications and requested any available figures.
8. Responses to the consultation document revealed the need for further refinement and clarification and, consequently, a report on the consultation exercise was issued in May 1999. This report was distributed to those who had received the original document and the contents were again published on the Department's web-site. In addition, officials of the Department have discussed the measures periodically with district council officials.

OPTIONS CONSIDERED

9. In looking at the options available, a number of factors were considered. The reasonable aspirations of street traders to ply their trade and to have their activities controlled in a fair and transparent manner need to be recognised. The general public clearly wish to shop at such outlets as the increase in the number of traders would suggest but they also have a right to go about their other activities without undue interference or inconvenience from street traders.
10. The needs of retail outlets have to be considered by ensuring that the actions of street traders do not block the rights of passage of potential customers. District councils are charged with the responsibility of good local government and they must, therefore, have the tools which are adequate to fulfil this duty. Any system of control must be effective without being obtrusive and the administration of the scheme, whilst not being over prescriptive, must be detailed, clear and open to challenge.
11. Bearing these factors in mind, a number of options were considered and the relative merits of each are as follows:

- **Do nothing.** This option concludes that, whilst there may be some problem, the end product of solving that problem does not justify the means of achieving that end. Such an option would clearly involve no additional effort in terms of reviewing the legislation or implementing new measures but would produce no improvement in what is regarded by many as an increasingly serious situation.
- **Do nothing to the legislation but provide guidance or clarification on existing provisions.** The current legislation is over 70 years old and in that time significant changes have taken place in the manner and style of street trading which have led to difficulties for councils and street traders in interpreting the legislation. For example, what is a “street”, what constitutes “trading from a stationary position”, who should be exempt from the provisions, etc? Some guidance to councils and traders could have been produced quickly with little effort and could have led to a better understanding of the legislation and a measure of improved control. Since any guidance, regardless of how good, cannot be regarded as having any legal standing, difficulties would have been encountered where a court held that the guidance did not reflect the true meaning of the legislation. Those who flout the law at present were also likely to continue to do so regardless of the clarity of the guidance. In addition, legislation which was enacted over 70 years ago does not take account of modern day street trading activities.
- **Seek to promote a voluntary code of practice/understanding between street traders and district councils.** This would have involved the repeal of the 1929 Act and the regulation of street trading under an agreement between councils and street traders. This option would have attractions for councils and traders in that they would be free to devise a system suited to their needs and free from central government involvement. This must be measured against the potential effectiveness of such a course of action and this is questionable since the same traders who apply for licences under the existing scheme are likely to be the only ones who would sign up to comply with a voluntary agreement. Furthermore, with the legislation repealed, a district council would have no legal standing and this could prove difficult where the voluntary agreement broke down for any reason. Those trading illegally would most likely continue to do so since no effective deterrent would exist. Additionally, since many traders operate in a number of district council areas, they would have to negotiate a separate agreement with each council, perhaps with differing conditions in each.
- **Introduce stronger deterrents into the 1929 Act without a full reform of that legislation.** The deterrent most sought by councils and the police was the right to seize the goods of traders who are operating without a licence and inserting this into the 1929 Act would have avoided a full scale revision of all the other provisions. To take this route would assume that the only problem with the existing legislation is the absence of an effective deterrent but information gathered and comments received indicated to the contrary. There were differences of opinion and interpretation and, in any event, an amendment

to primary legislation would still be involved, the processing of which was likely to have been only marginally quicker than a full reform.

- **A comprehensive review of the existing legislation geared to producing a modern licensing system.** Such a step is time consuming since there is a need to ensure that all views are taken into account and that the system produced is fair and transparent. Producing a more up to date version of the legislation continues to support control by means of a licensing system, a method which some see as unnecessarily restrictive. A full review, however, should produce a more modern, user-friendly scheme which is fair to all and in which controls which have been advanced as necessary can be prescribed in an overall framework which is clear and open to challenge.

12. It was concluded that an effective legislative deterrent was necessary and the best option was to provide for the seizure of goods within a regulated scheme. To introduce such a powerful deterrent into a system which was over 70 years old and one which is subject to many interpretations would not serve the best interests of all the parties in question. It was decided, therefore, that a full review of the legislation was necessary to carry the required deterrent.

OVERVIEW

13. The Act has 30 sections and 3 Schedules. Sections 1 and 2 deal with the general requirement for street traders to have a licence. Sections 3 and 4 contain provisions on the designation of streets where trading is to be permitted. Sections 5 – 15 cover the actual licensing of individual traders and sections 16 – 22 deal with the enforcement of the scheme and the penalties for breaches of the law. Sections 23 and 24 provide for miscellaneous matters and sections 25 – 30 deal with supplementary matters including the interpretation of terms used in the Act and arrangements for its commencement.

COMMENTARY ON SECTIONS

Section 1: Licensing of street traders

Subsection (1) sets out the general prohibition on street trading unless the trader has a licence issued by the council for the district in which he wishes to trade. Where a street trader wishes to operate in a number of districts, a separate licence will be needed for each.

Subsection (2) provides a definition of the term “street trading”. Trading in a street (whether or not from a stationary position) by selling articles or things or supplying a service for gain or reward constitutes street trading. Certain activities are excluded from the definition by section 2. The term “street” is defined in section 25.

Subsection (3) is an interpretative provision which extends any references in the Act to “selling an article or thing” to include offering or exposing it for sale. Similarly, it defines “supplying a service” as supplying a service “for gain or reward” and “offering” to supply that service.

Subsection (4) clarifies that a person will be regarded as street trading even if he is engaged in trading only for a short period or trading is not his normal occupation.

Section 2: Activities which are not street trading

This section lists a number of trading activities which are not “street trading” and so are not regulated by the Act. Such activities may be controlled in other ways, for example, the pedlar will still need to obtain a pedlar’s certificate and those making charitable collections will still need the appropriate police permission.

Subsection (1) lists the following activities which are not regarded as street trading:

- traders selling articles or things or supplying services to the occupiers of private residences or places of business;
- roundsmen such as milkmen, breadservers and coalmen who are regarded as delivery persons rather than street traders;
- trading in a market where the right to hold the market has been formally created by grant, presumed grant or statute. If a market has not been formally created, it is an “informal market” and the traders who operate within it require street trading licences;
- sales and collections for charitable purposes but limited to activities which have been authorised under the appropriate legislation. Regulations made under the Police, Factories, &c (Miscellaneous Provisions) Act 1916 specify that no collection of money or sale of any article for charitable purposes can be made in any street or public place unless a permit is first obtained from the police. Under the House to House Charitable Collections Act 1952 a licence must be obtained from the police to carry out a house to house collection for charitable purposes unless an exemption has been granted under section 3 of that Act;
- trading under the authority of a pedlar’s certificate but only if the trading is carried out on a house to house basis. Under the Pedlars Act 1871 anyone wishing to trade as a pedlar must first obtain a certificate from the police.
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Subsection (2) takes two further activities outside the definition of street trading. Firstly, proprietors of petrol filling stations may offer a range of goods (including fuel) to motorists on their forecourts. Secondly, trading at premises used as a shop is permitted, so long as the activity is carried on within the curtilage of the premises. In both cases the exemption only applies where the trading is by the owner or occupier in the course of his business and during the hours when that business is in operation. This will mean, for example, that persons trading on garage forecourts or in shop doorways when the premises are otherwise closed for business will require a street trading licence.

Subsection (3) in effect exempts paper sellers from needing a street trading licence. If the sales extend to articles or things other than newspapers or periodicals or if the sales are made from a receptacle (defined in section 25(1)) which is set on the ground, the exemption does not apply.

Subsection (4) gives powers to the Department to vary, by means of an order, the activities which are not street trading. This allows the Department to respond more quickly to the need for change by introducing changes by means of subordinate legislation which will, nevertheless, require approval by the Assembly.

Section 3: Designated streets

Subsection (1) permits a district council to pass a designating resolution using the procedures detailed in section 4. The purpose of this exercise is to designate streets in which the council can allocate street trading pitches to those persons who trade as stationary traders (special arrangements are provided for “mobile traders” and those operating under a temporary licence). Under provisions set out in section 8(3) of the Act, a licence cannot be granted to permit street trading by stationary traders in any street which is not so designated.

Subsection (3) also permits a designating resolution to specify which goods or services may or may not be offered for sale in a designated street.

Subsection (4) permits a district council to rescind or vary any resolution and specifies that this is to be done by passing a further resolution. This could occur where, for example, because of certain changes in local road, traffic or other conditions, a street was no longer regarded as suitable for street trading or where a council wished to extend the streets where such trading is to be allowed.

Section 4: Designating resolutions

This section sets out the procedures that a district council must follow when it considers passing, rescinding or varying a designating resolution under section 3.

Subsection (1) states that, as well as requiring the insertion of a notice of its intentions in 2 newspapers, a council must consult formally with the police and the Department for Regional Development (in its role of having responsibility for roads, etc.,). This will ensure that traffic and other environmental issues are properly taken into account.

Subsection (2) makes it clear that, although the police and the Department for Regional Development are the only bodies which **must** be consulted, a council can also consult with any other body or person it wishes.

Subsection (3) provides that, where a district council considers rescinding or varying a designating resolution, it is required to notify all existing licence holders affected by this action.

Subsection (4) provides the details which must be contained in the notification to existing licence holders and the time limit for responses.

Subsection (5) obliges a district council to consider any representations made to it during the period for such responses in relation to its proposal to pass, vary or rescind a designating resolution.

Subsection (7) requires a district council to set a date when each resolution will become effective. A council must allow at least one month from the date on which the resolution is finally passed.

Subsection (8) requires a council to publish the final outcome of its consideration on the proposal and to send a copy of its decision to every person who made formal representations regarding the matter.

Section 5: Applications for the grant, renewal or variation of street trading licences

This section provides details of how applications for the grant, renewal or variation of street trading licences are to be made and a district council's responsibility when such applications are received.

Subsection (1) states that the application should be made in writing and gives each council the discretion to specify the type of the application form and when it should be completed. The subsection also gives a council the discretion to demand that the fee for a licence, or any part of that fee, should accompany each application.

Subsection (4) sets out certain details which must be included in any application form designed by an individual council for the grant or renewal of a licence.

Subsection (5) permits a council to require 2 photographs (of a quality acceptable to the council) to accompany each application for a licence.

Subsection (7) makes it clear that each council may ask whatever additional information relevant to street trading it may reasonably require.

Subsection (8) requires a district council to respond in writing to each application for a street trading licence within a reasonable time.

Section 6: Grant, etc., of street trading licences

This section places an onus on a district council to grant a street trading licence unless one of the mandatory or discretionary grounds for the refusal of such an application applies.

Subsection (2) gives a power to the Department for Social Development to make regulations setting out the form of a street trading licence. The Department intends to

have such regulations in place on the coming into operation of the substantive provisions of the Act.

Subsection (3) requires a district council to state, in relation to each licence it grants, whether the person is authorised to operate as a stationary trader or a mobile trader. This distinction is important since a stationary trader may only operate from the street trading pitch allocated to him in a designated street whereas a mobile trader may operate in any area (designated or otherwise) set out by the council on his licence.

Subsection (4) gives a council the discretion to decide how long it wants any street trading licence to remain valid up to a maximum duration of 3 years. A council can also decide whether licences should all terminate (and hence fall for renewal) on a common date or whether they should expire at various dates according to when they were granted or renewed.

Section 7: Conditions relating to street trading licences

Subsection (1) sets out the conditions which **must** be specified by a district council in a street trading licence.

Subsection (2) gives a council a discretion to specify such further conditions as it considers reasonable.

Section 8: Mandatory grounds for refusing an application

This section sets out a number of circumstances where a district council **must** refuse an application for a street trading licence. As a council is given no element of discretion in these circumstances, there will be no right of appeal. The circumstances are where:

- the applicant is not an individual;
- the applicant is under the legal school leaving age;
- trading is prohibited by means of other legislation; or
- the application is for a licence to trade from a stationary position in a street which has not been designated or the application is for trading in goods which are excluded by a designating resolution.

Section 9: Discretionary grounds for refusing an application.

Subsection (1) sets out the circumstances where a council may refuse an application to grant or renew a street trading licence. An applicant has a right of appeal against the refusal of an application on discretionary grounds.

Subsection (2) offers an alternative to refusing an application where a council considers that an applicant has not availed of a previous street trading licence to a reasonable extent. Instead of refusing the application the council may grant a licence permitting

the applicant to trade on fewer days than those specified in the application or to trade in a different area or different designated street.

Section 10: Revocation, etc., of street trading licences

Subsection (1) gives a council the power to revoke a street trading licence at any time when it is satisfied that any one of the conditions set out in the subsection applies.

Subsection (2) makes it clear that, where revocation of a licence is being considered because of a licence holder's failure to store receptacles or failure to comply with the conditions of the licence, a council cannot take such action until it gives the licence holder at least one written warning about his conduct.

Subsection (3) provides a district council with an alternative to revoking a licence where this is being considered because:

- the place where a licence holder is trading becomes unsuitable for any reason;
- the council varies or revokes a designating resolution in relation to the street or the goods sold; or
- a licence holder is not utilising the licence to a reasonable extent.

Instead, the council may vary the conditions of the licence by offering another place to trade, limiting the days or hours of trading or restricting the types of articles being sold.

Section 11: Variation of street trading licences

This section provides a council with a power to vary the conditions specified in a licence.

Subsection (1) allows such a variation to the conditions to be carried out at any time where:

- the licence holder has asked for the variation of the licence;
- the licence holder's trading site or area has become unsuitable;
- the council has rescinded or varied the designation order in relation to the area or the goods in which he is trading; or
- revocation of a licence is being considered because it is not being utilised to a reasonable extent.

Subsection (2) provides that a council may vary the conditions specified in a licence in other ways but such variation can only take place when a renewal application is being considered.

Section 12: Notice and representations

This section sets out the administrative steps that a council must take when it intends to refuse an application for a licence or intends to revoke or vary (or refuse to vary at the request of the licence holder) a licence.

Subsection (1) requires a council to write to the licence holder or, as the case may be, to the applicant for a licence, setting out its proposal.

Subsection (2) specifies that the written notification must set out the grounds on which the district council's proposed decision is based and indicate that representations may be made to the council on the matter within 21 days.

Subsection (3) prevents a council from taking any action to implement a decision until the necessary consultation has taken place.

Subsection (4) requires a council to write to the person affected, giving the grounds on which its final decision was based and setting out the appropriate appeal procedures.

Section 13: Appeals

This section sets out the circumstances in which an applicant or an existing licence holder can appeal to a court of summary jurisdiction against a decision of a district council.

Subsection (1) details the matters in respect of which an appeal will lie. They are:

- any condition specified in a street trading licence;
- a refusal to grant or renew a licence (except a refusal on one of the mandatory grounds in section 8);
- the grant of a licence but on different terms to those applied for or different to those on the licence previously held;
- the revocation of a licence;
- the variation of the conditions specified in a licence; and
- the refusal to vary the conditions specified in a licence at the request of the licence holder.

The appeal against a decision in respect of such matters is initiated by the appellant notifying the clerk of petty sessions.

Subsection (2) provides that, on hearing an appeal, a court may make such an order as it considers appropriate. A council must give effect to the court's order subject to the council's right of appeal to a higher court.

Subsections (3) to (5) provide that existing licences should remain in force during the appeals procedure and, similarly, that any changes to the conditions of a licence should not come into effect until the appeals process has been completed.

Section 14: Temporary licences

Under this section a district council may issue a temporary licence to permit street trading for a limited period.

Subsection (2) provides that a district council will have the discretion to decide the form and timing of the application and the details required on the form. A council can also ask for photographs of the applicant and specify the fee that should accompany the application.

Subsection (3) requires a district council, within a reasonable period, to advise applicants in writing of the outcome of their application.

Subsection (4) states that the mandatory grounds for refusing an application because the applicant is not an individual, because of the age of the applicant or because trading would be unlawful will apply equally to an application for a temporary licence. However, unlike the full-term licence, a temporary licence can permit trading in a street that is not a designated street or in goods not designated by the council.

Subsection (5) requires a district council to develop criteria upon which it will decide applications for temporary licences. These criteria are to be available for inspection by any interested party.

Subsection (7) makes it clear that in granting a temporary licence, a district council can allow the holder to trade anywhere in the district of the council or in any goods or services the council may choose. This means that a holder of a temporary licence may be allowed to trade in places which have not been designated and to trade in goods or services which may not otherwise be permitted.

Subsections (8) and (9) place limits on the number and duration of temporary licences which may be granted to an individual trader and permit a council to modify the form of the licence as appropriate and to attach any conditions to the licence which it considers appropriate.

Subsection (10) gives a council a power to revoke a temporary licence where the holder has failed to comply with any condition specified in that licence. Before doing so, the council must consider any representations made by the licence holder.

Subsections (11) and (12) provide a right of appeal against the decision of a council in relation to an application for a temporary licence.

Section 15: Fees and charges

This section gives a district council the power to charge fees which will enable it to offset the cost of administering the street trading licence scheme. It also allows a council to recover any costs it may incur in refuse disposal and cleaning of streets associated with street trading activities.

Subsection (1) sets out the range of circumstances in which a council will be able to charge a fee.

Subsection (2) sets out the scope of the other charges (and the administrative costs in relation to these charges) which a council will be entitled to levy.

Subsections (3) to (7) set out the requirements placed on a council to publicise the fees and charges it intends to set, the date from which these can come into effect and the need to make available the details of how these were calculated.

Subsections (9) to (11) state the circumstances where refunds of fees or charges **must** be made and provide discretion for a council to refund in any other circumstances it wishes.

Section 16: Identification of street traders

Subsection (1) requires holders of street trading licences to have their licence with them at all times when they are trading and, on being asked by a council official or a police officer, to produce that licence for inspection.

Subsection (2) requires anyone suspected of engaging or having been engaged in street trading to provide their correct name and address to a council official or a police officer on demand.

Section 17: Unlicensed street trading

Subsection (1) provides that anyone who engages in street trading without a licence, trades at a different location or on a day or at a time not specified in the licence or trades in a place or on a day not specified in a temporary licence is guilty of an offence which is punishable by a fine of up to £1,000. It is also made clear in this subsection that the trader must hold a licence granted by the district council in whose district he is trading – a licence from another district council will not be acceptable. It should be noted that under Article 49 of the Magistrates' Courts (Northern Ireland) Order 1981, any person who aids or abets in the commission of an offence, or directs another person in the commission of an offence may be equally convicted of the same offence.

Subsections (2) and (3) provide that any article or thing which is displayed in the street and any receptacle or other equipment will be assumed to be there for street trading purposes and that the person having possession or control of them was engaged in street trading. In such instances, the burden of proof that the items were there for some other purpose will be on that person.

Section 18: Powers of seizure

This section gives a district council (and the police) the power to remove the goods (including the stalls or vehicles used in their sale or display) of persons suspected of committing an offence under section 17. The power of seizure extends to goods and equipment which may be required to be used in evidence in any proceedings or which may be the subject of a forfeiture order under section 19.

Subsections (2) to (4) make special provision where the articles seized appear to be of a perishable nature. Under these provisions, the council or the police may take the items to a justice of the peace who may provide a certificate in relation to the items and make an order as to how the items are to be dealt with. The justice's certificate will provide independent verification of the items seized for the purpose of proceedings.

Subsections (5) to (7) provide for the action which a district council must take to return goods seized where no proceedings are taken within 28 days from the date of the seizure.

Section 19: Forfeiture

This section permits a court which convicts an unlicensed trader to order the forfeiture of the goods seized under section 18.

Subsections (3) to (5) set out provisions to cater for the situation where, under section 18, a justice of the peace has made an order in relation to perishable goods which have been seized. If that order did not require the articles to be disposed of at that time, the court may order them to be forfeited and dealt with in such manner as appears appropriate. If the justice of the peace ordered the disposal of the items the court may now treat them as forfeited and any proceeds from the disposal dealt with as directed by the court.

Subsection (6) prevents a court from making a forfeiture order until it has given an opportunity for any person claiming an interest in the seized articles to make representations to the court.

Subsection (7) provides that where a court does not order the items to be forfeited they must be returned to the person from whom they were seized.

Section 20: Compensation

This section gives a right to the owner of the goods (or any person with a legal interest) to seek compensation in certain circumstances where a case has not been brought within 6 months, where the trader is acquitted or where proceedings are withdrawn.

Subsection (2) deals with the situation where the goods seized were perishable goods and, despite a conviction being obtained, a court refuses to grant a forfeiture order. In

such circumstances, any person with a legal interest in the goods may seek compensation in respect of any deterioration in the goods seized.

Subsection (4) makes it clear that a court will make no order for compensation unless the authorised officer or constable acted unlawfully in seizing the goods.

Section 21: Other offences.

This section sets out the other offences (and the maximum penalty of £1,000 on conviction) which may be committed by a street trader. These offences are:

- a breach of the standard conditions on a licence (apart from conditions relating to the location, days and times of trading, fully availing of the licence and payment of fees and/or charges);
- failing to produce his street trading licence on demand;
- failing to provide a name and address (or the correct name and address) on demand;
- making a false statement on an application for a licence; and
- preventing a council official from carrying out his duties under this Act.

Section 22: Fixed penalty offences

This section gives effect to Schedule 1 to the Act under which a district council may offer a fixed penalty notice to a trader who is believed to have committed an offence under paragraphs (a) or (b) of section 21 of the Act.

Section 23: Power to remove receptacles

This section gives a district council the power to remove any receptacle used by a street trader to a place of storage after trading has finished for the day if that trader has breached his obligation regarding the storage of receptacles. Where this occurs, the council may charge the trader for the cost of storage before the receptacle is returned and, if not claimed by the trader, may dispose of it as it wishes.

Section 24: Employment of assistants

This section allows a street trader to employ anyone to assist him in running his business provided that person is over the legal school leaving age. However, if that employee fails to comply with the conditions of the trader's licence, the licence holder will also be held responsible.

Section 25: General interpretation

This section provides definitions for key words and phrases used throughout the Act.

Section 26: Minor and consequential amendments

This section gives effect to Schedule 2 of the Act which contains amendments to other legislation as a consequence of the introduction of this Act.

Section 27: Transitional provision and saving

Since the main provisions of the Act will not come into operation until a date appointed in an order to be made by the Department (see section 29) this section will permit licences granted under the existing legislation to remain in force until 31 December next following the appointed day.

Section 28: Repeals

This section gives effect to Schedule 3 to the Act which details the provisions to be repealed as a result of the introduction of the Act.

Schedule 1: Fixed penalty offences

This Schedule provides a district council with the option of offering fixed penalty notices to traders who are suspected to have been committing an offence under paragraphs (a) or (b) of section 21. The Schedule also sets out the procedures to be followed in issuing and processing the notice. A trader may pay the fixed penalty within 14 days of receiving the fixed penalty notice or await the institution of proceedings. Any sums paid on a fixed penalty notice are to be treated as if they were fines imposed on conviction of an offence. The amount of the fixed penalty is set at £50 or 5% of level 3 on the standard scale, whichever is the greater. The Department may review the percentage from time to time as circumstances require. A power is provided for the Department to prescribe the form of the fixed penalty notice and regulations will be introduced to come into effect whenever the Act receives Royal Assent.