



2014 CHAPTER 4

Enforcement powers, etc.

Fixed penalties for certain offences

12.—(1) Where an authorised officer of a council has reason to believe that a person has committed—

- (a) an offence under section 10(1), (2), (3), (7) or (8),
- (b) an offence under Article 3, 4 or 4A of the Health and Personal Social Services (Northern Ireland) Order 1978,
- (c) an offence under Article 4, 4A or 5 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991,
- [^{F1}(d) an offence under section 1 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016;]
- [^{F2}(e) an offence under section 2 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016.]

the officer may give that 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 section.

(3) Where a person is given a notice under this section in respect of an offence—

- (a) no proceedings may be brought for that offence before the expiration of the period of 28 days following the date of the notice; and
- (b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period.

Changes to legislation: There are currently no known outstanding effects for the Tobacco Retailers Act (Northern Ireland) 2014, Section 12. (See end of Document for details)

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence.

(5) A notice under this section must also state—

- (a) the period during which, by virtue of subsection (3)(a), proceedings will not be brought for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which—
 - (i) the fixed penalty may be paid;
 - (ii) any representations relating to the notice may be made.

(6) The person mentioned in subsection (5)(c) must be the council on whose behalf the authorised officer was acting when he or she gave the notice.

(7) The form of a notice under this section shall be such as may be prescribed.

(8) The fixed penalty payable to a council under this section shall be such amount as may be prescribed.

(9) But if payment is made within the first 14 days of the period mentioned in subsection (3)(a) the amount payable is reduced by 25%.

(10) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c)(i) at the address so mentioned.

(11) Where a letter is sent in accordance with subsection (10) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(12) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

Textual Amendments

- F1** S. 12(1)(d) added (1.2.2022) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), s. 20\(3\), Sch. 1 para. 10\(a\)](#); S.R. 2021/329, art. 2(c)
- F2** S. 12(1)(e) added (1.2.2022) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), s. 20\(3\), Sch. 1 para. 10\(b\)](#); S.R. 2021/329, art. 2(c)

Changes to legislation: There are currently no known outstanding effects for the Tobacco Retailers Act (Northern Ireland) 2014, Section 12. (See end of Document for details)

Commencement Information

- I1** S. 12 coming into operation (1.5.2014 for specified purposes) by [The Tobacco Retailers \(2014 Act\) \(Commencement No. 1\) Order \(Northern Ireland\) 2014 \(S.R. 2014/125\)](#), **art. 2(d)**
- I2** S. 12 in operation at 1.7.2016 in so far as not already in operation by [S.R. 2016/101](#), **art. 2(b)**, **Sch. 2**

Changes to legislation:

There are currently no known outstanding effects for the Tobacco Retailers Act (Northern Ireland) 2014, Section 12.