

SCHEDULE

Regulation 10

Fixed Monetary Penalties

Interpretation

1. In this Schedule, references to an authorised officer are to an authorised officer of the enforcement authority⁽¹⁾.

Civil sanctions

2.—(1) An authorised officer may by notice impose a fixed monetary penalty on a person in relation to an offence under regulation 9(2).

(2) Before doing so, the officer must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) In this Schedule, “fixed monetary penalty” means a penalty of £2,500.

Notice of intent

3.—(1) When an authorised officer proposes to impose a fixed monetary penalty on a person, the officer must serve on that person a notice of what is proposed (“a notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for the proposal to impose the fixed monetary penalty;
- (b) the amount of the penalty;
- (c) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received; and
- (d) information as to—
 - (i) the effect of that discharge payment,
 - (ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received, and
 - (iii) the circumstances in which an authorised officer may not impose the fixed monetary penalty (including any defences relating to the offence in relation to which the notice is served).

Discharge of liability

4. Liability for the penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Making representations and objections

5. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty.

(1) “Enforcement authority” has the meaning give in section 6(1) of the Food Safety Act 1990.

Service of final notice

6.—(1) If the person who has received a notice of intent does not discharge liability for the penalty within the 28 day period referred to in paragraph 4, the authorised officer may serve a final notice imposing a fixed monetary penalty.

(2) The authorised officer may not serve a final notice on a person where the authorised officer is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) An authorised officer who serves a final notice imposing a fixed monetary penalty may not serve any other notice under these Regulations in relation to the offence.

Contents of final notice

7. A final notice must include information as to—
- (a) the amount of the fixed monetary penalty;
 - (b) the grounds for imposing the penalty;
 - (c) how payment may be made;
 - (d) the period of 28 days within which payment must be made;
 - (e) the early payment discounts and late payment penalties;
 - (f) rights of appeal; and
 - (g) the consequences of non-payment.

Discount for early payment

8. If a person who was served with a notice of intent makes representations or objections concerning that notice within the time limit, that person may discharge liability under the final notice by paying 50% of the amount of the penalty within 14 days beginning with the day on which the final notice was received.

Grounds of appeal

- 9.—(1) The person receiving the final notice may appeal against it.
- (2) The grounds for appeal are—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable;
 - (d) that the decision was wrong for any other reason.

Appeals

- 10.—(1) An appeal under paragraph 9 is to the First-tier Tribunal.
- (2) A final notice is suspended pending the determination or withdrawal of the appeal.
- (3) The First-tier Tribunal may—
- (a) withdraw, confirm or vary the final notice;
 - (b) take such steps as an authorised officer could have taken in relation to the act or omission giving rise to the final notice; or
 - (c) remit the decision whether to confirm the final notice, or any other matter relating to that decision, to an authorised officer.

Non-payment after 28 days

- 11.**—(1) The penalty must be paid within 28 days of receipt of the final notice.
- (2) If the penalty is not paid within 28 days the amount payable is increased by 50%.
- (3) In the case of an appeal the penalty must be paid within 14 days of the determination of the appeal (if the appeal is unsuccessful), and if it is not paid within 14 days the amount of the penalty is increased by 50%.

Recovery of payments

- 12.** An authorised officer may recover any fixed monetary penalty imposed under this Schedule as if payable under a court order.

Criminal proceedings

- 13.**—(1) If a notice of intent for a fixed monetary penalty is served on a person—
- (a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice relates before the expiry of the period of 28 days beginning with the date on which the notice of intent is received; and
 - (b) if that person discharges liability, that person may not at any time be convicted of the offence in relation to that act or omission.
- (2) If a fixed monetary penalty is imposed on a person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.