EXECUTIVE NOTE

THE SALE OF TOBACCO (REGISTRATION OF MOVEABLE STRUCTURES AND FIXED PENALTY NOTICES) (SCOTLAND) REGULATIONS 2011

SSI 2011/23

The above instrument was made in exercise of the powers conferred by sections 24 and 40(2) of, and paragraphs 3 and 4 of Schedule 1 to, the Tobacco and Primary Medical Services (Scotland) Act 2010 ("the Act"). This instrument is subject to affirmative procedure.

Policy Objectives

The Act establishes a tobacco sales registration scheme. This scheme allows retailers to be clearly identified, enabling trading standards officers and others to offer advice and support to them to avoid illegal sales. The Act also introduces a fixed penalty notice scheme.

Regulations 2, 3 and 4 set out information required on any application by a person seeking to sell tobacco from moveable premises to register for the tobacco sales registration scheme. These regulations are in line with other schemes relating to street traders.

Regulation 5 prescribes that a fixed penalty notice can be issued up to seven days after the day on which an offence was committed. This is in line with other fixed penalty schemes operational in Scotland, including the smoking ban fixed penalty notice scheme.

Regulations 6 and 7 set the fixed penalty amount for businesses and individuals found to be in breach of offences under Part 1 of the Act . Regulation 6 sets the fixed penalty level at £50, with the discounted amount at £30, for persons found to be buying, or attempting to buy, tobacco under the age of 18 and for persons under 18 who do not, on request from a constable, surrender tobacco products or provide information set out in the Act. Regulation 7 sets the amount of the fixed penalty notice at £200, with the discounted amount at £150, for all other offences in Part 1 of the Act. This regulation sets out that the level of fixed penalty will increase by £200 for every offence committed within a two year period. It should be noted that a fixed penalty cannot be issued to any person under 16.

These regulations will come into force on 1 April 2011

Consultation

The Act has a number of regulation-making powers. A consultation on five sets of draft regulations to be made under the Act began on 27 April and ran through until 20 July 2010. The Scottish Government received nearly 500 responses to the consultation from individuals and organisations.

Financial effects

A Regulatory Impact Assessment was carried out in relation to the tobacco sales registration scheme. It was deemed that these regulations would put no additional burden on business. A copy of the RIA can be accessed at: http://www.scotland.gov.uk/Publications/2009/02/27120518/0