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STATUTORY RULES OF NORTHERN IRELAND

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**2021 No. 332**

**PUBLIC HEALTH**

**The Smoke-free (Premises, Vehicle Operators and Penalty Notices) (Amendment) Regulations (Northern Ireland) 2021**

*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 9(2), 10(3) and 15(1) of, and paragraph 4 of Schedule 1 to, the Smoking (Northern Ireland) Order 2006(1).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Smoke-free (Premises, Vehicle Operators and Penalty Notices) (Amendment) Regulations (Northern Ireland) 2021 and shall come into operation on 1st February 2022.

(2) In these Regulations “the 2007 Regulations” means the Smoke-free (Premises, Vehicle Operators and Penalty Notices) Regulations (Northern Ireland) 2007(2).

**Amendment of the Smoke-free (Premises, Vehicle Operators and Penalty Notices) Regulations (Northern Ireland) 2007**

2. The 2007 Regulations are amended in accordance with regulations 3 and 4.

**Failing to prevent smoking in smoke-free private vehicles**

3. For regulation 3 (failing to prevent smoking in smoke-free vehicles) of the 2007 Regulations, substitute the following—

“3.—(1) The persons set out in paragraphs (2) and (3) of this regulation are under a duty corresponding to that in Article 9(1) of the Order to cause any person who is smoking in a smoke-free vehicle to stop smoking.

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(1) [S.I. 2006/2957 \(N.I. 20\)](#) as amended by the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016, [2016 c. 26 \(N.I.\)](#)  
(2) [S.R. 2007 No. 94](#)

(2) In respect of 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<sup>(3)</sup>—

- (a) a driver;
- (b) any person with management responsibilities for the vehicle; and
- (c) any person on a vehicle who is responsible for order or safety on it.

(3) In respect of 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, the driver.”

### **Form of fixed penalty notice**

4.—(1) In regulation 4(2) of the 2007 Regulations, for “the offence of smoking in a smoke-free place under Article 8 of the Order.” substitute—

- “(a) the offence of smoking in a smoke-free place under Article 8 of the Order; and
- (b) the offence of failing to prevent smoking in a vehicle under Article 9 of the Order, where the vehicle is smoke-free by virtue of regulation 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007.”

(2) For regulation 4(4) of the 2007 Regulations, substitute the following—

“(4) Nothing in this regulation or in Schedule 1 or 2 to these Regulations, shall prevent a district council or other enforcement authority from—

- (a) using a notice in a size or design which differs from a specified form, provided that the content of the notice is not changed from that specified in the form (except as permitted by sub-paragraphs (b) to (d));
- (b) including information or illustrations in a notice to assist a person to whom it is given (for example, information or illustrations on how payments can be made);
- (c) including information in a notice to assist a district council or other enforcement authority in the performance of its functions under Articles 11(1) or 11(1C) of the Order (Enforcement) (for example, information to assist in its administrative procedures or data processing); or
- (d) including coats of arms or logos in a notice.”

(3) In the 2007 Regulations—

- (a) substitute the penalty notice form 1 in Schedule 1 with the penalty notice form 1 in Schedule 1 to these Regulations;
- (b) substitute the penalty notice form 2 in Schedule 2 with the penalty notice form 2 in Schedule 2 to these Regulations.

Sealed with the Official Seal of the Department of Health on 6<sup>th</sup> December 2021.



*Elizabeth Redmond*  
A senior officer of the  
Department of Health

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1 Regulation 4(3)(a)

“SCHEDULE 1 Regulation 4(1)

SCHEDULE 2 Regulation 4(3)(b)

“SCHEDULE 2 Regulation 4(2)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, made under the Smoking (Northern Ireland) Order 2006 (“the Order”), contain provisions which relate to smoke-free premises and vehicles in Northern Ireland. They amend the Smoke-free (Premises, Vehicle Operators and Penalty Notices) Regulations (Northern Ireland) 2007 (“the 2007 Regulations”).

Regulation 3 of these Regulations substitutes regulation 3 of the 2007 Regulations so as to provide that the driver of a private vehicle that is smoke-free is under a duty to cause persons to stop smoking in that vehicle.

Regulation 4, and Schedules 1 and 2, of these Regulations amend provisions setting out fixed penalty forms.

Regulation 4(2) of the 2007 Regulations is amended so that the penalty notice form set out in Schedule 2 to the 2007 Regulations is in relation to the offence of smoking in a smoke-free place under Article 8 of the Order and the offence of failing to prevent smoking in a private vehicle under Article 9 of the Order.

Regulation 4(4) of the 2007 Regulations is substituted, replacing references to “district council” with “district council or other enforcement authority”. This is to reflect that for the purposes of enforcing, as respects vehicles, the provisions of the Order and regulations made under it, the Department may designate enforcement authorities. The Police Service of Northern Ireland, in addition to the district councils, will be an enforcement authority in respect of smoke-free vehicles.

Regulation 4(3) of these Regulations replaces the penalty notice forms in Schedules 1 and 2 to the 2007 Regulations with the penalty notice forms in the Schedules to these Regulations.

The Order as amended by the Health (Miscellaneous Provisions) Act 2016 provides it is the duty of a district council to enforce as respects premises and places, but that regulations under the Order may designate “enforcement authorities” as respects vehicles.

The Form 1 in Schedule 1, which applies to the offence of failing to display prescribed no-smoking signs or failing to display no-smoking signs in a prescribed manner under Article 7 of the Order, reflects the distinction between the appropriate enforcement bodies for premises and places, and vehicles.

The Form 2 in Schedule 2 again reflects the distinction between appropriate enforcement bodies and will also allow the form to be used for the offence of failing to prevent smoking in a smoke-free private vehicle under Article 9 of the Order, as well as the offence of smoking in a smoke-free place under Article 8 of the Order.