

STATUTORY INSTRUMENTS

1978 No. 1907

Health and Personal Social Services (Northern Ireland) Order 1978

PART II

SALE OF TOBACCO, ETC. TO PERSONS APPARENTLY UNDER [F118]

F1 Word in the cross heading to Pt. II substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(2), **2(a)**

Prohibition on sale of tobacco, etc. to persons apparently under [F218]

3.—(1) Subject to paragraph (2), a person who sells to a person^{F3} . . . under the age of [F418] any tobacco or cigarette papers, whether for his own use or not, shall be guilty of an offence.

[F3(1A) It shall be a defence for a person charged with an offence under paragraph (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.]

Para.(2) rep. with saving by 1986 NI 24

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding [F3][F5level 5] on the standard scale].

F2 Word in the heading of art. 3 substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(2), **2(b)**

F3 1991 NI 25

F4 Word in art. 3(1) substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(3), **2(b)**

F5 Words in art. 3(3) substituted (6.4.2016) by [Tobacco Retailers Act \(Northern Ireland\) 2014 \(c. 4\)](#), **ss. 18(2), 25(2)**; S.R. 2016/101, art. 2(a), Sch. 1

Modifications etc. (not altering text)

C1 Art. 3(1): power to amend conferred (15.1.2007) by [The Smoking \(Northern Ireland\) Order 2006 \(S.I. 2006/2957 \(N.I. 20\)\)](#), arts. 1(3)(h), **14(a)** (with art. 16(1))

Control of automatic machines for sale of tobacco

4.—(1) If on complaint being made under[F6 Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981] the court is satisfied that any automatic machine for the sale of tobacco kept on any premises[F7 has been used by any person] under the age of [F818], the court[F9 shall] order the owner of the machine or the person on whose premises the machine is kept—

- (a) to take such precautions to prevent the machine being so used as may be specified in the order;
- (b) if necessary, to remove the machine, within such time as may be specified in the order.
- (2) A person who fails to comply with an order made under paragraph (1) shall be guilty of an offence and liable on summary conviction^[F7] to a fine not exceeding level 4 on the standard scale].

- F6** 1981 NI 26
- F7** 1991 NI 25
- F8** Word in art. 4(1) substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(4), **2(c)**
- F9** 1986 NI 24

Modifications etc. (not altering text)

- C2** Art. 4(1): power to amend conferred (15.1.2007) by [The Smoking \(Northern Ireland\) Order 2006 \(S.I. 2006/2957 \(N.I. 20\)\)](#), arts. 1(3)(h), **14(a)** (with art. 16(1))

[F10 Purchase of tobacco [F11 or nicotine products] on behalf of persons under 18

4A.—(1) A person aged 18 or over who knowingly buys or attempts to buy tobacco [F12, cigarette papers or a relevant nicotine product] on behalf of a person under the age of 18 shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

- F10** Art. 4A inserted (6.4.2016) by [Tobacco Retailers Act \(Northern Ireland\) 2014 \(c. 4\)](#), ss. **18(3)**, 25(2); S.R. 2016/101, art. 2(a), Sch. 1
- F11** Words in art. 4A heading inserted (1.2.2022) by [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/330\)](#), regs. 1(1), **2(2)**
- F12** Words in art. 4A(1) substituted (1.2.2022) by [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/330\)](#), regs. 1(1), **2(3)**

Modifications etc. (not altering text)

- C3** Art. 4A: power to amend conferred (1.6.2017) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\)](#), ss. **1(6)(b)**, 20(3); S.R. 2017/91, art. 2(a)
- C4** Art. 4A: power to amend conferred (1.6.2017) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\)](#), ss. **1(6)(a)**, 20(3); S.R. 2017/91, art. 2(a)

Seizure of tobacco, etc. in possession of persons apparently under [F13 18]

5.—(1) A member of the Royal Ulster Constabulary or Royal Ulster Constabulary Reserve may seize any tobacco or cigarette papers in the possession of any person apparently under the age of [F14 18] whom he finds smoking in any street or public place.

(2) Any tobacco or cigarette papers seized under paragraph (1) shall be disposed of in such a manner as the Police Authority for Northern Ireland may direct.

- F13** Word in the heading of art. 5 substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(2), **2(d)**
- F14** Word in art. 5(1) substituted (1.9.2008) by [Children and Young Persons \(Sale of Tobacco etc.\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/306\)](#), regs. 1(5), **2(d)**

Modifications etc. (not altering text)

- C5** Art. 5(1): power to amend conferred (15.1.2007) by [The Smoking \(Northern Ireland\) Order 2006 \(S.I. 2006/2957 \(N.I. 20\)\)](#), arts. 1(3)(h), **14(a)** (with art. 16(1))
- C6** Art. 5(1) extended by 2003 c. 6, Sch. 2A para. 7(1) (as inserted (22.4.2007) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), 7(8), **Sch. 5**)
- C7** Art. 5(2) applied by 2003 c. 6, Sch. 2A para. 7(2) (as inserted (22.4.2007) by [Policing \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2007 \(S.I. 2007/912 \(N.I. 6\)\)](#), arts. 1(3), 7(8), **Sch. 5**)

Exemption for persons employed in trade

6. Nothing in this Part shall—

- (a) make it an offence to sell tobacco or cigarette papers to, or
- (b) authorise the seizure of tobacco or cigarette papers in the possession of,

any person who is at the time employed by a manufacturer of, or dealer in, tobacco, either wholesale or retail, for the purposes of his business.

Interpretation

7. In this Part—

“cigarettes” includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking;

“public place” includes any place to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

[^{F15}“relevant nicotine product” means a nicotine product within the meaning of section 7 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 the sale of which to persons aged under 18 is for the time being prohibited by regulations under section 1(1) of that Act;]

“street” includes any road, lane, alley or passage, whether a thoroughfare or not;

“tobacco” includes cigars, cigarettes [^{F16} tobacco substitutes and any product containing tobacco and intended for oral or nasal use].

F15 Words in art. 7 inserted (1.2.2022) by [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/330\)](#), regs. 1(1), **3**

F16 1986 NI 24

Changes to legislation:

There are currently no known outstanding effects for the Health and Personal Social Services (Northern Ireland) Order 1978, PART II.