STATUTORY RULES OF NORTHERN IRELAND

2007 No. 94

PUBLIC HEALTH

The Smoke-free (Premises, Vehicle Operators and Penalty Notices) Regulations (Northern Ireland) 2007

Made - - - - 16th February 2007

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 3(5), 9(2), 10(3) and 15(1) of, and paragraph 4 of Schedule 1 to, the Smoking (Northern Ireland) Order 2006(**2**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Smoke-free (Premises, Vehicle Operators and Penalty Notices) 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;

"smoke-free vehicle" means a vehicle which is smoke-free by virtue of Article 6 of the Order.

Enclosed and substantially enclosed premises

2.—(1) For the purposes of Article 3 of the Order, premises are enclosed if they—

(a) have a ceiling or roof; and

(b) except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

(2) For the purposes of Article 3 of the Order, premises are substantially enclosed if they have a ceiling or roof but there is—

(a) an opening in the walls, or

(b) an aggregate area of openings in the walls,

which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

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

(3) In determining the area of an opening or an aggregate area of openings for the purposes of paragraph (2), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

(4) In this regulation "roof" includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including for example, a canvas awning.

Failing to prevent smoking in smoke-free vehicles

3. The following persons 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—

(a) the 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.

Form of fixed penalty notice

4.—(1) The penalty notice form set out in Schedule 1 to these Regulations is specified in relation to the offence of failing to display a no-smoking sign in accordance with requirements made by or under Article 7 of the Order.

(2) The penalty notice form set out in Schedule 2 to these Regulations is specified in relation to the offence of smoking in a smoke-free place under Article 8 of the Order.

(3) Where either of those forms refers to the amount of a fixed penalty or a discounted amount or to a level on the standard scale which is changed, the form shall have effect subject to the change.

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

(a) using a notice in 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 in the performance of its functions under Article 11(1) of the Order (Enforcement by district councils) (for example, information to assist in its administrative procedures or data processing); or

(d) including coats of arms or logos in a notice.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 16th February 2007.

L.S.

Andrew Elliott
A senior officer of the
Department of Health, Social Services and
Public Safety

SCHEDULE 1

Regulation 4(1)

FORM 1

FAILING TO DISPLAY PRESCRIBED NO-SMOKING SIGNS OR FAILING TO DISPLAY NO-SMOKING SIGNS IN A PRESCRIBED MANNER.

[NAME OF DISTRICT COUNCIL]

[ADDRESS OF DISTRICT COUNCIL]

THE SMOKING (NORTHERN IRELAND) ORDER 2006:

ARTICLE 7 (FAILURE TO DISPLAY NO-SMOKING SIGNS IN ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER ARTICLE 7)

FIXED PENALTY NOTICE

PENALTY AMOUNT £200

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*] 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 which [*name of District Council*] 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 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 _____ (*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 £150 (one hundred and fifty pounds) if you pay within the period of 15 working 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*] 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*] 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 as 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 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 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*]. 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*). 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.