
STATUTORY INSTRUMENTS

1978 No. 1907 (N.I. 26)

Health and Personal Social Services
(Northern Ireland) Order 1978

[20th December
1978]

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 [F118]

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 [F218]

3.—(1) Subject to paragraph (2), a person who sells to a person^{F3} . . . under the age of [F418] 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 an 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}[^{F5}level 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 [^{F8}18], 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))

[^{F10}Purchase of tobacco [^{F11}or nicotine products] on behalf of persons under 18

4A.—(1) A person aged 18 or over who knowingly buys or attempts to buy tobacco [^{F12}, cigarette papers or a relevant nicotine product] 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
- F11** Words in art. 4A heading inserted (1.2.2022) by The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations (Northern Ireland) 2021 (S.R. 2021/330), regs. 1(1), **2(2)**
- F12** Words in art. 4A(1) substituted (1.2.2022) by The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations (Northern Ireland) 2021 (S.R. 2021/330), regs. 1(1), **2(3)**

Modifications etc. (not altering text)

- C3** Art. 4A: power to amend conferred (1.6.2017) by Health (Miscellaneous Provisions) Act (Northern Ireland) 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 (Northern Ireland) 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 [F13]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 [F14]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.

- F13** 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)**
- F14** 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;

[^{F15}“relevant nicotine product” means a nicotine product within the meaning of section 7 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 the sale of which to persons aged under 18 is for the time being prohibited by regulations under section 1(1) of that Act;]

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

“tobacco” includes cigars, cigarettes[^{F16} tobacco substitutes and any product containing tobacco and intended for oral or nasal use].

F15 Words in art. 7 inserted (1.2.2022) by [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/330\)](#), regs. 1(1), 3

F16 1986 NI 24

PART III

VOCATIONAL TRAINING FOR MEDICAL PRACTITIONERS

Requirement of suitable experience

8.—(1) Where the Department so prescribes, a Health and Social Services Board shall not arrange under Article 56 of the principal Order with medical practitioner for him to provide general medical services for persons in its area unless he is suitably experienced.

- (2) For the purposes of this Part a medical practitioner is “suitably experienced”, if he either—
- (a) has acquired the prescribed medical experience, or
 - (b) is by virtue of regulations made under this Article exempt from the need to have acquired that experience.
- (3) For the purposes of this Article regulations may provide—
- (a) for prescribing the medical experience needed to satisfy paragraph (2)(a);
 - (b) as to the documents which a medical practitioner may or must produce as evidence that he is suitably experienced or has acquired medical experience of any particular kind;
 - (c) for requiring a medical practitioner who claims to have acquired the prescribed experience to submit particulars of his experience to a prescribed body, and for requiring that body, if satisfied that he has acquired the prescribed experience, to issue him a certificate (a “certificate of prescribed experience”) to that effect;
 - (d) for enabling a medical practitioner without the prescribed experience who considers that the medical experience which he has acquired is, or ought to be regarded as, equivalent to the prescribed experience, to submit particulars of that experience to a prescribed body, and for requiring or enabling that body, if satisfied that the medical experience acquired is so equivalent, to issue to him a certificate (a “certificate of equivalent experience”) to that effect;
 - (e) for treating a medical practitioner who holds a certificate of equivalent experience as satisfying paragraph (2)(a);
 - (f) as to the circumstances or the conditions in or subject to which a medical practitioner is exempt from the need to have acquired the prescribed experience;
 - (g) for conferring on a medical practitioner who is refused a certificate of prescribed experience or a certificate of equivalent experience a right of appeal to a body constituted

by the Department and for any matter for which it appears to the Department to be requisite or expedient to provide in consequence of the conferring of that right;

(h) for anything authorised or required by this Article to be prescribed or otherwise provided for by regulations.

(4) Regulations under this Article shall be framed so as to allow the prescribed experience to be acquired without undertaking full-time employment.

(5) Before making any regulations under this Article the Department shall consult such organisations as appear to the Department to be representative of the medical profession.

(6) Regulations under this Article shall be subject to negative resolution.

(7) In this Article—

“medical experience” includes hospital experience in any specialty, and

“the prescribed medical experience” means the medical experience for the time being prescribed for the purposes of paragraph (2)(a).

PART IV

AMENDMENTS TO THE PRINCIPAL ORDER

Art. 9 amends art.2 of 1972 NI 14.

Art. 10 rep. by 1991 NI 1

Art. 11 rep. by 1991 NI 1

Art. 12 inserts art.56(3A) in 1972 NI 14

^{F17}Art. 13 amends arts. 61-63 of 1972 NI 14; amd. of art. 63 rep by 1986 NI 20

F17 prosp. rep. by 1984 NI 8

Art. 14 amends art. 63 of 1972 NI 14

Art. 15 rep. by 1991 NI 1

PART V

MISCELLANEOUS

Art. 16 amends s.1 of 1971 c.32 (NI)

Art. 17 rep. by 1986 NI 4

Art. 18 amends art.3 of 1976 NI 12

Art. 19—Amendments and repeals

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services (Northern Ireland) Order 1978. (See end of Document for details)

Schedule 1—Amendments

Schedule 2—Repeals

Changes to legislation:

There are currently no known outstanding effects for the Health and Personal Social Services (Northern Ireland) Order 1978.