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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2015 No.**

**The Marine Conservation (Fixed Monetary Penalties) Order (Northern Ireland) 2015**

**PART 2**

Fixed monetary penalties

**Power to impose a fixed monetary penalty**

**3.—**(1) The Department may by notice impose a fixed monetary penalty on a person in relation to an offence under section 32(1) of the Act (Offence of contravening byelaws).

(2) The Department must, before imposing a fixed monetary penalty under paragraph (1), be satisfied beyond reasonable doubt that the person has committed the offence.

(3) The amount of the fixed monetary penalty is £100 for an individual or £200 in any other case.

**Notice of intent**

**4.—**(1) Where the Department proposes to impose a fixed monetary penalty on a person, it must serve a written notice of intent on that person.

(2) A notice of intent must—

- (a) state the amount of the penalty;
- (b) offer the person the opportunity to discharge their liability to the penalty by payment of 50% of the amount of the penalty within a period of 28 days beginning with the date on which the notice of intent is served;
- (c) include information as to—
  - (i) the grounds for the proposal to impose the fixed monetary penalty;
  - (ii) the effect of payment of the sum specified in Article 5;
  - (iii) the right to make representations and objections conferred by Article 6;
  - (iv) the period within which representations and objections may be made by virtue of Article 6;
  - (v) the circumstances in which the Department may not impose the fixed monetary penalty;
  - (vi) the period within which liability to the fixed monetary penalty may be discharged by virtue of Article 5;
  - (vii) the period within which representations and objections may be made; and
  - (viii) how payment may be made.

### **Discharge of liability**

5. A person's liability to a fixed monetary penalty is discharged if 50% of the amount of the penalty is paid within the period of 28 days beginning with the date on which the notice of intent is served.

### **Representations and objections**

6.—(1) A person on whom a notice of intent is served may, within a period of 28 days beginning with the date on which the notice of intent is served, make written representations and objections to the Department in relation to the proposed imposition of the fixed monetary penalty.

(2) This Article does not apply where a person has discharged liability under Article 5.

### **Imposition of a fixed monetary penalty**

7.—(1) The Department must after the end of the period for making representations and objections decide whether to impose the fixed monetary penalty.

(2) In making the decision in accordance with paragraph (1) the Department must consider any representations or objections received.

(3) The Department must decide not to impose a fixed monetary penalty 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 in relation to which the penalty is proposed.

(4) Where the Department decides to impose a fixed monetary penalty on a person, it must serve a final notice in writing on that person.

(5) The final notice must include information as to—

- (a) the grounds for imposing the fixed monetary penalty;
- (b) the Department's response to any representations and objections received;
- (c) the amount of the fixed monetary penalty;
- (d) how payment may be made;
- (e) the period within which payment must be made;
- (f) the effect of Article 8 (Discount for early payment);
- (g) the effect of Article 9 (Payment dates and late payment penalties);
- (h) right of appeal; and
- (i) the consequences of non-payment.

(6) This Article does not apply where a person has discharged liability under Article 5.

### **Discount for early payment**

8. A person who makes representations or objections in accordance with Article 6 may discharge liability to a fixed monetary penalty by paying to the Department 50% of the amount of the penalty within a period of 28 days beginning with the date on which the final notice is served.

### **Payment dates and late payment penalties**

9.—(1) Where no appeal is brought against the decision to impose a fixed monetary penalty, the penalty must be paid within a period of 28 days beginning with the date on which the final notice is served.

(2) If a fixed monetary penalty is not paid within the period specified in paragraph (1), the amount of the penalty shall be increased by 50%.

(3) Where an appeal is brought against the decision to impose a fixed monetary penalty but a fixed monetary penalty remains payable following that appeal, the penalty must be paid within a period of 28 days beginning with the date on which the appeal is determined.

(4) If a fixed monetary penalty is not paid within a period specified in paragraph (3), the amount of the penalty shall be increased by 50%.

#### **Restrictions on other sanctions**

**10.**—(1) Where a notice of intent has been served on a person—

- (a) no criminal proceedings for the offence to which the notice relates may be instituted against that person in respect of the act to which the notice relates before the end of the period of 28 days beginning with the date on which the notice of intent is served; and
- (b) if that person discharges liability in accordance with the notice, that person may not at any time be convicted of the offence to which the notice of intent relates.

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