

**EXPLANATORY MEMORANDUM TO THE SMOKE-FREE (EXEMPTIONS,
VEHICLES, PENALTIES AND DISCOUNTED AMOUNTS) REGULATIONS
(NORTHERN IRELAND) 2007**

2007 No. 138

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health, Social Services and Public Safety and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The draft Regulations specify details on exemptions, vehicles and penalties for the purposes of smoke-free requirements that will come into operation on 30th April 2007.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 These Regulations rely on the powers in the Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (NI 20)) (“the Order”). They provide exemptions from the smoke-free requirements of Article 3 of the Order and provide for most public and work vehicles to be smoke-free. The Regulations also specify the amount of fixed penalties under paragraph 5 of, and discounted amounts under paragraph 8 of, Schedule 1 to the Order. They also:-

- provide a time limited exemption of one year for Mental Health Units and for designated detention rooms and exercise areas in police stations and interview rooms in CARE suites; and
- provide an exemption for prisons, with the exception of social clubs, sports clubs and visitors centres.

4.2 Three further sets of Regulations complete the smoke-free provisions that will come into operation on 30th April 2007.

4.3 The first set of Regulations to be made under the powers in the Smoking (Northern Ireland) Order 2006, The Smoke-free (Premises, Vehicle Operators and Penalty Notice) Regulations (Northern Ireland) 2007 were made on 16th February 2007 (SR 2007 No.94). They:

- define what is meant by “enclosed” and “substantially enclosed” premises;
- set out duties to prevent smoking in smoke-free vehicles; and
- define the form of the penalty notice.

4.4 A further set of Regulations were made on 5th March 2007 to set out the signage under the smoke-free legislation – The Smoke-free (Signs) Regulations (Northern Ireland) 2007 (SR 2007 No.134). These Regulations were notified in draft to the European Commission in accordance with Article 8 of the European Parliament and Council Directive 98/34/EC. No comments or opinions were received.

4.5 Finally, a Commencement Order was made on 28th February 2007 (SR 2007 No.118 (C.7)) providing for the coming into operation of the whole of the remainder of the Smoking (Northern Ireland) Order 2006 on 30th April 2007 (in so far as not already in operation).

5. Extent

5.1 The Regulations apply to Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister for Health, Social Services and Public Safety, Paul Goggins, has made the following statement regarding Human Rights:

In my view the provisions of the Smoke-free (Exemptions, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007 are compatible with the Convention rights.

7. Policy Background

7.1 The medical and scientific evidence of the risks to health from exposure to secondhand smoke is well established and documented. The Government’s Independent Scientific Committee on Tobacco and Health (SCOTH) has confirmed that secondhand smoke is a substantial public health hazard, and recommended restrictions on smoking in public places and workplaces to protect non-smokers.

7.2 The Department therefore introduced smoke-free legislation in the Smoking (Northern Ireland) Order 2006 with the aim of:

- reducing the risks to health from exposure to secondhand smoke;

- recognising a person's right to be protected from harm and to enjoy smoke-free air;
- increasing the benefits of smoke-free enclosed public places and workplaces for people trying to give up smoking so they can succeed in an environment where social pressures to smoke are reduced; and
- saving lives over the next decade by reducing both exposure to hazardous secondhand smoke and overall smoking rates.

7.3 Smoke-free legislation will mean that virtually all enclosed public places and workplaces will become smoke-free. This means that in Northern Ireland, all pubs, clubs, membership clubs, cafes, restaurants, shopping centres, offices and all public and work transport, will become smoke-free.

7.4 Smoke-free legislation is not a "smoking ban". The Government respects individual autonomy, including a person's right to choose whether to smoke. The legislation will protect others from exposure to harmful secondhand smoke.

7.5 The public consultation on the proposed Regulations to be made under the Smoking (Northern Ireland) Order 2006 ended on 30th November 2006. Around 89 responses were received, from a range of interested organisations and individuals. The most notable changes to these Regulations is that the exemption for long-stay mental health units has been made temporary, they will have an extra year to fully comply with smoke-free legislation; and we have clarified further what constitutes a smoke-free vehicle and a specialist tobacconist.

7.6 An analysis of the consultation responses is available on the Department's website at: <http://www.dhsspsni.gov.uk/index/consultations>

7.7 Guidance has been prepared for employers and businesses' setting out what is required under the new legislation and enforcement guidance will also be available for District Councils. A public information campaign which includes television, radio and poster advertising has also been developed and launched to help prepare the public, employers and businesses for the introduction of the new smoke-free legislation on 30th April 2007.

8. Impact

8.1 A full Regulatory Impact Assessment (RIA) has not been produced for these Regulations. However, a full RIA was produced for the Smoking

(Northern Ireland) Order 2006 which reflects all the costs to Government, business etc. The RIA can be assessed at:

http://www.dhsspsni.gov.uk/ph_health_regulatory_impact_assessment_smoking_ni_order_2006.pdf

9. Contact

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