

2015 No. 936

PUBLIC HEALTH, ENGLAND

The Proxy Purchasing of Tobacco, Nicotine Products etc. (Fixed Penalty Notice) (England) Regulations 2015

<i>Made</i>	- - - -	<i>26th March 2015</i>
<i>Laid before Parliament</i>		<i>27th March 2015</i>
<i>Coming into force</i>	- -	<i>1st October 2015</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraph 4 of Schedule 1 to the Health Act 2006(a).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Proxy Purchasing of Tobacco, Nicotine Products etc. (Fixed Penalty Notice) (England) Regulations 2015 and come into force on 1st October 2015.

(2) These Regulations apply in relation to England only.

Form of fixed penalty notice

2.—(1) The penalty notice form set out in the Schedule to these Regulations is specified in relation to the offence of buying or attempting to buy tobacco, cigarette papers or a relevant nicotine product on behalf of an individual aged under 18 under section 91 of the Children and Families Act 2014(b).

(2) A local weights and measures authority may use a penalty notice form in a size or design which differs from the form specified in the Schedule, provided that the content of the penalty notice form is not changed from that specified in the Schedule except as permitted by paragraph (3).

(3) A local weights and measures authority may include in a penalty notice form—

- (a) information or illustrations to assist a person to whom it is given, for example on how payments can be made;
- (b) information or illustrations to assist it in the performance of its enforcement functions under section 91 of the Children and Families Act 2014, for example to assist in its administrative procedures or data processing;
- (c) coats of arms or logos.

(a) 2006 c.28 As to the meaning of “the appropriate national authority” see section 82(1) of the Health Act 2006 (“the 2006 Act”). Schedule 1 to the 2006 Act applies with modifications to an offence under section 91 of the Children and Families Act 2014 (“the 2014 Act”) by virtue of section 91(5) of the 2014 Act. Section 91 of the 2014 Act was extended to include relevant nicotine products by regulation 2 of S.I. 2015/895.

(b) 2014 c.6.

Signed by authority of the Secretary of State of Health.

26th March 2015

Jane Ellison
Parliamentary Under-Secretary of State,
Department of Health

SCHEDULE

Regulation 2(1)

[NAME OF LOCAL WEIGHTS AND MEASURES
AUTHORITY]

[ADDRESS OF LOCAL WEIGHTS AND MEASURES AUTHORITY]

CHILDREN AND FAMILIES ACT 2014: SECTION 91 (PURCHASE
OF TOBACCO, NICOTINE PRODUCTS ETC. ON BEHALF OF
PERSONS UNDER 18)

FIXED PENALTY NOTICE

PENALTY AMOUNT £90

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 [name of local weights and measures authority] have reason to believe that you committed an offence under section 91 of the Children and Families Act 2014 (buying or attempting to buy tobacco, cigarette papers or a relevant nicotine product on behalf of an individual aged under 18) within an area in which [name of local weights and measures authority] has enforcement responsibilities.

The circumstances alleged to constitute the offence are that

at: _____ (time) on _____ (date)

you in the following place (where alleged offence took place, including address, if any):

allegedly (details of offence):

This notice offers you the opportunity of discharging any liability for conviction of that offence by payment of a fixed penalty of £90 (ninety 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 £60 (sixty pounds) if you pay within the period of 15 days beginning with _____ [insert the date on which this notice is given]. If the 15th day is not a working day, you may pay on the next working day(a) 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 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.

If you have any questions, or if you wish to discuss this notice, please contact [name and address of local weights and measures authority and contact details].

Signature of authorised officer

Date of issue

(a) "Working day" means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

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 local weights and measures authority] named in Part 1 of this notice has reason to believe that you have committed the offence of buying or attempting to buy tobacco, cigarette papers or a relevant nicotine product on behalf of an individual aged under 18 as described in Part 1. Within the 29 day period specified in Part 1, 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 local weights and measures authority] may pursue this matter in court. A person found guilty of the offence of buying or attempting to buy tobacco, cigarette papers or a relevant nicotine product on behalf of an individual aged under 18 is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

PART 3

PAYING THE PENALTY

The amount of the fixed penalty is £90 (ninety pounds). It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of £60 (sixty pounds) if you pay within the 15 day period which is specified in Part 1.

If you choose to pay this 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 below and sending it with payment to the address stated in that Part, or by completing Part 3A below and paying in person at [name and address of local weights and measures authority]. Acceptable methods of payment include cash, cheque, postal order or money order, or online at the following web address [address for making online payments].

Cheques, postal orders or money orders should be made payable to [name of local weights and measures authority].

If you choose 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 SECTION 91 OF
THE CHILDREN AND FAMILIES ACT 2014
(PURCHASE OF TOBACCO, NICOTINE PRODUCTS ETC. ON BEHALF OF
PERSONS UNDER 18)

This slip must accompany all payments

To: [name and address of local weights and measures authority where payment should be sent]

Penalty notice Number: _____

I enclose the amount of:
(tick one box)

- £60
- £90

Full name of alleged offender: _____

Address of alleged offender: _____

_____ Postcode: _____

Signature

Date

PART 4

REQUESTING A COURT HEARING

If you choose to request a court hearing, you must within the 29 day period do so by completing Part 4A and sending it to [name of local weights and measures authority], or by writing to [name of local weights and measures authority] at the address state 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.

PART 4A
SECTION 91 OF THE CHILDREN AND FAMILIES ACT 2014
(PURCHASE OF TOBACCO, NICOTINE PRODUCTS ETC. ON
BEHALF OF PERSONS UNDER 18)

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

To: [Name and address of local weights and measures 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: _____

_____ Postcode: _____

Signature

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under Schedule 1 to the Health Act 2006, contain provisions which relate to offences under section 91(1) of the Children and Families Act 2014.

Regulation 2 provides that the Penalty Notice form in the Schedule to these Regulations can be used where an adult is alleged to have committed the offence of purchasing tobacco, cigarette papers or a relevant nicotine product on behalf of a person under the age of 18.

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