

# SMOKING (NORTHERN IRELAND) ORDER 2006

S.I. 2006 No. 2957 (N.I. 20)

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## EXPLANATORY MEMORANDUM

### COMMENTARY ON ARTICLES

8. Comments on individual Articles follow as appropriate. Comments are not given where wording is self-explanatory.

#### *Article 3: Smoke-free premises*

Article 3 makes provision for enclosed or substantially enclosed premises to be smoke-free. *Paragraph (1)* provides for all premises to which the public has access to be smoke-free unless specifically exempted by regulations under Article 4. However, private premises, for example, stately homes which are open to the public for one day a year and are not a person's workplace, will only need to be smoke-free for the period when the public may be present.

*Paragraph (2)* sets out that premises used as a place of work by more than one person, irrespective of whether they work there at the same time, and premises where members of the public go to give or receive goods or a service, including for example a solicitor's office or a dressmaker's shop, will be smoke-free at all times.

*Paragraph (3)* covers premises that are, for example, someone's home as well as their workplace. When members of the public come to them to give or receive goods or a service, only the parts of the premises, which are used for work purposes, will be smoke-free. Those parts might include the waiting room and the area in which they receive the service.

*Paragraph (5)* provides for the Department to specify in regulations what enclosed and substantially enclosed mean. *Paragraph (7)* provides that premises are open to the public if a section of the public has access to them. It includes premises to which the public has free access and premises to which a section of the public has access on the payment of a fee.

#### *Article 4: Exemptions*

Article 4 provides for the Department to make regulations to exempt certain premises or parts of premises under certain conditions from the requirements of Article 3. However, Article 4 (3) specifically precludes exemptions in respect of licensed premises.

#### *Article 5: Additional smoke-free places*

This Article gives the Department the power to designate other places (which need not be enclosed or substantially enclosed) as smoke-free. They will be places/areas where the Department considers there is a risk of harm from second-hand smoke due to, for example, the inevitable close grouping of people. Examples might be sports stadia and other outdoor areas such as bus shelters.

#### *Article 6: Vehicles*

This Article enables the Department to make regulations to provide for vehicles to be smoke-free.

*This Explanatory Memorandum refers to the Smoking  
(Northern Ireland) Order 2006No. 2957 (N.I. 20)*

***Article 7: No-smoking signs***

This Article creates a duty to display no-smoking signs and sets out whose duty it is as well as the signage requirements, the offence provision and the defences that may apply. A person found guilty under this Article will be liable to a fine not exceeding level 3 on the standard scale.

***Article 8: Offence of smoking in smoke-free place***

This Article sets out the offence of smoking in a smoke-free place and the defence that may apply. A person found guilty under this Article will be liable to a fine not exceeding level 3 on the standard scale.

***Article 9: Offence of failing to prevent smoking in smoke-free place***

This Article sets out the offence of failing to prevent smoking in a smoke-free place along with those to whom it applies and the defences that may apply. A person found guilty of an offence under this Article will be liable to a fine not exceeding level 4 on the standard scale.

***Article 10: Fixed penalties for offences under Articles 7 and 8***

This Article provides for an authorised officer of a district council to issue a fixed penalty notice where he believes that an offence has been committed under Article 7(5) or 8(2). If the person pays the fixed penalty he will not be prosecuted for an offence. Schedule 1 sets out the fixed penalty provisions.

***Article 14: Sale of tobacco, etc. to young persons***

This Article gives the Department power to make regulations to change the age (but not lower than 16 years) of young persons to whom tobacco may be sold.