Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Personal Social Services (Northern Ireland) Order 1978. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1978 No. 1907 (N.I. 26)

Health and Personal Social Services (Northern Ireland) Order 1978

[20th December 1978]

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PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Health and Personal Social Services (Northern Ireland) Order 1978… *Commencement …*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Department" means the Department of Health and Social Services;

"the principal Order" means the Health and Personal Social Services (Northern Ireland) Order 1972 .

PART II

SALE OF TOBACCO, ETC. TO PERSONS APPARENTLY UNDER **[**F1**18]**

F1 Word in the cross heading to Pt. II substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(2), **2(a)**

Prohibition on sale of tobacco, etc. to persons apparently under [F2**18]**

3.—(1) Subject to paragraph (2), a person who sells to a person**F3**. . . under the age of **[**F4**18]** any tobacco or cigarette papers, whether for his own use or not, shall be guilty of an offence.

[F3(1A) It shall be a defence for a person charged with and offence under paragraph (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.**]**

Para.(2) rep. with saving by 1986 NI 24

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding **[**F3**[**F5level 5**]** on the standard scale**]**.

F2 Word in the heading of art. 3 substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(2), **2(b)**

F3 1991 NI 25

F4 Word in art. 3(1) substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(3), **2(b)**

F5 Words in art. 3(3) substituted (6.4.2016) by Tobacco Retailers Act (Northern Ireland) 2014 (c. 4), **ss. 18(2)**, 25(2); S.R. 2016/101, art. 2(a), Sch. 1

Modifications etc. (not altering text)

C1 Art. 3(1): power to amend conferred (15.1.2007) by The Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (N.I. 20)), arts. 1(3)(h), **14(a)** (with art. 16(1))

Control of automatic machines for sale of tobacco

4.—(1) If on complaint being made under**[**F6 Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981**]** the court is satisfied that any automatic machine for the sale of tobacco kept on any premises**[**F7 has been used by any person**]** under the age of **[**F818**]**, the court**[**F9 shall**]** order the owner of the machine or the person on whose premises the machine is kept—

(a) to take such precautions to prevent the machine being so used as may be specified in the order;

(b) if necessary, to remove the machine, within such time as may be specified in the order.

(2) A person who fails to comply with an order made under paragraph (1) shall be guilty of an offence and liable on summary conviction**[**F7 to a fine not exceeding level 4 on the standard scale**]**.

F6 1981 NI 26

F7 1991 NI 25

F8 Word in art. 4(1) substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(4), **2(c)**

F9 1986 NI 24

Modifications etc. (not altering text)

C2 Art. 4(1): power to amend conferred (15.1.2007) by The Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (N.I. 20)), arts. 1(3)(h), **14(a)** (with art. 16(1))

[F10Purchase of tobacco on behalf of persons under 18

4A.—(1) A person aged 18 or over who knowingly buys or attempts to buy tobacco or cigarette papers on behalf of a person under the age of 18 shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

F10 Art. 4A inserted (6.4.2016) by Tobacco Retailers Act (Northern Ireland) 2014 (c. 4), **ss. 18(3)**, 25(2); S.R. 2016/101, art. 2(a), Sch. 1

Modifications etc. (not altering text)

C3 Art. 4A: power to amend conferred (1.6.2017) by Health (Miscellaneous Provisions) Act (NorthernIreland) 2016 (c. 26), **ss. 1(6)(b)**, 20(3); S.R. 2017/91, art. 2(a)

C4 Art. 4A: power to amend conferred (1.6.2017) by Health (Miscellaneous Provisions) Act (NorthernIreland) 2016 (c. 26), **ss. 1(6)(a)**, 20(3); S.R. 2017/91, art. 2(a)

Seizure of tobacco, etc. in possession of persons apparently under [F11 18]

5.—(1) A member of the Royal Ulster Constabulary or Royal Ulster Constabulary Reserve may seize any tobacco or cigarette papers in the possession of any person apparently under the age of **[**F12 18**]** whom he finds smoking in any street or public place.

(2) Any tobacco or cigarette papers seized under paragraph (1) shall be disposed of in such a manner as the Police Authority for Northern Ireland may direct.

F11 Word in the heading of art. 5 substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(2), **2(d)**

F12 Word in art. 5(1) substituted (1.9.2008) by Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008 (S.R. 2008/306), regs. 1(5), **2(d)**

Modifications etc. (not altering text)

C5 Art. 5(1): power to amend conferred (15.1.2007) by The Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (N.I. 20)), arts. 1(3)(h), **14(a)** (with art. 16(1))

C6 Art. 5(1) extended by 2003 c. 6, Sch. 2A para. 7(1) (as inserted (22.4.2007) by Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(3), 7(8), **Sch. 5**)

C7 Art. 5(2) applied by 2003 c. 6, Sch. 2A para. 7(2) (as inserted (22.4.2007) by Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(3), 7(8), **Sch. 5**)

Exemption for persons employed in trade

6. Nothing in this Part shall—

(a) make it an offence to sell tobacco or cigarette papers to, or

(b) authorise the seizure of tobacco or cigarette papers in the possession of,

any person who is at the time employed by a manufacturer of, or dealer in, tobacco, either wholesale or retail, for the purposes of his business.

Interpretation

7. In this Part—

"cigarettes" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking;

"public place" includes any place to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

"street" includes any road, lane, alley or passage, whether a thoroughfare or not;