

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make further provision under Part 1 of, and schedule 1 to, the Smoking, Health and Social Care (Scotland) Act 2005 (“the Act”) in relation to the prohibition of smoking in certain wholly or substantially enclosed premises.

Regulation 1 contains the citation, commencement and interpretation provisions to be applied to the Regulations, and gives the time and date (at 0600 hours on 26th March 2006) on which they will come into force.

Regulation 2 makes provision in relation to the display of no smoking notices, providing further requirements in addition to those already stipulated under section 3(1) of the Act. Paragraph (1) of regulation 2 sets out the requirement that at least one no-smoking notice within no smoking premises that are not a vehicle must be a minimum size and must display certain specified details. Paragraph (2) provides that all other no smoking notices on no-smoking premises that are not a vehicle, as well as any no smoking notices on or near no smoking premises that are not a vehicle, must still display the international no-smoking symbol. Paragraph (3) makes separate provision in relation to no smoking premises that are vehicles by requiring certain specified details to be displayed.

Regulation 3(1) gives effect to Schedule 1 to the Regulations, which sets out the premises or classes of premises which are prescribed under section 4(2) of the Act to be no-smoking premises for the purposes of Part 1 of the Act, being premises or classes of premises which are wholly or substantially enclosed.

Regulation 3(2) gives effect to Schedule 2 to the Regulations, which sets out the premises or parts of premises or classes of premises or parts of premises which are prescribed under section 4(2) of the Act to be excluded from the definition of “no smoking premises” in accordance with section 4(3) of the Act, that is those which are excluded from the list of “no smoking premises” in Schedule 1 to the Regulations.

Regulation 3(3) defines and elaborates the meaning of certain expressions (“premises”; “wholly enclosed”; “substantially enclosed”; and “has access”) used in section 4(4) of the Act, as provided for under section 4(5).

Regulation 4 prescribes time limits, amounts and payments in relation to fixed penalties under schedule 1 to the Act. Paragraph (1) prescribes the time limit under paragraph (1) of Schedule 1 to the Act after which a fixed penalty notice may not be given as being 7 days. Paragraph (2) prescribes the amount of the fixed penalty under paragraph 4(1) of schedule 1 to the Act for offences under section 1 (£200), section 2 (£50) and section 3 (£200). Paragraph (3) prescribes the discounted amount of the fixed penalty under paragraph 5(2) of schedule 1 to the Act for offences under section 1 (£150), section 2 (£30) and section 3 (£150).

Regulation 5 provides for the application by councils of fixed penalties and account keeping.

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](#) laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services (O.J. No. L 204, 21.7.1998, p.37), as amended by the European Parliament and Council Directive [98/48/EC](#) (O.J. No. L 217, 5.8.1998, p.18).