

2021 No. 328

PUBLIC HEALTH

**The Smoke-Free (Private Vehicles) Regulations (Northern
Ireland) 2021**

Laid before the Assembly in draft

Made - - - - 6th December 2021

Coming into operation - 1st February 2022

The Department of Health makes the following Regulations, in exercise of the powers conferred by Articles 6, 7(2)(b), 10(1B) and (3), 11(1A) and (1B) and 15(1) of, and paragraphs 5, 8 and 18 of Schedule 1 to, the Smoking (Northern Ireland) Order 2006(a).

Citation, Commencement and Interpretation

1.—(1) These Regulations may be cited as the Smoke-free (Private Vehicles) Regulations (Northern Ireland) 2021 and shall come into operation on 1st February 2022.

(2) In these Regulations “the Order” means the Smoking (Northern Ireland) Order 2006.

Private vehicles with children present, penalties and discounted amounts – amendment of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007

2.—(1) The Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 12 (enclosed vehicles) –

(a) after paragraph (1) insert—

“(1A) A vehicle that is not smoke-free by virtue of paragraph (1), or any part of such a vehicle, is smoke-free if-

(a) it is enclosed,

(b) there is more than one person present in the vehicle, and

(c) a person under the age of 18 is present in the vehicle.”;

(b) in paragraph (2), for “paragraph (1)” substitute “paragraphs (1) and (1A)”; and

(c) after paragraph (5) add-

“(6) Paragraph (1A) does not apply to-

(a) a caravan or motor caravan that is stationary and not on a road; or

(a) S.I. 2006/2957 (N.I. 20) as amended by the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016, 2016 c.26 (N.I.)

(b) S.R. 2007 No. 138 as amended by S.R. 2008 No. 307

- (b) a caravan or motor caravan that is stationary, is on a road and is being used as living accommodation.

(7) In this regulation-

“caravan” means a trailer which is designed for road use and provides mobile living accommodation;

“motor caravan” means a motor vehicle which is constructed or adapted for the carriage of passengers and their effects and which contains, as permanently installed equipment, the facilities which are reasonably necessary for enabling the vehicle to provide mobile living accommodation for its users;

“road” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(a).”.

(3) In paragraph (2) of regulation 13 (penalties and discounted amounts), after “under Article 8(2)” insert “or 9(3)”.

No-smoking signs – amendment of the Smoke-Free (Signs) Regulations (Northern Ireland) 2007

3.—(1) the Smoke-Free (Signs) Regulations (Northern Ireland) 2007(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) omit the definition of “smoke-free vehicle”.

(3) In regulation 3(1), for “a smoke-free vehicle” substitute “a vehicle that is smoke-free by virtue of regulation 12(1) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007”.

Fixed Penalties

4. An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 9(3) of the Order in relation to a vehicle that is smoke-free by virtue of regulation 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007, may give that person a penalty notice in respect of the offence.

Enforcement

5.—(1) Each of the following bodies are designated as an enforcement authority for the purposes of enforcing, as respects vehicles, the provisions of the Order and regulations made under it:

- (a) a district council of Northern Ireland; and
- (b) the Police Service of Northern Ireland.

(2) An enforcement authority designated under paragraph (1)(a) has enforcement functions in relation to vehicles which are smoke-free by virtue of regulation 12(1) and 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007 that are in its district, except to the extent that those functions have been transferred to another enforcement authority under paragraph (5).

(3) An enforcement authority designated under paragraph (1)(b) has enforcement functions in relation to vehicles which are smoke-free by virtue of regulation 12(1) and 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007, except to the extent that those functions have been transferred to another enforcement authority under paragraph (5).

(a) S.I. 1995 / 2994 (N.I. 18)

(b) S.R. 2007 No. 134

(4) In addition, each enforcement authority has enforcement functions in relation to vehicles to the extent to which functions are transferred to it under paragraph 5.

(5) Where one or more enforcement authority has reason to investigate a person for an offence under Article 7(5) (no-smoking signs), Article 8(2) (smoking in a smoke-free place), Article 9(3) (failing to prevent smoking in a smoke-free place) or Article 12(1) (obstruction of officers) of the Order, enforcement functions may be transferred on a case by case basis from one or more of those enforcement authorities to-

- (a) An enforcement authority that is carrying out any of those investigations; or
- (b) Any other enforcement authority,

under arrangements made between the transferring and receiving authorities.

Modification of Schedule 1 to the Order

6.—(1) In relation to penalty notices issued by an authorised officer of an enforcement authority designated as an enforcement authority for the purposes of enforcing, as respects vehicles, the provisions of the Order and regulations made under it Schedule 1 to the order shall apply as modified by paragraphs (2) and (3).

(2) In paragraphs 2(2), 13(a), 15(a), 16(1) and 16(2), for “district council” substitute “district council or other enforcement authority”.

(3) In paragraph 16(4), for “council” substitute “council or other enforcement authority”.

Sealed with the Official Seal of the Department of Health on 6th December 2021.



Elizabeth Redmond
A senior officer of the
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under the Smoking (Northern Ireland) Order 2006 (“the Order”), contain provisions to require private vehicles in Northern Ireland to be smoke-free when children are present. Regulations 2 and 3 amend existing Regulations to make the provisions.

Regulation 2(2) provides for private vehicles to be smoke-free when they are enclosed, there is more than one person in the vehicle and a person under the age of 18 is present in the vehicle. Caravans and motor caravans are excluded when they are being used as living accommodation. Regulation 2(3) sets the amount of the penalty for a penalty notice being given in respect of an offence of failing to prevent smoking in a vehicle that is smoke-free by virtue of these Regulations.

Regulation 3 ensures that there is no duty to display no-smoking signs in vehicles that are smoke-free by virtue of these Regulations.

Regulation 4 provides that a penalty notice may be given where there is reason to believe that a person has committed an offence of failing to prevent smoking in a vehicle that is smoke-free by virtue of these Regulations.

Regulation 5 provides that both the district councils and PSNI are enforcement authorities for private vehicles that are smoke-free by virtue of these Regulations, and for enclosed vehicles which are used by the public or used for work purposes which are smoke-free by virtue of regulations made under Article 6 of the Order.

Regulation 6 amends Schedule 1 to the Order so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority designated as an enforcement authority for the purposes of enforcing, as respects vehicles, the provisions of the Order and regulations made under it.

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