Sunbeds Act (Northern Ireland) 2011

2011 CHAPTER 19

N.I.

An Act to make provision about the use or supply of tanning devices that use ultraviolet radiation; and for connected purposes. [3rd May 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Offences

Prohibition on allowing use of sunbeds by persons under 18 N.I.

1.—(1) An operator of sunbed premises who—

(a) allows a person who is under 18 to use a sunbed on those premises, or

(b) allows a person who is under 18 to be present (except in the course of providing services to the operator for the purposes of the business of the sunbed premises) in a restricted zone on those premises,

commits an offence.

(2) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(3) Without prejudice to any other means of proving the matters specified in subsection (2), for the purposes of subsection (2) the operator (or an employee or

agent of the operator) is to be treated as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence if—

(a) the operator (or an employee or agent of the operator) was shown any of the documents mentioned in subsection (4); and

(b) that document would have convinced a reasonable person.

(4) The documents referred to in subsection (3)(a) are any document appearing to be—

(a) a passport;

(b) a European Union photocard driving licence; or

(c) such other document (or description of document) as may be prescribed.

(5) Subsections (6) and (7) have effect for determining what is for the purposes of subsection (1)(b) a restricted zone.

(6) If a sunbed on the sunbed premises is in a wholly or partly enclosed space that is reserved for users of that sunbed, every part of that space is a restricted zone.

(7) If a sunbed is in a room on the sunbed premises but not in a space falling within subsection (6), every part of that room is a restricted zone.

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I1 S. 1 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Prohibition on sale or hire of sunbeds to persons under 18 **N.I.**

2.—(1) A person (the "seller") who sells a sunbed to a person who is under 18 commits an offence.

(2) A person (the "hirer") who hires a sunbed to a person who is under 18 commits an offence.

(3) In proceedings for an offence under subsection (1) or (2), it is a defence for the seller or hirer to prove that the seller or hirer (or an employee or agent of the seller or hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) Without prejudice to any other means of proving the matters specified in subsection (3), for the purposes of subsection (3) the seller or hirer (or an employee or agent of the seller or hirer) is to be treated as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence if—

(a) the seller or hirer (or an employee or agent of the seller or hirer) was shown any of the documents mentioned in subsection (5); and

(b) that document would have convinced a reasonable person.

(5) The documents referred to in subsection (4)(a) are any document appearing to be—

(a) a passport;

(b) a European Union photocard driving licence; or

(c) such other document (or description of document) as may be prescribed.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I2 S. 2 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Prohibition on allowing unsupervised use of sunbeds N.I.

3.—(1) An operator of sunbed premises who allows a person to use a sunbed on those premises without supervision commits an offence.

(2) In subsection (1), the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises.

(3) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I3 S. 3 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Duty to provide information to sunbed users, or buyers etc. N.I.

4.—(1) An operator of sunbed premises who fails to comply with a requirement in subsection (2) or (3) commits an offence.

(2) The operator must provide a person who proposes to use a sunbed on those premises with such health information and such other information as may be prescribed in accordance with subsection (11).

(3) That information is to be provided each time the person proposes to use a sunbed on those premises.

(4) A person ("the seller") who sells a sunbed to a person and who fails to comply with the requirement in subsection (5) commits an offence.

(5) The seller must provide a person who is buying the sunbed with such health information and such other information as may be prescribed in accordance with subsection (11).

(6) A person ("the hirer") who hires a sunbed to a person and who fails to comply with the requirement in subsection (7) commits an offence.

(7) The hirer must provide a person who is hiring the sunbed with such health information and such other information as may be prescribed in accordance with subsection (11).

(8) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(9) In proceedings for an offence under subsection (4), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) In proceedings for an offence under subsection (6), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(11) The Department may prescribe—

(a) the health information and other information which is to be provided;

(b) the form and manner in which that information is to be provided.

(12) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I4 S. 4 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I5 S. 4 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Duty to display information notice N.I.

5.—(1) An operator of sunbed premises who fails to comply with the requirement in subsection (2) commits an offence.

(2) That requirement is to display a notice—

(a) containing such health information and such other information as may be prescribed in accordance with subsection (4);

(b) in a position where it is readily visible to persons proposing to use a sunbed on the premises.

(3) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) The Department may prescribe—

(a) the health information and other information which the notice is to contain;

(b) the form and manner of display of the notice.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I6 S. 5 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I7 S. 5 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Prohibition on provision or display of other information N.I.

6.—(1) An operator of sunbed premises who provides or displays any material that contains statements relating to the health effects of sunbed use other than—

(a) statements containing information prescribed under section 4(11) or 5(4), or

(b) statements containing any other information prescribed for the purposes of this subsection,

commits an offence.

(2) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Commencement Information

I8 S. 6 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Protective eyewear N.I.

7.—(1) An operator of sunbed premises who fails to comply with a requirement in subsection (2) or (3) commits an offence.

(2) The operator must make available protective eyewear for a person who proposes to use a sunbed on those premises.

(3) The operator must secure as far as reasonably practicable that a person who uses a sunbed on those premises wears protective eyewear.

(4) A person (the "seller") who sells a sunbed to a person and who fails to comply with the requirement in subsection (5) commits an offence.

(5) The seller must provide a person who is buying the sunbed with protective eyewear.

(6) A person (the "hirer") who hires a sunbed to a person and who fails to comply with the requirement in subsection (7) commits an offence.

(7) The hirer must provide a person who is hiring the sunbed with protective eyewear.

(8) Regulations may provide that the protective eyewear referred to in this section must meet such requirements as may be prescribed.

(9) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) In proceedings for an offence under subsection (4), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(11) In proceedings for an offence under subsection (6), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(12) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(13) In this section "protective eyewear" means eyewear designed to protect the eyes of a person using a sunbed from ultraviolet radiation.

Commencement Information

I9 S. 7 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

PROSPECTIVE

Requirements in relation to training **N.I.**

8.—(1) An operator of sunbed premises who fails to comply with a requirement in subsection (2) commits an offence.

(2) The operator must—

(a) meet such requirements in relation to training as may be prescribed; and

(b) secure that such employees or agents of the operator as may be prescribed meet such requirements in relation to training as may be prescribed.

(3) A person (the "seller") who sells a sunbed to any person and who fails to meet such requirements in relation to training as may be prescribed commits an offence.

(4) A person (the "hirer") who hires a sunbed to any person and who fails to meet such requirements in relation to training as may be prescribed commits an offence.

(5) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(6) In proceedings for an offence under subsection (3), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(7) In proceedings for an offence under subsection (4), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PROSPECTIVE

Requirements in relation to sunbeds **N.I.**

9.—(1) An operator of sunbed premises who fails to comply with the requirement in subsection (2) commits an offence.

(2) The operator must secure that each sunbed which the operator makes available for use on those premises meets such requirements as may be prescribed.

(3) A person (the "seller") who sells a sunbed to a person and who fails to comply with the requirement in subsection (4) commits an offence.

(4) The seller must secure that a sunbed referred to in subsection (3) meets such requirements as may be prescribed.

(5) A person (the "hirer") who hires a sunbed to a person and who fails to comply with the requirement in subsection (6) commits an offence.

(6) The hirer must secure that a sunbed referred to in subsection (5) meets such requirements as may be prescribed.

(7) In proceedings for an offence under subsection (1), it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(8) In proceedings for an offence under subsection (3), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(9) In proceedings for an offence under subsection (5), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Exemption for medical treatment **N.I.**

10.—(1) No offence is committed under this Act in respect of any use of a sunbed that falls within subsection (2).

(2) The use of a sunbed falls within this subsection if—

(a) the use is for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner; and

(b) the sunbed is a dedicated sunbed in, or provided by, a healthcare establishment.

(3) In subsection (2)—

"dedicated sunbed" means a sunbed that is made available only for use for the purpose of medical treatment;

"healthcare establishment" means a hospital, an independent hospital, independent clinic or independent medical agency within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9);

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 (c. 54) who holds a licence to practise under that Act.

Commencement Information

I10 S. 10 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Enforcement

Enforcement by district councils N.I.

11.—(1) It is the duty of every district council to enforce within its district the provisions of or made under this Act.

(2) In this Act, "authorised officer", in relation to a district council, means any person (whether or not an officer of the council) who is authorised by it in writing, either generally or specially, to act in matters arising under this Act.

(3) Schedule 1 makes provision about the powers of authorised officers.

Commencement Information

I11 S. 11 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Fixed penalties for certain offences N.I.

12.—(1) Where an authorised officer of a district council has reason to believe that a person has committed an offence under section 1, 2 or 4 to 9 within the district of that council, the authorised officer may give the person a fixed penalty notice in respect of the offence.

(2) A fixed penalty notice is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty in accordance with this Act.

(3) Schedule 2 makes further provision about fixed penalties.

Commencement Information

I12 S. 12 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I13 S. 12 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Obstruction of officers N.I.

13.—(1) Any person who intentionally obstructs an authorised officer of a district council, acting in the exercise of the officer's functions under or by virtue of this Act, commits an offence.

(2) Any person who without reasonable cause fails to give to an authorised officer, acting in the exercise of the officer's functions under or by virtue of this Act, any facilities, assistance or information which the authorised officer reasonably requires of the person for the performance of those functions, commits an offence.

(3) A person commits an offence if, in purported compliance with any requirement of an authorised officer under subsection (2)—

(a) the person makes a statement which is false or misleading, and

(b) the person either knows that it is false or misleading or is reckless as to whether it is false or misleading.

(4) In subsection (3), "false or misleading" means false or misleading in a material particular.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I14 S. 13 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

PROSPECTIVE

Registration or licensing of sunbed premises or operators, etc. N.I.

14.—(1) Regulations may make provision for—

(a) registration by district councils of—

(i) premises which are used as, or which are proposed to be used as, sunbed premises,

(ii) premises on which the sale or hire of sunbeds takes place or is proposed to take place,

and for prohibiting the use for those purposes of any premises which are not registered in accordance with the regulations;

(b) licensing by district councils of—

(i) premises which are used as, or which are proposed to be used as, sunbed premises,

(ii) premises on which the sale or hire of sunbeds takes place or is proposed to take place,

and for prohibiting the use for those purposes of any premises except in accordance with a licence issued under the regulations; or

(c) licensing by district councils of—

(i) operators of sunbed premises,

(ii) persons who sell or hire sunbeds,

and for prohibiting a person from operating sunbed premises or from selling or hiring sunbeds except in accordance with a licence issued under the regulations.

(2) Regulations under this section may—

(a) create offences punishable on summary conviction with a fine not exceeding level 5 on the standard scale;

(b) provide for defences in relation to any offence created by the regulations;

(c) provide for section 12 or any provision of Schedule 1 or 2 to apply with modifications;

(d) provide for district councils to have power to charge fees in relation to registration or licensing;

(e) provide for district councils to have power to revoke licences in such circumstances as are prescribed;

(f) provide for appeals against decisions of district councils to a court of summary jurisdiction.

General

Offences by bodies corporate etc. **N.I.**

15.—(1) For the purposes of this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words "the liability of whose members is limited" and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with the functions of management as if that member were a director of the body corporate.

(2) If an offence under this Act is committed by a partnership or proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In subsection (2) "partner" includes a person purporting to act as a partner.

Commencement Information

I15 S. 15 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

Regulations N.I.

16.—(1) Regulations under this Act may contain such incidental, supplementary, consequential, transitory, transitional or saving provisions as the Department considers appropriate.

(2) Subject to subsection (3), regulations under this Act shall be subject to negative resolution.

(3) Regulations under section 14 or paragraph 4 of Schedule 2 shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

Commencement Information

I16 S. 16 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I17 S. 16 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Interpretation N.I.

17.—(1) In this Act—

"authorised officer" has the meaning given by section 11(2);

"the Department" means the Department of Health, Social Services and Public Safety;

"health information" means information about the health risks associated with the use of sunbeds;

"operator" in relation to sunbed premises, means the person having management or control of those premises;

"premises" includes any place and, in particular, includes—

(a) any land or building;

(b) any tent or moveable structure; and

(c) any vehicle or vessel;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Department;

"sunbed" means an electrically-powered device designed to produce tanning of the human skin by the emission of ultraviolet radiation;

"sunbed premises" means premises in which persons are permitted to use a sunbed for payment of any kind (whether direct or otherwise).

(2) Subsections (3) and (4) have effect for determining for the purposes of this Act on which premises a sunbed is sold or hired where—

(a) the order for the sunbed is taken on certain premises (premises A); and

(b) the sunbed is despatched for delivery in pursuance of the sale or hire from other premises (premises B).

(3) Subject to subsection (4), the sale or hire is to be treated as taking place on premises A.

(4) But if—

(a) premises A are not in Northern Ireland; and

(b) premises B are in Northern Ireland,

the sale or hire is to be treated as taking place on premises B.

Commencement **N.I.**

18.—(1) This section and sections 17 and 19 come into operation on the day after the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

Short title **N.I.**

19 This Act may be cited as the Sunbeds Act (Northern Ireland) 2011.

SCHEDULES

SCHEDULE 1 N.I.

Section 11(3).

POWERS OF AUTHORISED OFFICERS

1 An authorised officer has the right to do any of the following, on production (if required) of the officer's authorisation—

(a) at any reasonable hour, enter any premises within the district of that council to ascertain whether an offence under sections 1 to 9 has been or is being committed there;

(b) there carry out such inspections and examinations as the officer considers necessary for the purpose of the proper exercise of the officer's functions under this Act;

(c) if the officer considers it necessary for that purpose—

(i) require the production of any book, document or record (in whatever form it is held); and

(ii) inspect it and take copies of or extracts from it;

(d) take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the authorised officer considers necessary for that purpose;

(e) require any person to give the officer such information, or afford the officer such facilities and assistance, as the officer considers necessary for that purpose.

Commencement Information

I18 Sch. 1 para. 1 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

2 A person may not be required under paragraph 1 to answer any question or to produce any document which the person would be entitled to refuse to answer or produce in or for the purpose of proceedings in a court in Northern Ireland.

Commencement Information

I19 Sch. 1 para. 2 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

3.—(1) An authorised officer may not under paragraph 1 enter premises which are occupied as a private dwelling unless under the authority of a warrant issued under sub-paragraph (2).

(2) A lay magistrate may issue a warrant, authorising the authorised officer to enter premises which are occupied as a private dwelling if need be by force, only if satisfied by complaint on oath that there are reasonable grounds for suspecting that—

(a) an offence mentioned in paragraph 1(a) has been, or is being, committed; and

(b) evidence of the commission of that offence may be found in those premises.

Commencement Information

I20 Sch. 1 para. 3 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

4.—(1) In relation to premises other than premises occupied as a private dwelling, a lay magistrate may exercise the power in sub-paragraph (3) if the magistrate is satisfied by complaint on oath—

(a) that for the purpose of the proper exercise of the functions of a district council under this Act there are reasonable grounds for entering into any premises; and

(b) of either or both of the matters mentioned in sub-paragraph (2).

(2) The matters are—

(a) that admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant under this Schedule has been given to the occupier or a person who reasonably appears to the district council to be concerned in the management of the premises;

(b) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return.

(3) A lay magistrate may issue a warrant authorising the authorised officer to enter the premises, if need be by force.

Commencement Information

I21 Sch. 1 para. 4 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

5 A warrant under paragraph 3 or 4 continues in force until the end of the period of one month beginning with the date on which the lay magistrate signs it.

Commencement Information

I22 Sch. 1 para. 5 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

6 An authorised officer entering any premises under this Schedule may take with the officer such other persons and such equipment as the officer considers necessary.

Commencement Information

I23 Sch. 1 para. 6 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

7 If premises which an authorised officer is authorised to enter by a warrant are unoccupied, or if the occupier is temporarily absent, then on leaving them that officer must leave the premises as effectively secured against unauthorised entry as the officer found them.

Commencement Information

I24 Sch. 1 para. 7 in operation at 1.5.2012 by S.R. 2012/90, **art. 2**

SCHEDULE 2 N.I.

Section 12(3).

FIXED PENALTIES

Commencement Information

I25 Sch. 2 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

Contents of fixed penalty notices

1 A fixed penalty notice must—

(a) state the alleged offence; and

(b) give such particulars of the circumstances alleged to constitute it as are necessary for giving reasonable information about it.

Commencement Information

I26 Sch. 2 para. 1 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I27 Sch. 2 para. 1 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

2.—(1) A fixed penalty notice must also state—

(a) the amount of the penalty and the period for its payment;

(b) the consequences of not paying the penalty before the end of the period mentioned in head (a);

(c) the person to whom and the address at which payment may be made;

(d) by what method payment may be made;

(e) the person to whom and the address at which any representations relating to the notice may be made.

(2) The person mentioned in sub-paragraph (1)(c) and (e) must be the district council on whose behalf the authorised officer was acting when the officer gave the notice.

Commencement Information

I28 Sch. 2 para. 2 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I29 Sch. 2 para. 2 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

3 A fixed penalty notice must also—

(a) inform the person to whom it is given of the person's right to be tried for the alleged offence; and

(b) explain how that right may be exercised.

Commencement Information

I30 Sch. 2 para. 3 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I31 Sch. 2 para. 3 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Amount of fixed penalty and period for payment

4 The fixed penalty is such amount as may be prescribed.

Commencement Information

I32 Sch. 2 para. 4 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I33 Sch. 2 para. 4 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

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

Commencement Information

I34 Sch. 2 para. 5 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I35 Sch. 2 para. 5 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Effect of notice and payment

6.—(1) Proceedings for the offence in respect of which a fixed penalty notice was given may not be brought before the end of the period for payment of the fixed penalty.

(2) Sub-paragraph (1) does not apply if the person to whom the notice was given has asked in accordance with paragraphs 11 and 12 to be tried for the alleged offence.

Commencement Information

I36 Sch. 2 para. 6 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I37 Sch. 2 para. 6 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

7 If the fixed penalty is paid in accordance with the fixed penalty notice before the end of the period for payment of the fixed penalty, no proceedings for the offence may be brought and paragraph 11 does not apply.

Commencement Information

I38 Sch. 2 para. 7 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I39 Sch. 2 para. 7 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

8 If proceedings have been brought pursuant to a request under paragraph 11, but then the penalty is paid as mentioned in paragraph 7 those proceedings may not be continued.

Commencement Information

I40 Sch. 2 para. 8 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I41 Sch. 2 para. 8 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

9 In any proceedings, a certificate is evidence of the facts which it states if it—

(a) purports to be signed by or on behalf of the person responsible for the financial affairs of the district council on whose behalf the authorised officer who gave a fixed penalty notice was acting; and

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

Commencement Information

I42 Sch. 2 para. 9 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I43 Sch. 2 para. 9 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

10 Any sum received by a district council under this Schedule accrues to that council.

Commencement Information

I44 Sch. 2 para. 10 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I45 Sch. 2 para. 10 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Trial

11 If the person to whom a fixed penalty notice has been given asks to be tried for the alleged offence, proceedings may be brought against that person.

Commencement Information

I46 Sch. 2 para. 11 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I47 Sch. 2 para. 11 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

12 Any request to be tried must be made—

(a) by notice given to the district council in question before the end of the period for payment of the penalty;

(b) in the manner specified in the fixed penalty notice.

Commencement Information

I48 Sch. 2 para. 12 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I49 Sch. 2 para. 12 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Withdrawal of fixed penalty notices

13.—(1) The district council must consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

(2) Where a fixed penalty notice is withdrawn in accordance with sub-paragraph (1)—

(a) the district council must give notice of the withdrawal to the person to whom the fixed penalty notice was given;

(b) the district council must repay any amount which has been paid under the fixed penalty notice; and

(c) no proceedings are to be brought or continued against that person for the offence in question.

Commencement Information

I50 Sch. 2 para. 13 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I51 Sch. 2 para. 13 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Regulations

14 The Department 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 by which fixed penalties may be paid;

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

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

Commencement Information

I52 Sch. 2 para. 14 in operation at 13.2.2012 for specified purposes by S.R. 2012/41, **art. 2**

I53 Sch. 2 para. 14 in operation at 1.5.2012 in so far as not already in operation by S.R. 2012/90, **art. 2**

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Sunbeds Act (Northern Ireland) 2011.