

2007 No. 760

PUBLIC HEALTH, ENGLAND

**The Smoke-free (Vehicle Operators and Penalty Notices) Regulations
2007**

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| <i>Made</i> - - - - | <i>7th March 2007</i> |
| <i>Laid before Parliament</i> | <i>14th March 2007</i> |
| <i>Coming into force</i> - - | <i>1st July 2007</i> |

The Secretary of State for Health, in exercise of the powers in sections 8(3) and 79(3) of, and paragraph 4 of Schedule 1 to, the Health Act 2006(a), makes the following Regulations:—

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 and shall come into force on 1st July 2007.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“the Act” means the Health Act 2006; and

“smoke-free vehicle” means a vehicle which is smoke-free by virtue of section 5 of the Act.

Failing to prevent smoking in smoke-free vehicles

2. The following persons are under a duty corresponding to that in section 8(1) of the Act to cause any person who is smoking in a smoke-free vehicle to stop smoking—

(a) the driver;

(b) any person with management responsibilities for the vehicle; and

(c) any person on a vehicle who is responsible for order or safety on it.

Form of fixed penalty notice

3.—(1) The penalty notice form set out in Schedule 1 to these Regulations is specified in relation to the offence of failing to display a no smoking sign in accordance with requirements made by or under section 6 of the Act.

(2) The penalty notice form set out in Schedule 2 to these Regulations is specified in relation to the offence of smoking in a smoke-free place under section 7 of the Act.

(3) Where either of those forms refers to the amount of a fixed penalty or to a discounted amount or to a level on the standard scale which is changed, the form shall have effect subject to the change.

(4) Nothing in this regulation or in Schedule 1 or 2 to these Regulations shall prevent an enforcement authority from—

(a) 2006 c.28. As to the meaning of “the appropriate national authority” see section 82(1).

- (a) using a notice in a size or design which differs from a specified form, provided that the content of the notice is not changed from that specified in the form (except as permitted by sub-paragraphs (b) to (d));
- (b) including information or illustrations in a notice to assist a person to whom it is given (for example, information or illustrations on how payments can be made);
- (c) including information in a notice to assist an enforcement authority in the performance of its functions under section 10(3) of the Act (enforcement) (for example, information to assist in its administrative procedures or data processing); or
- (d) including coats of arms or logos in a notice.

Signed by authority of the Secretary of State for Health

7th March 2007

Caroline Flint
Minister of State for Public Health
Department of Health

SCHEDULE 1

Regulation 3(1)

Form 1 – Failing to display prescribed no smoking signs or failing to display no smoking signs in a prescribed manner.

[NAME OF ENFORCEMENT AUTHORITY]
[ADDRESS OF ENFORCEMENT AUTHORITY]

**HEALTH ACT 2006:
SECTION 6 (FAILURE TO DISPLAY NO SMOKING SIGNS IN ACCORDANCE WITH
REQUIREMENTS MADE BY OR UNDER SECTION 6)**

FIXED PENALTY NOTICE

PENALTY AMOUNT £200

**PART 1
RECIPIENT COPY**

Penalty notice number:

**Full name of alleged
offender:**

Address of alleged offender:

Date of birth (if known):

Post code:

Male/female (circle one)

I, _____ (name), an authorised officer of *[name of enforcement authority]* under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 of the Health Act 2006 (failure to display no smoking signs in accordance with requirements made by or under section 6) in premises, a place or vehicle in relation to which *[name of enforcement authority]* has enforcement responsibilities.

The circumstances alleged to constitute the offence are that at:

_____ (time) on _____ (date)

you, at/on the following premises, place or vehicle (where alleged offence took place, including address, if any):

being premises, a place or vehicle to which the provisions of section 6 of the Health Act 2006 applies, allegedly (details of offence):

This notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty of **£200 (two hundred pounds)**. No proceedings will be taken for this offence before the expiration of the period of 29 days beginning with _____ *[insert the date on which this notice is given]*. You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form this period is referred to as **the 29 day period**.

You can pay a discounted amount of £150 (one hundred and fifty pounds) if you pay within the period of 15 days beginning with _____ *[insert the date on which this notice is given]*. If the 15th day is not a working day, you may pay on the next working day. “Working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. In this Form this period is referred to as the 15 day period.

Information for the immediate attention of the person who has been issued this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice. **If you have any questions, or if you wish to discuss this notice, please contact *[insert name and address of enforcement authority and contact details]*.**

Signature of authorised officer

Date of issue

PART 2

INFORMATION FOR THE IMMEDIATE ATTENTION OF THE PERSON WHO HAS BEEN ISSUED WITH THIS PENALTY NOTICE

You have received this notice because the authorised officer of *[name of enforcement authority]* named in Part 1 of this notice has reason to believe that you have committed the offence of failing to display a no smoking sign in accordance with requirements made by or under section 6 of the Health Act 2006. Within the **29 day period**, you **must either** pay the penalty **or** request that the matter be heard by a court. You may not do both.

If you fail to do either, *[name of enforcement authority]* as an enforcement authority by virtue of section 10 of the Health Act 2006 may pursue this matter in court. A person found guilty of the offence of failing to display a no smoking sign in accordance with requirements made by or under section 6 of the Health Act 2006 is liable on summary conviction to a fine not exceeding level 3 on the standard scale^(a).

(a) Currently £1,000 – see section 37 of the Criminal Justice Act 1982 (c.48) as amended by section 17 of the Criminal Justice Act 1991 (c.53).

PART 3
PAYING THE PENALTY

The amount of the fixed penalty is **£200 (two hundred pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£150 (one hundred and fifty pounds)** if you pay within the 15 day period specified in Part 1.

If you choose to pay the penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment may be made by completing Part 3A below and returning it with payment to the address stated in that Part, or by completing Part 3A below and paying in person at *[name and address of enforcement authority]*. Acceptable methods of payment include cash, cheque, postal order or money order.

Cheques, postal orders or money orders should be made payable to *[name of enforcement authority]*. If you choose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped, self-addressed envelope.

WARNING:
LATE PAYMENT WILL NOT BE ACCEPTED. YOU WILL NOT BE SENT A REMINDER

PART 3A
PAYMENT OF FIXED PENALTY ISSUED UNDER SECTION 6 OF THE HEALTH
ACT 2006

(FAILURE TO DISPLAY NO SMOKING SIGNS IN ACCORDANCE WITH REQUIREMENTS
MADE BY OR UNDER SECTION 6)

This slip must accompany all payments

To: *[Name and address of enforcement authority where payment should be sent]*

Penalty notice Number: _____

I enclose the amount of: **£150** (if the payment is made within the 15 day period specified in Part 1)

(tick one box)

£200 (if the payment is made within the 29 day period specified in Part 1)

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

PART 4
REQUESTING A COURT HEARING

If you choose to request a court hearing, you **must** within the 29 day period do so by completing Part 4A and sending it to *[name of enforcement authority]*, or by writing to *[name of enforcement authority]* at the address stated on Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

PART 4A
**HEALTH ACT 2006: FAILING TO DISPLAY A NO SMOKING SIGN IN
ACCORDANCE WITH REQUIREMENTS MADE BY OR UNDER SECTION 6
REQUEST FOR ALLEGED OFFENCE TO BE DEALT WITH BY A COURT OF LAW**

To: *[Name and address of enforcement authority]*

Penalty notice Number: _____

I wish to be dealt with by a court of law for the alleged offence.

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

SCHEDULE 2

Regulation 3(2)

Form 2 – Smoking in a smoke-free place.

[NAME OF ENFORCEMENT AUTHORITY]
[ADDRESS OF ENFORCEMENT AUTHORITY]

HEALTH ACT 2006:
SECTION 7 (OFFENCE OF SMOKING IN A SMOKE-FREE PLACE)

FIXED PENALTY NOTICE

PENALTY AMOUNT £50

PART 1
RECIPIENT COPY

Penalty notice number:

Full name of alleged offender:

Address of alleged offender:

Post code:

Date of birth (if known):

Male/female (circle one)

I, _____ (name), an authorised officer of *[name of enforcement authority]* under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 7 of the Health Act 2006 (smoking in a smoke-free place) within premises, a place or vehicle in relation to which *[name of enforcement authority]* has enforcement responsibilities. Section 7(1) of the Health Act 2006 provides that smoke-free places include smoke-free premises and smoke-free vehicles.

The circumstances alleged to constitute the offence are that at:

_____ (time) on _____ (date)

you, at/on the following premises, place or vehicle (where alleged offence took place, including address, if any):

being premises, a place or vehicle to which the provisions of section 7 of the Health Act 2006 applies, allegedly (details of offence):

This notice offers you the opportunity of discharging any liability for conviction for that offence by payment of a fixed penalty of **£50 (fifty pounds)**. No proceedings will be taken for this offence before the expiration of 29 days beginning with _____ *[insert date on which this notice is given]*. You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form this period is referred to as **the 29 day period**.

You can pay a discounted amount of £30 (thirty pounds) if you pay within the period of 15 days beginning with _____ *[insert the date on which this notice is given]*. If the 15th day is not a working day, you may pay on the next working day. “Working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. In this Form this period is referred to as the 15 day period.

Information for the immediate attention of the person who has been issued this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice. **If you have any questions, or if you wish to discuss this notice, please contact *[insert name and address of enforcement authority and contact details]*.**

Signature of authorised officer

Date of issue

PART 2

INFORMATION FOR THE IMMEDIATE ATTENTION OF THE PERSON WHO HAS BEEN ISSUED WITH THIS PENALTY NOTICE:

You have received this notice because the authorised officer of *[name of enforcement authority]* named in Part 1 of this notice has reason to believe that you have committed the offence of smoking in a smoke-free place as described in Part 1. Within the 29 day period specified in Part 1, **you must either** pay the penalty **or** request that the matter be heard by a court. You may not do both.

If you fail to do either, *[name of enforcement authority]* as an enforcement authority by virtue of section 10 of the Health Act 2006, may pursue this matter in court. A person found guilty of the offence of smoking in a smoke-free place is liable on summary conviction to a fine not exceeding level 1 on the standard scale(a).

(a) Currently £200 – see section 37 of the Criminal Justice Act 1982 (c.48) as amended by section 17 of the Criminal Justice Act 1991 (c.53).

PART 3
PAYING THE PENALTY

The amount of the fixed penalty is **£50 (fifty pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£30 (thirty pounds)** if you pay within the 15 day period which is specified in Part 1.

If you choose to pay this penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment may be made by completing Part 3A below and sending it with payment to the address stated in that Part, or by completing Part 3A below and paying in person at *[name and address of enforcement authority]*. Acceptable methods of payment include cash, cheque, postal order or money order.

Cheques, postal orders or money orders should be made payable to *[name of enforcement authority]*. If you choose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped, self-addressed envelope.

WARNING: LATE PAYMENT WILL NOT BE ACCEPTED. YOU WILL NOT BE SENT A REMINDER.

PART 3A
PAYMENT OF FIXED PENALTY ISSUED UNDER SECTION 7 OF THE HEALTH ACT 2006

(OFFENCE OF SMOKING IN A SMOKE-FREE PLACE)

This slip must accompany all payments

To: *[Name and address of enforcement authority where payment should be sent]*

Penalty notice _____

Number:

I enclose the amount of:
(tick one box)

£30

I enclose the amount of:
(tick one box)

£50

Full name of alleged offender: _____

Address of alleged offender: _____

Post code: _____

Signature

Date

PART 4
REQUESTING A COURT HEARING

If you choose to request a court hearing, you **must** within the 29 day period do so by completing Part 4A and sending it to *[name of enforcement authority]*, or by writing to *[name of enforcement authority]* at the address stated in Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

PART 4A
HEALTH ACT 2006: OFFENCE OF SMOKING IN A SMOKE-FREE PLACE
UNDER SECTION 7
REQUEST FOR ALLEGED OFFENCE TO BE DEALT WITH BY A COURT OF LAW

To: *[Name and address of enforcement authority]*

Penalty notice _____
Number:

I wish to be dealt with by a court of law for the alleged offence.

Full name of alleged offender: _____

Address of alleged offender: _____

_____ **Post code:** _____

Signature

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under Chapter 1 of Part 1 of, and Schedule 1 to, the Health Act 2006 contain provisions which relate to smoke-free places (premises and vehicles) in England.

Regulation 2 provides that the driver, any person with management responsibilities for a smoke-free vehicle and any person on a smoke-free vehicle with responsibility for safety or order on that vehicle are each under a duty to cause persons to cease smoking in the vehicle.

Regulation 3 and Schedules 1 and 2 set out fixed penalty forms.

Schedule 1 applies to the offence of failing to display a no smoking sign in accordance with requirements made by or under section 6 of the Act. The maximum penalty on conviction for that offence is a fine of level 3 on the standard scale (at present £1,000), the fixed penalty is £200 and the discounted amount for prompt payment is £150.

Schedule 2 applies to the offence of smoking in a smoke-free place under section 7 of the Act. The maximum penalty on conviction is a fine of level 1 on the standard scale (at present £200), the fixed penalty is £50 and the discounted amount for prompt payment is £30.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies can be obtained from the Smokefree Legislation Team, Room 712, Department of Health, Wellington House, 133-135 Waterloo Road, London SE1 8UG.

2007 No. 760

PUBLIC HEALTH, ENGLAND

**The Smoke-free (Vehicle Operators and Penalty Notices) Regulations
2007**

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