



Health Act 2006

2006 CHAPTER 28

PART 1

SMOKING

CHAPTER 1

SMOKE-FREE PREMISES, PLACES AND VEHICLES [^{F1}IN ENGLAND]

Offences relating to smoking in smoke-free premises, etc.

8 Offence of failing to prevent smoking in smoke-free place

- (1) It is the duty of any person who controls or is concerned in the management of smoke-free premises to cause a person smoking there to stop smoking.
- (2) The reference in subsection (1) to a person smoking does not include a performer in relation to whom the premises are not smoke-free by virtue of regulations under section 3(5).
- (3) Regulations made by the [^{F1}Secretary of State] may provide for a duty corresponding to that mentioned in subsection (1) in relation to—
 - (a) places which are smoke-free by virtue of section 4,
 - (b) vehicles which are smoke-free by virtue of section 5.

The duty is to be imposed on persons, or on persons of a description, specified in the regulations.

- (4) A person who fails to comply with the duty in subsection (1), or any corresponding duty in regulations under subsection (3), commits an offence.
- (5) It is a defence for a person charged with an offence under subsection (4) to show—
 - (a) that he took reasonable steps to cause the person in question to stop smoking,
 - or

Changes to legislation: There are currently no known outstanding effects for the Health Act 2006, Section 8. (See end of Document for details)

- (b) that he did not know, and could not reasonably have been expected to know, that the person in question was smoking, or
 - (c) that on other grounds it was reasonable for him not to comply with the duty.
- (6) If a person charged with an offence under this section relies on a defence in subsection (5), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding a level on the standard scale specified in regulations made by the Secretary of State.
- (8) The references in this section, however expressed, to premises, places or vehicles which are smoke-free, are to those premises, places or vehicles so far as they are smoke-free under or by virtue of this Chapter (and references to smoke-free premises include premises which by virtue of regulations under section 3(5) are smoke-free except in relation to performers).

Textual Amendments

- F1** Words in s. 8(3) substituted (1.3.2021) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), s. 126(2), [Sch. 2 para. 9](#); [S.I. 2021/202](#), art. 2
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Commencement Information

- I1** S. 8 in force for certain purposes at Royal Assent, see s. 83
- I2** S. 8 in force at 2.4.2007 for W. in so far as not already in force by [S.I. 2007/204](#), [art. 2\(a\)](#)
- I3** S. 8 in force at 1.7.2007 for E. in so far as not already in force by [S.I. 2007/1375](#), [art. 2\(a\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Health Act 2006, Section 8.