

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(a).

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(b).

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.

(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(c)—

- (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.

(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. 94
(c) S.R. 2007 No. 138 as amended by S.R. 2008 No. 307

(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 6th December 2021.



Elizabeth Redmond
A senior officer of the
Department of Health

SCHEDULE 1

Regulation 4(3)(a)

“SCHEDULE 1

Regulation 4(1)

<p>FORM 1</p> <p>FAILING TO DISPLAY PRESCRIBED NO-SMOKING SIGNS OR FAILING TO DISPLAY NO-SMOKING SIGNS IN A PRESCRIBED MANNER.</p> <p><i>[NAME OF DISTRICT COUNCIL/ENFORCEMENT AUTHORITY]</i> <i>[ADDRESS OF DISTRICT COUNCIL/ENFORCEMENT AUTHORITY]</i></p> <p>THE SMOKING (NORTHERN IRELAND) ORDER 2006: ARTICLE 7 (FAILURE TO DISPLAY NO SMOKING SIGNS IN ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER ARTICLE 7)</p> <p>FIXED PENALTY NOTICE</p> <p>PENALTY AMOUNT £200</p>

PART 1
RECIPIENT COPY

Penalty Notice number: _____

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Date of birth (if known): _____ **Male/female (circle one)**

I, (*name*), an authorised officer of the [*name of District Council/enforcement authority*] under Article 11 of the Smoking (Northern Ireland) Order 2006, have reason to believe that you committed an offence under Article 7 of the Smoking (Northern Ireland) Order 2006 (failure to display no-smoking signs in accordance with requirements made by or under Article 7) in premises, a place or vehicle in relation to which [*name of District Council/enforcement authority*] has enforcement responsibilities.

The circumstances alleged to constitute the offence are that at:

_____ (*time*) on _____ (*date*)

you, at/on the following premises, place or vehicle (*where alleged offence took place, including address, if any*):

being premises, a place or vehicle to which the provisions of Article 7 of the Smoking (Northern Ireland) Order 2006 applies, allegedly (*details of offence*):

This notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty of **£200 (two hundred pounds)**. No proceedings will be taken for this offence before the expiration of 29 days beginning with _____ (*Insert the date on which this notice is given*). You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form this period is referred to as **the 29 day period**.

You can pay a discounted amount of £150 (one hundred and fifty pounds) if you pay within the period of 15 days beginning with _____ (*insert date on which this notice is given*). If the 15th day is not a working day, you may pay on the next working day. “Working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday. In this Form this period is referred to as the 15 day period.

Information for the immediate attention of the person who has been issued with this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice.

Signature of authorised officer

Date of issue

PART 2

INFORMATION FOR THE IMMEDIATE ATTENTION OF THE PERSON WHO HAS BEEN ISSUED WITH THIS PENALTY NOTICE:

You have received this notice because the authorised officer of [*name of District Council/enforcement authority*] named in Part 1 of this notice has reason to believe that you have committed the offence of failing to display a no-smoking sign in accordance with requirements made by or under Article 7 of the Smoking (Northern Ireland) Order 2006. Within the **29 day period** you **must either** pay the penalty **or** request that the matter be heard by a court. You may not do both.

If you fail to do either, [*name of District Council/enforcement authority*] as an enforcement authority by virtue of Article 11 of the Smoking (Northern Ireland) Order 2006, may pursue this matter in court. A person found guilty of the offence of failing to display a no-smoking sign in accordance with requirements made by or under Article 7 of the Smoking (Northern Ireland) Order 2006 is liable on summary conviction to a fine not exceeding level 3 on the standard scale, as specified in Article 7(8) of the Smoking (Northern Ireland) Order 2006.

PART 3

PAYING THE PENALTY

The amount of the fixed penalty is **£200 (two hundred pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£150 (one hundred and fifty pounds)** if you pay within the 15 day period as specified in Part 1.

If you choose to pay the penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment may be made by completing Part 3A and returning it with payment to the address stated in that Part, or by completing Part 3A and paying in person at [*name and address of District Council/enforcement authority*]. Acceptable methods of payment include cash, cheque, postal order or money order.

Cheques, postal orders or money orders should be made payable to [*name of District Council/enforcement authority*]. If you chose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped, self-addressed envelope.

WARNING: LATE PAYMENT WILL NOT BE ACCEPTED. YOU WILL NOT BE SENT A REMINDER.

PART 3A
**PAYMENT OF FIXED PENALTY ISSUED UNDER ARTICLE 7 OF THE
SMOKING (NORTHERN IRELAND) ORDER 2006
(FAILURE TO DISPLAY NO-SMOKING SIGNS IN ACCORDANCE WITH
REQUIREMENTS MADE BY OR UNDER ARTICLE 7)**

This slip must accompany all payments

To: *[Name and address of District Council/enforcement authority where payment should be sent]*.

Penalty Notice number: _____

I enclose the amount of:
(tick one box)

£150 (if payment is made within the 15 day period specified in Part 1)

£200 (if payment is made within the 29 day period specified in Part 1)

Full name of alleged offender: _____

Address of alleged offender: _____

Post code: _____

Signature

Date

PART 4
REQUESTING A COURT HEARING

If you wish to contest the issue of this penalty notice and have your case heard in a court of law, **you must** complete Part 4A in full and return it by post to the address stated in that Part within the **29 day period**.

If you choose to request a court hearing, you must do so by completing Part 4A and sending it to *[name of District Council/enforcement authority]*, or by writing to *[name of District Council/enforcement authority]* at the address stated on Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

If you have any questions or any representations about this penalty notice, please contact *[name of District Council/enforcement authority and contact details]*.

PART 4A

**THE SMOKING (NORTHERN IRELAND) ORDER 2006: FAILING TO
DISPLAY A NO SMOKING SIGN IN ACCORDANCE WITH
REQUIREMENTS MADE BY OR UNDER ARTICLE 7**

REQUEST FOR ALLEGED OFFENCE TO BE DEALT WITH BY A COURT OF LAW

To: *[Name and address of District Council/enforcement authority]*.

Penalty Notice number: _____

I wish to be dealt with by a court of law for the alleged offence.

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

SCHEDULE 2

Regulation 4(3)(b)

“SCHEDULE 2

Regulation 4(2)

<p>FORM 2</p> <p>SMOKING IN A SMOKE-FREE PLACE / FAILING TO PREVENT SMOKING IN A SMOKE-FREE PRIVATE VEHICLE</p> <p><i>[NAME OF DISTRICT COUNCIL/ENFORCEMENT AUTHORITY]</i> <i>[ADDRESS OF DISTRICT COUNCIL/ENFORCEMENT AUTHORITY]</i></p> <p>THE SMOKING (NORTHERN IRELAND) ORDER 2006: ARTICLE 8 (OFFENCE OF SMOKING IN A SMOKE-FREE PLACE) AND ARTICLE 9 (OFFENCE OF FAILING TO PREVENT SMOKING IN A SMOKE-FREE PLACE: PRIVATE VEHICLE)</p> <p>FIXED PENALTY NOTICE</p> <p>PENALTY AMOUNT £50</p>
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PART 1
RECIPIENT COPY

Penalty Notice number: _____

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Date of birth (if known): _____ **Male/female (circle one)**

I, (name), an authorised officer of the [name of District Council/enforcement authority] under Article 11 of the Smoking (Northern Ireland) Order 2006, have reason to believe that you committed an offence under (tick one box)

- Article 8 of the Smoking (Northern Ireland) Order 2006 (smoking in a smoke-free place(a)),
or
 Article 9 of the Smoking (Northern Ireland) Order 2006 (failing to prevent smoking in a smoke-free place: private vehicle(b))

(a) Article 8(1) of the Smoking (Northern Ireland) Order 2006 provides that smoke-free places include smoke-free premises and smoke-free vehicles.

(b) By virtue of regulation 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007, a private vehicle is smoke-free when it is enclosed, there is more than one person present in the vehicle and a person under the age of 18 is present in the vehicle.

in premises, a place or vehicle in relation to which [*name of District Council/enforcement authority*] has enforcement responsibilities.

The circumstances alleged to constitute the offence are that at:

_____ (*time*) on _____ (*date*)

you, at/ on the following premises, place or vehicle (*where alleged offence took place, including address, if any*):

being premises, a place or vehicle to which the provisions of Article 8 or 9 of the Smoking (Northern Ireland) Order 2006 applies, allegedly (*details of offence*):

This notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty of **£50 (fifty pounds)**. No proceedings will be taken for this offence before the expiration of 29 days beginning with _____ [*insert date on which this notice is given*]. You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form, this period is referred to as **the 29 day period**.

You can pay a discounted amount of £30 (thirty pounds) if you pay within the period of 15 days beginning with _____ [*insert date on which this notice is given*]. If the 15th day is not a working day, you may pay on the next working day. “Working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday. In this Form, this period is referred to as the 15 day period.

Information for the immediate attention of the person who has been issued with this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice.

Signature of authorised officer

Date of issue

PART 2
**INFORMATION FOR THE IMMEDIATE ATTENTION OF THE PERSON
WHO HAS BEEN ISSUED WITH THIS PENALTY NOTICE:**

You have received this notice because the authorised officer of [*name of District Council/enforcement authority*] named in Part 1 of this notice has reason to believe that you have committed the offence of:

- (i) smoking in a smoke-free premises or vehicle; or
- (ii) failing to prevent smoking in a smoke-free private vehicle

as described in Part 1. Within **the 29 day period**, you **must either** pay the penalty **or** request that the matter be heard by a court. You may not do both.

If you fail to do either, [*name of District Council/enforcement authority*] as an enforcement authority by virtue of Article 11 of the Smoking (Northern Ireland) Order 2006, may pursue this matter in court. A person found guilty of the offence of smoking in a smoke-free premises or vehicle is liable on summary conviction to a fine not exceeding level 3 on the standard scale, as specified in Article 8(5) of the Smoking (Northern Ireland) Order 2006. A person found guilty of failing to prevent smoking in a smoke-free private vehicle is liable on summary conviction to a fine not exceeding level 4 on the standard scale as specified in Article 9(6) of the Smoking (Northern Ireland) Order 2006.

PART 3
PAYING THE PENALTY

The amount of the fixed penalty is **£50 (fifty pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£30 (thirty pounds)** if you pay within the 15 day period which is specified in Part 1.

If you choose to pay the penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment may be made by completing Part 3A and returning it with payment to the address stated in that Part, or by completing Part 3A and paying in person at the [*name and address of District Council/enforcement authority*]. Acceptable methods of payment include cash, cheque, postal order or money order.

Cheques, postal orders or money orders should be made payable to [*name of District Council/enforcement authority*]. If you chose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post you must provide a stamped, self-addressed envelope.

WARNING: LATE PAYMENT WILL NOT BE ACCEPTED. YOU WILL NOT BE SENT A REMINDER.

PART 3A
**PAYMENT OF FIXED PENALTY ISSUED UNDER ARTICLE 8 OR 9 OF
THE SMOKING (NORTHERN IRELAND) ORDER 2006 (OFFENCE OF
SMOKING IN A SMOKE-FREE PLACE OR OFFENCE OF FAILING TO
PREVENT SMOKING IN A SMOKE-FREE PRIVATE VEHICLE)**

This slip must accompany all payments

To: *[Name and address of District Council/enforcement authority where payment should be sent]*.

Penalty Notice number: _____

I enclose the amount of:
(tick one box)

£30 (if the payment is made within the 15 day period specified in Part 1)

£50 (if the payment is made within the 29 day period specified in Part 1)

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

PART 4
REQUESTING A COURT HEARING

If you wish to contest the issue of this penalty notice and have your case heard in a court of law, **you must** complete Part 4A in full and return it by post to the address stated in that Part within **the 29 day period**.

If you choose to request a court hearing, you must do so by completing Part 4A and sending it to *[name of District Council/enforcement authority]* or by writing to *[name of District Council/enforcement authority]* at the address stated in Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

If you have any questions or any representations about this penalty notice, please contact *[name of District Council/enforcement authority and contact details]*.

PART 4A
**THE SMOKING (NORTHERN IRELAND) ORDER 2006: OFFENCE OF
SMOKING IN A SMOKE-FREE PLACE UNDER ARTICLE 8 OR OFFENCE
OF FAILING TO PREVENT SMOKING IN A SMOKE-FREE PRIVATE
VEHICLE UNDER ARTICLE 9**

**REQUEST FOR ALLEGED OFFENCE TO BE DEALT WITH BY A COURT
OF LAW**

To: *[Name and address of District Council/enforcement authority]*.

Penalty Notice number: _____

I wish to be dealt with by a court of law for the alleged offence.

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

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.

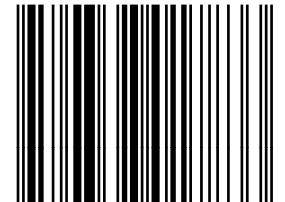
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