



2016 CHAPTER 26

PART 1

Sale or use of nicotine products and tobacco

Prohibition of sale of nicotine products to persons under 18

1.—(1) The Department may by regulations make provision prohibiting the sale of nicotine products to persons aged under 18.

(2) A person who breaches a prohibition in regulations under subsection (1) commits an offence.

(3) Subsection (2) does not apply if—

(a) at the time of the sale, the person to whom the nicotine product is sold is employed by a manufacturer of nicotine products to which regulations under subsection (1) apply or by a dealer in such products (whether wholesale or retail); and

(b) the purchase of the product is for the purposes of the manufacturer's or dealer's business.

(4) Where a person is charged with an offence under this section it is a defence that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) The Department may by regulations—

(a) amend Article 4A of the Health and Personal Social Services (Northern Ireland) Order 1978 (purchase of tobacco on behalf of persons under 18)

so as to apply it (with or without modifications) in relation to nicotine products; or

- (b) provide for that Article to apply (with or without modifications) in relation to nicotine products.

Prohibition of sale of nicotine products from vending machines

2.—(1) The Department may by regulations make provision prohibiting the sale of nicotine products from an automatic machine.

(2) The regulations must make provision as to the persons who are liable in the case of any breach of a prohibition.

(3) A liable person who breaches a prohibition in regulations under subsection (1) commits an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Amendments consequential on sections 1 and 2

3.—(1) Schedule 1 makes amendments consequential on sections 1 and 2.

(2) The Department may by regulations make provision amending, repealing, revoking or otherwise modifying any statutory provision (whenever passed or made) in connection with provision made by or under section 1 or 2.

Amendment of the Order of 1991

4. In Article 4A(4) of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (prohibition of sale of tobacco from vending machines), for “level 4” substitute “level 5”.

Prohibition of use of tobacco or nicotine products in a private vehicle

5.—(1) The Smoking (Northern Ireland) Order 2006 is amended in accordance with subsections (2) to (7).

(2) In Article 6 (smoke-free vehicles)—

- (a) after paragraph (1) insert—

“(1A) Regulations under this Article may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.”;

- (b) in paragraph (2), for “The regulations” substitute “Regulations under this Article”.

(3) In Article 10 (fixed penalties)—

- (a) for the heading substitute “Fixed penalties”;

- (b) in paragraph (1), for “, or in a place or vehicle,” substitute “or in a place”;
- (c) after paragraph (1) insert—

“(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.

(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.”.

- (4) In Article 11 (enforcement)—

- (a) for the heading substitute “Enforcement”;
- (b) in paragraph (1), for “premises, places and vehicles” substitute “premises and places”;
- (c) after paragraph (1) insert—

“(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.

(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.

(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.”;

- (d) in paragraph (2)—

- (i) after “district council” insert “or other enforcement authority”;
- (ii) after “the council” insert “or other authority”;
- (iii) for “authorised by it” substitute “authorised by that council or other authority”.

- (5) In Article 12(1) (obstruction of officers), after “district council” insert “or other enforcement authority”.

- (6) In Article 15(3) (regulations subject to affirmative procedure)—

- (a) in sub-paragraph (a), for “or 14” substitute “, 10(1B) or 14”;
 - (b) in sub-paragraph (b), for “or 8” substitute “, 8 or 18”.
- (7) In Schedule 1 (fixed penalties), after paragraph 17 add—

“Power to amend or modify Schedule

18. The Department may by regulations—

- (a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind,
 - (b) provide for this Schedule to apply with modifications in relation to such notices”
- (8) The Department may by regulations make provision prohibiting the use of nicotine products in a private vehicle where a person under the age of 18 is present in the vehicle, and such regulations may for that purpose amend, or apply with modifications, the provisions of the Smoking (Northern Ireland) Order 2006 to nicotine products.

Review

- 6.—**(1) The Department must not later than 3 years after the commencement of this section review and publish a report on the implementation of Part 1.
- (2) Regulations made by the Department under this section shall set out the terms of the review.

Interpretation of Part 1

- 7.—**(1) For the purposes of this Part “nicotine product” means—
- (a) a device which is intended to enable nicotine to be consumed by an individual or otherwise to be delivered into the human body;
 - (b) an item which is intended to form part of a device within paragraph (a); or
 - (c) a substance or item which consists of or contains nicotine and which is intended for human consumption or otherwise to be delivered into the human body.
- (2) It does not matter for the purposes of subsection (1)(a) whether the device is also intended to enable any other substance to be consumed by an individual or otherwise to be delivered into the human body.
- (3) The following are not nicotine products for the purposes of this Part—
- (a) tobacco;
 - (b) cigarette papers;
 - (c) any device which is intended to be used for the consumption of lit tobacco.

Status: This is the original version (as it was originally enacted).

(4) In this section “tobacco” has the same meaning as in Part 2 of the Health and Personal Social Services (Northern Ireland) Order 1978.