



Health Act 2006

2006 CHAPTER 28

PART 1

SMOKING

CHAPTER 1

SMOKE-FREE PREMISES, PLACES AND VEHICLES

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

7 Offence of smoking in smoke-free place

- (1) In this section, a “smoke-free place” means any of the following—
 - (a) premises, so far as they are smoke-free under or by virtue of sections 2 and 3 (including premises which by virtue of regulations under section 3(5) are smoke-free except in relation to performers),
 - (b) a place, so far as it is smoke-free by virtue of section 4,
 - (c) a vehicle, so far as it is smoke-free by virtue of section 5.
- (2) A person who smokes in a smoke-free place commits an offence.
- (3) But a person who smokes in premises which are not smoke-free in relation to performers by virtue of regulations under section 3(5) does not commit an offence if he is such a performer.
- (4) It is a defence for a person charged with an offence under subsection (2) to show that he did not know, and could not reasonably have been expected to know, that it was a smoke-free place.
- (5) If a person charged with an offence under this section relies on a defence in subsection (4), and evidence is adduced which is sufficient to raise an issue with

Status: This is the original version (as it was originally enacted).

respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

- (6) 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 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 appropriate national authority 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
 - (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).