STATUTORY INSTRUMENTS

2015 No. 939

PUBLIC HEALTH

The Smoke-free (Vehicle Operators and Penalty Notices) (Amendment) Regulations 2015

Made - - - -	*26th March 2015*
Laid before Parliament	*27th March 2015*
Coming into force - -	*1st October 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(3) of, and paragraph 4 of Schedule 1 to, the Health Act 2006(**1**).

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Smoke-free (Vehicle Operators and Penalty Notices) (Amendment) Regulations 2015 and they come into force on 1st October 2015.

(2) These Regulations apply in relation to England.

(3) In these Regulations "the 2007 Regulations" means the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007(**2**).

Amendment of the 2007 Regulations

2. The 2007 Regulations are amended as follows.

Failing to prevent smoking in smoke-free private vehicles

3. For regulation 2 of the 2007 Regulations substitute the following—

> "**2.**—(1) The persons set out in paragraphs (2) and (3) of this regulation are under a duty corresponding to that in section 8(1) of the Act 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 11(1) of the Smoke-free (Exemptions and Vehicles) Regulations 2007(**3**)—
>
> (a) a driver;

(**1**) 2006 c.28. As to the meaning of "the appropriate national authority" see section 82(1) of the Health Act 2006.
(**2**) S.I. 2007/760.
(**3**) S.I. 2007/765.

(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 11(1A) of the Smoke-free (Exemptions and Vehicles) Regulations 2007, the driver."

Form of fixed penalty notice

4.—(1) In regulation 3(2) of the 2007 Regulations, for "the offence of smoking in a smoke-free place under section 7 of the Act." substitute—

"(a) the offence of smoking in a smoke-free place under section 7 of the Act; and

(b) the offence of failing to prevent smoking in a vehicle under section 8 of the Act, where the vehicle is smoke-free by virtue of regulation 11(1A) of the Smoke-free (Exemptions and Vehicles) Regulations 2007."

(2) For the penalty notice form 2 in Schedule 2 to the 2007 Regulations, substitute the penalty notice form 2 in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Health.

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

26th March 2015

SCHEDULE Regulation 4(2)

Form 2 – Smoking in a smoke-free vehicle / Failing to prevent smoking in a smoke-free private vehicle

[NAME OF ENFORCEMENT AUTHORITY]
[ADDRESS OF ENFORCEMENT AUTHORITY]
HEALTH ACT 200:
SECTION 7 (OFFENCE OF SMOKING IN A SMOKE-FREE PLACE)

SECTION 8 (OFFENCE OF FAILING TO PREVENT SMOKING IN A SMOKE-FREE PLACE: PRIVATE VEHICLE)

FIXED PENALTY NOTICE

PENALTY AMOUNT £50
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 enforcement authority] under section 10 of the Health Act 2006, have reason to believe that you committed an offence under (tick one box)

□ Section 7 of the Health Act 2006 (smoking in a smoke-free place(**a**)), or

□ Section 8 of the Health Act 2006 (failing to prevent smoking in a smoke-free place: private vehicle(**b**))

within premises, a place or vehicle in relation to which [name of 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 section 7 or 8 of the Health Act 2006 applies, allegedly (details of offence):

_____

_____

_____

(**a**) Section 7(1) of the Health Act 2006 provides that smoke-free places include smoke-free premises and smoke-free vehicles.

(**b**) By virtue of regulation 11(1A) of the Smoke-free (Exemptions and Vehicles) Regulations 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.