STATUTORY RULES OF NORTHERN IRELAND

2007 No. 138

PUBLIC HEALTH

The Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007

Made - - - - 6th March 2007
To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000.

Coming into operation 30th April 2007

The Department of Health, Social Services and Public Safety(**1**), makes the following Regulations in exercise of the powers conferred by Articles 4, 6, 10 (3) and 15(1) of, and paragraphs 5 and 8 of Schedule 1 to, the Smoking (Northern Ireland) Order 2006(**2**).

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007 and shall come into operation on 30th April 2007.

(2) In these Regulations—

"the Order" means the Smoking (Northern Ireland) Order 2006.

(**1**) *See*S.I.1999/283 (N.I. 1), Article 3(6)
(**2**) S.I. 2006/2957 (N.I. 20)

PART 2

EXEMPTIONS

Application of Part 2

2. The exemptions in this Part apply only to premises that would be smoke-free under Article 3 of the Order if those exemptions had not been made.

Private accommodation

3.—(1) A private dwelling is not smoke-free except for any part of it which is—

(a) used in common in relation to more than one set of premises (including premises so used in relation to any other private dwelling or dwellings); or

(b) used solely as a place of work (other than work that is excluded by paragraph (2)) by—

(i) more than one person who does not live in the dwelling;

(ii) a person who does not live in the dwelling and any person who does live in the dwelling; or

(iii) a person (whether he lives in the dwelling or not) who in the course of his work invites persons who do not live or work in the dwelling to attend the part of it which is used solely for work.

(2) There is excluded from paragraph (1)(b) all work that is undertaken solely—

(a) to provide personal care for a person living in the dwelling;

(b) to assist with the domestic work of the household in the dwelling;

(c) to maintain the structure or fabric of the dwelling; or

(d) to install, maintain or remove any service provided to the dwelling for the benefit of persons living in it.

(3) In this regulation, "private dwelling" includes self-contained residential accommodation for temporary or holiday use and any garage, outhouse or other structure for the exclusive use of persons living in the dwelling.

Accommodation for guests and club members

4.—(1) A designated bedroom in a hotel, guest house, inn, hostel or members' club is not smoke-free.

(2) In this regulation—

"designated bedroom" means a room which—

(a) is set apart exclusively for sleeping accommodation;

(b) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;

(c) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(d) does not have a ventilation system that ventilates into any other part of the premises (except any other designated bedroom) or other premises;

(e) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(f) is clearly marked as a bedroom in which smoking is permitted; and

"bedroom" does not include any dormitory or other room that a person in charge of premises makes available under separate arrangements for persons to share at the same time.

Other residential accommodation

5.—(1) A designated room that is used as accommodation for persons aged 16 years or over in the premises specified in paragraph (2) is not smoke-free.

(2) The specified premises are—

(a) residential care homes;

(b) nursing homes; and

(c) hospices which as their whole or main purpose provide palliative care for persons resident there who are suffering from progressive disease in its final stages.

(3) In this regulation—

"designated room" means a bedroom, or a room used only for smoking which—

(a) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;

(b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises;

(d) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(e) is clearly marked as a room in which smoking is permitted;

"nursing home" has the same meaning as in Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**3**); and

"residential care home" has the same meaning as in Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

Prisons, Young Offenders Centres and Remand Centres

6.—(1) A prison, young offenders centre or remand centre is not smoke-free.

(2) Subject to paragraph (3), in this regulation—

"prison" has the same meaning as in section 47(1A) and (2) of the Prison Act (Northern Ireland) 1953(**4**);

"young offenders centre" has the same meaning as in section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968(**5**); and

"remand centre" have the same meaning as in section 2(b) of the Treatment of Offenders Act (Northern Ireland) 1968.

(3) For the purposes of this regulation prison, young offenders centre and remand centre do not include any place—

(**3**) S.I. 2003/431 (N.I. 9)

(**4**) 1953. c. 18 Section 47 was amended by Article 14(1) of, and paragraphs 9 and 10 of Schedule 1 to, and Article 14(2) of, and Schedule 2 to, the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15)) and Article 65(1) of, and paragraph 1 of Schedule 5 to, the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(**5**) 1968 c. 29. Section 2(a) was substituted by Article 13 of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15)). Section 2(a) and (b) were amended by Article 65(1) of, and paragraph 3(a) and (b) of Schedule 5 to, the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(a) that comprises any premises used solely or mainly for the purpose of a social club, that is to say an association meeting periodically for a shared activity or for social purposes;

(b) that comprises any premises on which intoxicating liquor is sold, supplied, consumed or kept for supply or consumption;

(c) that comprises any premises used solely or mainly for the purposes of physical recreation of persons other than those detained;

(d) that comprises any premises reserved as a visitors centre, that is a place for friends or family of a person detained to obtain advice or services.

Temporary exemption for Police detention cells or interview rooms

7.—(1) A designated room which is a detention cell or interview room is not smoke-free.

(2) In this regulation—

"designated room" means a room which—

(a) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;

(b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises; and

(d) is clearly marked as a room in which smoking is permitted;

"detention cell" means a room within a police station which is used for the purposes of detaining persons in cell accommodation;

"interview room" means a room within a CARE suite which is used for the purposes of interviewing persons; and

"CARE suite" means a Child Abuse and Rape Enquiries suite.

(3) Paragraphs (1) and (2) shall cease to have effect on 30th April 2008.

Temporary exemption for Police exercise areas

8.—(1) Any area of a police station which is enclosed or substantially enclosed for the purposes of Article 3(5) of the Order is not smoke-free if it is wholly or mainly used for the exercise of persons under detention in the police station.

(2) Paragraph (1) shall cease to have effect on 30th April 2008.

Specialist tobacconists

9.—(1) The shop of a specialist tobacconist that is being used by persons who are sampling cigars and pipe tobacco is not smoke-free for the duration of that sampling if it—

(a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(b) does not have a ventilation system that ventilates into any other premises;

(c) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(d) is clearly marked as premises in which smoking is permitted.