

STATUTORY INSTRUMENTS

2006 No. 2957

The Smoking (Northern Ireland) Order 2006

Enforcement

[^{F1}Fixed penalties]

^{F2}10.—^{F3}(1) An authorised officer of a district council who has reason to believe that a person has committed an offence under Article 7(5) or 8(2) on premises, [^{F4}or in a place] within the district of the council may give him a penalty notice in respect of the offence.

^{F5}[^{F6}(1A) An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 7(5) or 8(2) in a vehicle in relation to which the authorised officer has functions may give that person a penalty notice in respect of the offence.

^{F5}(1B) The Department may by regulations provide that, in the circumstances specified in the regulations, an authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 9(3) in relation to a vehicle in relation to which the authorised officer has functions may give the person a penalty notice in respect of the offence.]

(2) A penalty notice is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty in accordance with this Order.

(3) Schedule 1 makes further provision about fixed penalties.

Textual Amendments

- F1** Art. 10 heading substituted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(a\), 20\(3\)](#); S.R. 2017/91, art. 2(e)
- F2** Art. 10 heading substituted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(a\), 20\(3\)](#); S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)
- F3** Words in art. 10(1) substituted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(b\), 20\(3\)](#); S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)
- F4** Words in art. 10(1) substituted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(b\), 20\(3\)](#); S.R. 2017/91, art. 2(e)
- F5** Art. 10(1A)(1B) inserted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(c\), 20\(3\)](#); S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)
- F6** Art. 10(1A)(1B) inserted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(3\)\(c\), 20\(3\)](#); S.R. 2017/91, art. 2(e)

Commencement Information

- I1** Art. 10 wholly in operation at 30.4.2007; art. 10(3) in operation for specified purposes at 15.1.2007 see art. 1(3); art. 10 in operation at 30.4.2007 insofar as not already in operation by [S.R. 2007/118, art. 2](#)

[^{F7}Enforcement]

^{F8}**11.**—^{F9}(1) It is the duty of a district council to enforce, as respects [^{F10}premises and places] in its district, the provisions of this Order and regulations made under it.

^{F11}[^{F12}(1A) The Department may make regulations designating the persons or bodies or descriptions of person or body which are to be enforcement authorities for the purposes of enforcing, as respects vehicles, the provisions of this Order and regulations made under it.

^{F11}(1B) The regulations—

- (a) must specify the descriptions of vehicle in relation to which an enforcement authority has functions,
- (b) may provide for a case being dealt with by one enforcement authority to be transferred (or further transferred back) to, and taken over by, another enforcement authority.

^{F11}(1C) It is the duty of an enforcement authority to enforce, as respects the vehicles in relation to which it has enforcement functions, the provisions of this Order and of regulations made under it.]

^{F13}^{F14}^{F15}(2) In this Order, “authorised officer”, in relation to a district council [^{F16}or other enforcement authority] , means any person (whether or not an officer of the council [^{F17}or other authority]) who is [^{F18}authorised by that council or other authority] in writing, either generally or specially, to act in matters arising under this Order.

(3) If regulations so provide, no person is to be so authorised unless he has such qualifications as are specified in the regulations.

(4) Schedule 2 makes provision about the powers of authorised officers.

(5) The Department may make grants to district councils to defray expenditure incurred by them in exercising their functions under this Order.

(6) Grants under paragraph (5) shall be of such amounts, and subject to such conditions, as the Department may, with the approval of the Department of Finance and Personnel, determine.

Textual Amendments

- F7** Art. 11 heading substituted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(a\), 20\(3\); S.R. 2017/91, art. 2\(e\)](#)
- F8** Art. 11 heading substituted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(a\), 20\(3\); S.R. 2017/91, art. 2\(e\); S.R. 2021/329, art. 2\(b\)](#)
- F9** Words in art. 11(1) substituted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(b\), 20\(3\); S.R. 2017/91, art. 2\(e\); S.R. 2021/329, art. 2\(b\)](#)
- F10** Words in art. 11(1) substituted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(b\), 20\(3\); S.R. 2017/91, art. 2\(e\)](#)
- F11** Art. 11(1A)-(1C) inserted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(c\), 20\(3\); S.R. 2017/91, art. 2\(e\); S.R. 2021/329, art. 2\(b\)](#)
- F12** Art. 11(1A)-(1C) inserted (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(c\), 20\(3\); S.R. 2017/91, art. 2\(e\)](#)
- F13** Words in art. 11(2) inserted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(d\)\(ii\), 20\(3\); S.R. 2017/91, art. 2\(e\); S.R. 2021/329, art. 2\(b\)](#)
- F14** Words in art. 11(2) inserted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 5\(4\)\(d\)\(i\), 20\(3\); S.R. 2017/91, art. 2\(e\); S.R. 2021/329, art. 2\(b\)](#)

- F15** Words in art. 11(2) substituted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(4)(d)(iii), 20(3); S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)
- F16** Words in art. 11(2) inserted (1.6.2017 for specified purposes) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(4)(d)(i), 20(3); S.R. 2017/91, art. 2(e)
- F17** Words in art. 11(2) inserted (1.6.2017 for specified purposes) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(4)(d)(ii), 20(3); S.R. 2017/91, art. 2(e)
- F18** Words in art. 11(2) substituted (1.6.2017 for specified purposes) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(4)(d)(iii), 20(3); S.R. 2017/91, art. 2(e)

Commencement Information

- I2** Art. 11 wholly in operation at 30.4.2007; art. 11(3) in operation at 15.1.2007 see art. 1(3); art. 11 in operation at 30.4.2007 insofar as not already in operation by S.R. 2007/118, art. 2

Obstruction of officers

12.—^{F19}(1) Any person who intentionally obstructs an authorised officer of a district council [^{F20}or other enforcement authority], acting in the exercise of his functions under this Order, commits an offence.

(2) Any person who without reasonable cause fails to give to an authorised officer, acting in the exercise of his functions under this Order, any facilities, assistance or information which the authorised officer reasonably requires of him for the performance of those functions commits an offence.

(3) A person commits an offence if, in purported compliance with any requirement of an authorised officer under paragraph (2)—

- (a) he makes a statement which is false or misleading, and
- (b) he either knows that it is false or misleading or is reckless as to whether it is false or misleading.

“False or misleading” means false or misleading in a material particular.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F19** Words in art. 12(1) inserted (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(5), 20(3); S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)
- F20** Words in art. 12(1) inserted (1.6.2017 for specified purposes) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), ss. 5(5), 20(3); S.R. 2017/91, art. 2(e)

Offences by bodies corporate, etc.

13.—(1) For the purposes of this Order, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(2) If an offence committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on his part,
the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In paragraph (2) “partner” includes a person purporting to act as a partner.

(4) If an offence committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or

(b) to be attributable to any neglect on the part of such an officer or member,
the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Proceedings for an offence alleged to have been committed by a partnership shall be brought in the name of the partnership (and not in that of any of the partners).

(6) Proceedings for an offence alleged to have been committed by an unincorporated association (other than a partnership) shall be brought in the name of the association (and not in that of any of its members).

(7) Rules of court relating to the service of documents shall have effect as if the partnership or unincorporated association were a body corporate.

(8) In proceedings for an offence brought against a partnership or an unincorporated association, the following provisions apply as they apply in relation to a body corporate—

(a) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15),

(b) Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26).

(9) A fine imposed on a partnership on its conviction for an offence is to be paid out of the partnership assets.

(10) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.

(11) Paragraphs (5) and (6) are not to be read as prejudicing any liability of a partner, officer or member under paragraph (2) or (4).

(12) In this Article “offence” means an offence under any provision of this Order.

Changes to legislation:

There are currently no known outstanding effects for the The Smoking (Northern Ireland) Order 2006, Enforcement.