Implementation of Smokefree Legislation

No-smoking in private vehicles
(when persons under 16 are present)

Guidance for enforcement officers and
the public on the prohibition
on smoking in private vehicles carrying children

February 2016

Department of Environment, Food and Agriculture
and Department of Health and Social Care
Public Health Directorate’s

‘Please Keep Me Smoke Free’
Drawing Competition, December 2015

1st Prize Winner- Daniel, Age 10
Victoria Road Primary School
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1. **Purpose of Guidance**

From **30th March 2016** the existing smokefree legislation, which makes public places and work premises and vehicles smokefree, is being extended. The No-Smoking Premises (Amendment) Regulations 2015 will require all private vehicles to be smokefree when they are enclosed, contain more than one person and a person under 16 is present in the vehicle.

So it will be an offence:
- For someone to smoke in a private vehicle with someone under 16 present; and
- For a driver not to stop someone smoking.

*Note: electronic cigarettes and all forms of nicotine vaporisers are not included within the definition of smoking.*

The purpose is to protect children from the harm to their health caused by exposure to secondhand smoke in vehicles.

It has been clearly demonstrated that smokefree legislation has been a major public health success story. It has been popular with the public, is easily complied with, and is effectively achieving its objectives. Popular public support when the law was introduced in 2008 meant that very high compliance levels were quickly achieved.

The aim of this guidance is to ensure a consistent approach to the application of the legislation so that children travelling in private vehicles are properly protected from secondhand smoke, and drivers and adult users of private vehicles are treated fairly.

This guidance has been produced by the Department of Environment Food and Agriculture in consultation with the Chartered Institute of Environmental Health (CIEH) to help enforcement officers to use the new requirements to best effect and to help members of the public to comply with the law by not smoking where it is prohibited by the smokefree laws applying to vehicles. For that purpose information is included in the appendices (5, 6 and 7) on how to make use of no-smoking signs, what to do if someone tries to smoke in your vehicle and some tips to keep your car smokefree.

In the light of experience of implementation, this guidance may be amended and updated and the Department welcomes comments and suggestions for further clarification and future inclusions.
2. **Background to the legislation**

2.1 **Existing measures**

The smokefree laws in force since 2008 ensure that children are fully protected from the harm of secondhand smoke when using public transport, and when travelling in public service and work vehicles. However, there are no restrictions on smoking in private vehicles except when they are used primarily in connection with work activities, in which case they are then required to be smokefree at all times, even when in use for private purposes.

2.2 **Protecting children’s health**

The evidence of damage to children’s health from exposure to secondhand smoke is clear and extensive\(^1\). The UK Government’s independent Scientific Committee on Tobacco and Health (SCOTH) reported that smoking in the presence of children is a cause of a variety of adverse health effects\(^2\). These include increased susceptibility to lower respiratory tract infections such as pneumonia and bronchitis, worsening of asthma, middle ear disease, and decreased lung function.

There is no ‘safe’ level of exposure to secondhand smoke\(^3\) and in confined areas such as cars and other motor vehicles it is known to be hazardous to health and especially for children’s health\(^4\). A recent **Isle of Man survey** revealed that **23.5%** of young people aged 11-18 years old are exposed to smoke in their own or someone else’s car\(^5\).

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Children are more vulnerable to the effects of secondhand smoke than adults because of their smaller size, faster breathing rates and less developed immune systems\(^1\)

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3rd Prize Winner – Leela, Age 10
 Rushen Primary School
Opening the car windows or using the car fan or even its air-conditioning is not enough to stop the harmful effects of smoke on children\textsuperscript{6,7,8}. The only way to provide effective protection is to prevent exposure to secondhand smoke in the first place, and that means stopping people from smoking in vehicles when children are present.

\begin{boxedminipage}{\textwidth}
\textbf{Over 80\% of cigarette smoke is invisible\textsuperscript{9}. When people smoke in the car, poisons settle on all the surfaces\textsuperscript{10}. Winding down the window doesn’t help, as the poisons linger long after the smoke has disappeared\textsuperscript{11, 12, 13}.}
\end{boxedminipage}

\section*{2.3 Need for additional measures}

As with the case for prohibiting smoking in enclosed workplaces and public places, there is strong evidence to support extending the prohibition on smoking to cars carrying children\textsuperscript{14}.

The evidence clearly shows that:

i. Children with a smaller lung capacity and body weight are more adversely affected by nicotine and the airborne particulates in tobacco smoke than adults\textsuperscript{1}. 

ii. Smoking in a vehicle can generate high levels of airborne particulates due to the small volume of air in the vehicle and also the potential for it to be recycled without cleaning.

iii. The mechanisms commonly used in efforts to allow secondhand smoke to escape from vehicles (opening windows and sunroofs) are not effective, since the positive air pressure outside the vehicle causes the tobacco smoke laden air to remain within the vehicle.

iv. The level of airborne particulates in a vehicle remains elevated long after a cigarette has been extinguished, and may not return to pre-cigarette level for several hours\textsuperscript{13}.

\begin{boxedminipage}{\textwidth}
\textbf{One cigarette smoked in a car can create concentrations of smoke 11 times greater than a smoky pub\textsuperscript{6}.}
\end{boxedminipage}

It is also the case that children being carried as passengers in a car cannot remove themselves from a toxic and health damaging environment, since they have no control over the vehicle or the conduct of the driver or passengers.
From 30th March 2016 the No-Smoking Premises (Amendment) Regulations 2015 will address this by:

- prohibiting any person from smoking or having lighted tobacco products in a car or any other vehicle which is enclosed, contains more than one person and a person under 16 is present in the vehicle, and;
- for the driver to fail to prevent smoking, in a car or any other private vehicle which is enclosed, contains more than one person and a person under 16 is present in the vehicle.

34% of children are too frightened or embarrassed to ask their parents to stop smoking\(^{(15)}\).
3. **Overall approach and enforcement policy**

3.1 **Anticipated compliance**

The experience to date, like that of other countries who have introduced comprehensive smokefree legislation, is that this type of legislation is widely supported by the public, that high rates of voluntary compliance and self-enforcement can be anticipated and that there will therefore be only a minimal need to employ enforcement measures\(^{16}\).

Therefore, the Department of Health and Social Care have stated that successful implementation of smokefree legislation will continue to be measured by assessments of how well the requirements of the law are met rather than by the number of enforcement actions taken by the enforcement authorities. In the longer term it will also be possible to measure how behaviour, attitudes and health outcomes change over time.

There has been growing public support for this particular extension of the smokefree requirements to include a prohibition on smoking in private cars when children are present, with support amongst the general public approaching 80%\(^{17}\).

The public awareness campaign organised by the Public Health Directorate (DHSC) preceding the introduction of this legislation, aims to support early compliance by building awareness about secondhand smoke and the rationale for the new law. Promotional work has been designed to increase public approval and acceptance of the law, with a range of social marketing activities targeting key areas. The campaign engaged young people in a competition to design a smokefree sign, and utilised the children’s materials on websites, video clips, posters and leaflets, and pledges to ‘go smokefree’. The campaign focused on the emotive power of children’s voices and drawings, as research has shown this is more likely to result in a reduction of children exposed to secondhand smoke in cars\(^{18}\).

3.2 **Roles and responsibilities**

The primary responsibility for detecting and dealing with offences against this legislation is intended to lie with the police. This is because they have existing powers to stop moving vehicles and are able to enforce this legislation as part of their usual road safety responsibilities, which include the proper use of child car seats, seat belts and mobile phones.

The authorised officers appointed by DEFA will deal with individual offences when discovered or reported to them and to generally support the building of compliance through information and advice campaigns, for example by working with the Public Health Directorate to raise awareness, as well as by working alongside the police in taking targeted enforcement measures.
3.3 Enforcement policy

In order to ensure that a fair, proportionate and consistent approach is being taken, authorised officers will need to demonstrate that any enforcement action being taken is in accordance with the principles of the Department’s enforcement policy.

‘Comprehensive smokefree legislation has been in force since 2008 and the expectations of compliance with any new legislation should be high. Nevertheless where non-compliance is due to misunderstandings or a lack of diligence, then further information, advice and guidance can be provided.

‘However, where it is evident that serious efforts are not being made to comply, or the attitude is un-cooperative or antagonistic, a decision to take enforcement measures should be considered.

‘It is likely that enforcement actions will attract publicity and public attention and it is recommended that each decision on enforcement action should be properly considered and with clear justification. Where a person is determined to flout the law a robust response would be appropriate.’

3.4 Stop Smoking Services

The smokefree legislation which came into force in 2008, was primarily aimed at protecting people from secondhand smoke, but also resulted in many more people deciding to stop smoking completely. This new law may also prompt people to stop smoking, which will have the benefit not only of improving the individual’s health, but also removing the cause of any non-compliance at source.

Enforcement officers will be working in partnership with the local Quit4You Stop Smoking Service (Public Health Directorate, DHSC) to offer appropriate help and support to smokers. Studies show that smokers are four times more likely to be able to quit with help of stop smoking services(19).

HELP TO QUIT SMOKING

Quit4You is the Island’s FREE Stop Smoking Service providing practical advice, support and encouragement to anyone who wants to quit.

The service offers weekly clinics around the Island, and vouchers for Nicotine Replacement Therapy.

www.Quit4You.gov.im    Tel: 642404    Email: tobacco@gov.im
4. Legislative requirements relating to smokefree vehicles

4.1 Smoking

The meaning of smoking is set out in Section 20 (1) of the Public Health (Tobacco) Act 2006:

- smoke means smoke tobacco, any substance or mixture which includes it or any other substance or mixture, and
- a person is to be taken as smoking if the person holding or otherwise in possession or control of lit tobacco, of any lit substance or mixture which includes tobacco or of any other lit substance or mixture is in a form or in a receptacle in which it can be smoked.
- Smoking includes the use of cigarettes, cigars, and pipes including water pipes (shisha) as well as the use of herbal substances.
- Electronic cigarettes and all forms of nicotine vaporisers are NOT included within the definition of smoking.

4.2 Existing requirements

Section 20 (2) of the Public Health (Tobacco) Act 2006 provides power for regulations to require vehicles to be smokefree. A vehicle includes any train bus car and any vessel (whether navigable or not) boat or hovercraft.

Regulation 4 of the No-Smoking Premises Regulations 2007 provides that a vehicle that is either wholly or substantially enclosed shall be smokefree if it is:

- A public transportation vehicle; or
- A vehicle which one or more persons use for work.

This means that children are already fully protected from exposure to secondhand smoke when they are using public transport and travelling in public service and work vehicles.
4.3 Private vehicles (prior to 30 March 2016)

In accordance with regulation 4 (2) Schedule 2 of the No-Smoking Premises Regulations 2007 a private vehicle is a vehicle which is exempt from the provisions of the regulations and is defined as:

- Any vehicle which is not a public transportation vehicle; and
- Any other vehicle which is used primarily for the private purposes.

4.4 New requirements (from 30 March 2016)

The No-Smoking Premises (Amendment) Regulations 2015 provides for in Schedule 1 (No-Smoking Premises) after paragraph 24 insert-

25. Private vehicles in which another person is present who is under 16 years of age and

in Schedule 2 (exemptions) for paragraph 8 substitute -

8. Private vehicles where no person present in the vehicle is under the age of 16.

This includes a vehicle, and any part of a vehicle if it is:

i. enclosed

ii. there is more than one person present

iii. and a person under the age of 16 is present in the vehicle

4.5 Meaning of the term enclosed

A vehicle, or part of a vehicle, is enclosed where it is enclosed wholly or partly by a roof and by any door or window that may be opened. Roof means any fixed or moveable structure or device which is capable of covering all or part of the vehicle, including any canvas, fabric or other covering.

Solo motorcycles and scooters would not normally be included within the above description.

However there are two-seater enclosed sidecars as well as so called 'covered scooters' which have provision for a passenger. Similarly there are two-person mobility scooters which may be fitted with fixed and removable roof and side covers (similar to golf buggies). These multiple seat versions could be considered to be enclosed vehicles.
A vehicle does not need to be smokefree when its roof is removed or completely stowed away so that it does not cover any part of a compartment in which persons are present. A compartment includes each part of the vehicle which:

- is constructed or adapted to accommodate persons; and
- is or may from time to time be wholly or partly covered by a roof.

This means that a convertible car, or coupe, with the roof completely down and stowed, is not enclosed and therefore is not covered by the legislation.

A vehicle is still considered enclosed when doors, windows and sun-roofs are open.

A person is still considered to be smoking in the vehicle when they are holding the cigarette out of the window, and when they are smoking whilst sitting in an open doorway or whilst leaning out of the vehicle.

### 4.6 Motor caravans and caravans

When a motor caravan is being driven on the roads, it is a vehicle and must be smokefree if there is a child under 16 years being carried in it.

The smokefree requirements do not apply to a motor caravan or caravan

- if it is stationary and not on a road,
- when it is stationary and on a road but is being used as living accommodation.

This is to take account of the fact that motor caravans when stationary are analogous to rooms in a property, and can be considered to be, and treated the same as being, a person’s ‘home’.

Passengers must not be carried in caravans at any time whilst they are being ‘towed’.

The term ‘living accommodation’ is not defined, but the everyday meaning would be that the accommodation provided by a motor caravan was provisioned with food, clothing and bedding and was in use as a shelter together with any facilities for washing, dressing and sleeping. The expectation would be that the facilities were ‘in use’ and not simply available for use and that the purpose of use was over a period of time and not a temporary stop being taken in the course of a journey.
5. **Offences and defences**

5.1 **Offences**

(See also the ‘Smokefree vehicles decision-making flowchart’ in Appendix 1 and the ‘Table of offences and penalties’ in Appendix 2.)

There are two offences:

- for someone to smoke in an enclosed private vehicle with someone under age 16 present; and
- for a driver not to stop someone smoking.

*Note:* Electronic cigarettes and all forms of nicotine vaporisers are not included within the definition of smoking.

The law applies to both moving and stationary vehicles and whether they are located on a road or on private land, for example a private driveway. There is an exemption for stationary motor caravans when being used as living accommodation (see Section 4 ‘Legislative requirements relating to smokefree vehicles’).

5.2 **Smoking in a private vehicle**

From 30th March 2016 the Public Health (Tobacco) Act 2006 prohibit any person from smoking in any enclosed private vehicle when another person under the age of 16 years old is present inside the vehicle. This applies to both the driver and any passengers.

5.3 **Failing to prevent smoking in a private vehicle**

From 30th March 2016 the Public Health (Tobacco) Act 2006 makes it an offence for the driver to fail to prevent smoking in an enclosed private vehicle when another person under the age of 16 years is present inside the vehicle. This offence will be in addition to the offence committed by the driver if they are smoking.

5.4 **Determining age**

It will be necessary to establish whether there is a person in the vehicle under the age of 16. It is expected that the focus of attention will be on vehicles in which young children are present and age will not be a matter of dispute.
The powers available to enforcement officers include being able to require people they are investigating for a possible offence to provide information which they consider necessary for that purpose such as their name, age and address. In cases of doubt or refusal the enforcement officers will still be able to make a reasonable assessment of the person’s age. Police officers are also able to ask for proof of identity.

Anyone who smokes in a smokefree private vehicle when a person under 16 is present would be guilty of an offence, regardless of their own age. This is the case with the current smokefree legislation and therefore this is a consistent approach.

5.5 How the law applies to under 16 year olds

As passengers:

- The law is in place to protect all children and young people under age 16, so no one should smoke in the vehicle when they are present.
- People of any age who do smoke in the vehicle commit an offence and the enforcement officers will be expected to use their discretion in deciding on the appropriate action to take.

5.6 Powers of entry and offence of obstruction

Powers of entry are contained in Schedule 18 of the Public Health (Tobacco) Act 2006 and allow authorised officers (on production of authority if requested) to: enter at any reasonable hour (in the case of a vehicle this would include any time that it was occupied) to carry out an inspection and examination; to take samples and retain physical evidence; and to “require any person to give him such information, or afford him such facilities and assistance, as he considers necessary for that purpose”.

Schedule 18 of the Public Health (Tobacco) Act 2006 provides for the offence of obstruction by any person who intentionally obstructs an authorised officer, or

- Without reasonable excuse, fails to give any facilities, assistance or information which the officer reasonably requires, or
- Makes a statement which is false or misleading.
- A person who commits an offence of obstruction is liable to a fine of up to £5,000.
5.7 Defences

The Public Health (Tobacco) Act 2006 provides the following defences:

**Section 16 (2) offence—smoking in no-smoking premises**

a. The accused did not know and could not reasonably be expected to have known that the place in which it is alleged that the accused was smoking was a no-smoking premise.

**Section 14 (3) offence—permitting others to smoke in no-smoking premises**

a. The accused took all reasonable precautions and exercised all due diligence not to commit the offence; or

b. That there were no lawful and reasonably practicable means by which the accused could prevent the other person from smoking in the no-smoking premises.

These defences might be employed by a driver or passenger who is found to be smoking on the basis that they did not know the age of a passenger who is under the age of 16, or had been misled as to their age. In order to claim the defence the person would necessarily admit that smoking had been taking place.

A driver may claim that their responsibility for the safety of passengers in a moving vehicle, and to other road users, needed to take precedence and prevented them from taking immediate action to stop a person smoking in the vehicle.

If a person charged with an offence relies on a defence and provides evidence in support, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
6. **Enforcement Actions**

In relation to private vehicles enforcement action can be taken in respect of two separate offences under the Public Health (Tobacco) Act 2006:

- Section 14 (1) Person having the management or control of a smokefree vehicle fails to stop a person from smoking there (driver).
- Section 16 (1) Person who smokes in a smokefree vehicle (any person smoking)

### 6.1 Use of fixed penalty notices

*(Refer to Appendix 4 fixed penalty notice flowchart.)*

An authorised officer who has reason to believe that a person has committed an offence under section 14(1) or section 16(1) of the Act may give that person a penalty notice in respect of the offence.

The enforcement authority can choose, as an alternative to issuing a FPN, to proceed to prosecution for the offence. This course of action may be appropriate in dealing with persistent offenders.

Offenders being issued with a FPN can decline to accept it and may opt for a summary hearing. They may also be prosecuted should they fail to pay the penalty required by the FPN having accepted one.

The person issued with the FPN may:

- pay the penalty, within the 28 day payment period. Payment of the FPN discharges all liability and the matter is closed and not recorded as a conviction.
- give notice in writing to the enforcement authority requesting a Court hearing in respect of the offence for which they have received the FPN. Legal proceedings may then be brought against them before the end of the penalty payment period with the enforcement authority relying on the evidence used to support the issuing of the FPN as the evidence to support the prosecution. If the person changes their mind and then pays the penalty then the proceedings may not be continued.
- fail to pay the penalty before the 28 day payment period elapses. Legal proceedings may then be brought against them for the offence to which the penalty relates, not the failure to pay the penalty, with the enforcement authority relying on the evidence used to support the issuing of the FPN as the evidence to support the prosecution.
6.2 **Withdrawal of notices**

There is no right of appeal against the service of a FPN but the person on whom the FPN is served may ask questions or put forward information that they feel relevant to the issuing of the FPN.

Should such information suggest that for example the FPN has been incorrectly issued then the enforcement authority may give notice in writing to the person and withdraw the FPN. If any monies have already been paid, these must be repaid.

6.3 **Failure to pay a Fixed Penalty Notice**

If a person on whom a FPN has been issued fails to pay the penalty within the 28 day payment period the enforcement authority may institute legal proceedings for the offence to which the penalty notice relates.

6.4 **Deciding the course of action**

It is a matter for the discretion of the authorised officer to decide whether or not to take formal enforcement action. The legislation provides that authorised officers may issue FPNs to alleged offenders but does not require them to do so.

The officer will however be expected to take account of any enforcement protocol that the Department has put in place when deciding whether or not to issue a FPN, and whether a FPN is issued or not must be clear about the reasons for the action taken. As with all enforcement measures action taken should be fair, proportional and consistent with the Department's Enforcement Policy.

6.5 **Issuing warnings**

It is always possible to simply give a verbal warning, and this may be combined with an invitation to attend the Quit4You Stop Smoking Service.

6.6 **Practical considerations**

Authorised officers need to ensure that a FPN has been properly served. This may require serving immediately on the spot. If a FPN is sent recorded delivery a record of this must be kept by the officer.

If authorised officers experience a situation where the person they wish to serve with a FPN does not provide their name and address on request, then the officer should advise the person that such a refusal may constitute an offence of obstruction under the Public Health (Tobacco) Act 2006 for which they may be prosecuted.
Further action at this time may not be possible, however a detailed description of the individual may enable subsequent identification and the serving of a FPN for a smoking offence at a later date. There is no restriction on the time lapse between the commission of the offence and the service of the FPN but if there is any delay it will need to be justified.

The statutory limitation of six months will still apply for undertaking summary proceedings. The six months begins from when the Department first became aware of the offence or the offence occurred, not from when the FPN is served.

6.7 Establishing details of the registered keeper

Where offences have been observed or reported for failure to comply with the requirements of the smokefree legislation in relation to motor vehicles, it may be necessary to establish details of the registered keeper of the vehicle in order to carry out investigations in connection with the offence or to prosecute for the offence.
7. Further information and contact details

7.1 For information about the smokefree cars law, contact:

Department of Environment, Food and Agriculture (DEFA)
Environment, Safety and Health Directorate
Thie Slieau Whallian
Foxdale Road
St John's IM4 3AS
Isle of Man

Web: www.gov.im/smokinglegislation
Tel: (01624) 685894
Fax: (01624) 685773

7.2 For information about help to quit smoking and secondhand smoke, contact:

Department of Health and Social Care (DHSC)
Quit4You Stop Smoking Service
Public Health Directorate
Cronk Coar Noble’s Hospital
Strang IM4 4RJ
Isle of Man

Web: www.Quit4You.gov.im
Tel: (01624) 642404
Email: tobacco@gov.im
Commended- Keelan, Age 7
2nd Onchan Beaver Scouts

Commended- Aimee, Age 10
Victoria Road Primary School
Appendix 1

Decision making flowchart for smokefree vehicles

Is it a private vehicle?
- YES
  - Is the vehicle ‘enclosed’?
    - YES
      - Is there more than one person in the vehicle?
        - YES
          - Is there a person under the age of 16 in the vehicle?
            - YES
              - New offences do not apply
            - NO
              - NO
              - Is a person smoking in the vehicle?
                - YES
                  - Is a passenger smoking?
                    - YES
                      - Driver offence Section 14(1): Failing to prevent smoking in the vehicle
                    - NO
                      - Smoker offence Section 16(1): Smoking in the vehicle
                - NO
                  - Is the driver smoking?
                    - YES
                      - Smoker offence Section 16(1): Smoking in the vehicle
                    - NO
                      - New offences do not apply
  - NO
    - Existing smokefree offences for work vehicles apply
## Appendix 2

### Table of offences and penalties

<table>
<thead>
<tr>
<th>Offence under the Public Health (Tobacco) Act 2006</th>
<th>Defence under the Public Health (Tobacco) Act 2006</th>
<th>Fixed Penalty Notice (FPN) If paid in 28 days</th>
<th>Maximum court awarded fine If found guilty</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 16 (1)</strong>  Person who smokes in a private vehicle in which another person is present who is under 16 years of age</td>
<td><strong>Section 16 (2)</strong>  It is a defence for the person charged to show that they did not know and could not reasonably be expected to have known that the vehicle was a 'no-smoking premise'.</td>
<td>£50</td>
<td>£5000</td>
</tr>
<tr>
<td><strong>Section 14 (1)</strong>  Person having the management or control of a private vehicle (with someone under 16 present) fails to stop a person from smoking there (e.g. driver or owner)</td>
<td><strong>Section 14 (3)</strong>  It is a defence for the person charged to show that they took all reasonable precautions and exercised all due diligence and that there were no lawful and reasonably practicable means by which they could prevent the other person from smoking.</td>
<td>£50</td>
<td>£5,000</td>
</tr>
<tr>
<td><strong>Section 18</strong>  Any person who fails without reasonable excuse to supply the officer with their name and address</td>
<td></td>
<td></td>
<td>£5,000</td>
</tr>
</tbody>
</table>
Fixed penalty notice guide

Section 20A of the Public Health (Tobacco) Act 2006 sets out the Fixed Penalty Notice terms and conditions.

The Fixed Penalty Notice is a notice offering a person the opportunity to discharge any liability to conviction for the offence by payment of a fixed penalty.

The information required to be provided with a Fixed Penalty Notice is set out in Section 20A of the Public Health (Tobacco) Act 2006.

A Fixed Penalty Notice must state:

- or identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence
- name and address of the enforcement authority on whose behalf the officer was acting when the notice was issued
- amount of the penalty and the period within which it may be paid
- consequences of not making a payment within the period for payment
- person to whom and the address at which payment may be made
- method or methods by which payment may be made
- person to whom and the address at which any representations relating to the notice may be made.

Payment periods

The full amount of the fixed penalty as stipulated in the Fixed Penalty Notice will be payable and must be paid within 28 days beginning with the day on which the notice is given.
Appendix 4

Fixed penalty notice flowchart

1. X commits an offence
   - X pays FPN
     - OR
     - Council withdraws FPN
   - Issue FPN
     - X requests court hearing
       - Report for legal proceedings
         - Court finds against X and imposes fine
         - Court finds for X and FPN no longer applies
   - X does not pay FPN
Appendix 5

Voluntary use of signs

The use of no-smoking signs acts as a warning and a deterrent to people who may intend to smoke in contravention of the law. For this reason they have been used extensively since 2008 in securing compliance with the smokefree legislation.

The No-Smoking Premises Regulations 2007 do not make any requirement for no-smoking signs to be displayed in a private vehicle when a person who is under the age of 16 years old is present inside the vehicle.

However the voluntary use of no-smoking signs can be usefully employed by vehicles owners and drivers, and indeed passengers, to inform and advise the occupants not to smoke when a child is present.

The suppliers of hired and rented vehicles can also be encouraged to make use of no-smoking signs.

The presence of a no-smoking sign does not absolve the driver of their legal responsibility to prevent people from smoking in a vehicle when a child is present, however it can assist them in securing compliance by their passengers.

The presence of no-smoking signs should be noted when an offence is being observed and recorded and may be taken into account in determining an appropriate course of action.

PLEDGE TO MAKE YOUR CAR SMOKEFREE at www.Quit4You.gov.im

Receive a free car sticker designed by the winner of our local children’s drawing competition.

Content of signs

A PDF version of a simple no-smoking sign can be downloaded from our local DEFA website www.gov.im/smokinglegislation or the Smokefree England website (20).

The advantage of using this sign is that it is universally recognised. An example is on the next page.

No-smoking signs are commercially available, almost all of which incorporate this no-smoking symbol, and some include the wording “It is against the law to smoke in this vehicle”.
It can be useful to use the words “It is against the law to smoke in this vehicle” because this indicates that the sign is not simply giving advice, but issuing an instruction for which there is a legal sanction and therefore failing to comply can incur a penalty. A version of the standard sign which incorporates these words is provided below and can be copied and displayed.

Personalised signs may be particularly effective, stating for example: “Smoking in my car will harm my children” or the signs could be produced by children themselves: “Do not smoke when Johnny/Jenny is in the car.”

![Image of no smoking sign with additional text:](image)

**NO SMOKING**

Under the No-Smoking Premises Regulations 2007

It is an offence to smoke in this vehicle when children under 16 are present.

Maximum Fine £5,000
Appendix 6

What to do if someone tries to smoke in your vehicle

As the driver of the vehicle you are responsible for ensuring that your passengers travel in safety and that the laws relating to the use of the vehicle are complied with.

These responsibilities include compliance with the No-Smoking Premises Regulations 2007. This means that when there is someone in the vehicle who is under the age of 16 years:

a. you cannot smoke, and  
b. you must prevent other people from smoking.

It also applies whether the vehicle is moving or not, and whether it is on a road or anywhere else for example in a parking area or on private land such as a driveway.

The following practical points may help you to deal with a passenger who tries to smoke in your vehicle:

- If you have a no-smoking sign displayed in your vehicle then draw the attention of the person to it and inform them that they will be committing an offence by smoking
- Explain that the law is to protect the health of children and young people under the age of 16 - you can identify the person at risk and ask your passenger to be considerate
- Politely ask them to stop smoking and tell them to extinguish their smoking materials safely - you may need to stop temporarily for them to do so outside of the vehicle
- Tell them that if they cannot wait to smoke until the end of the journey, then you will stop when it is safe and convenient for them to do so legally
- Advise the person smoking that their actions could result in them receiving a Fixed Penalty Notice as well as you, the driver, if you fail to stop them from smoking
- If the person continues to smoke then you will need to decide whether you wish to continue to have them as your passenger on this and future occasions.

PLEDGE TO MAKE YOUR CAR SMOKEFREE at www.Quit4You.gov.im

Receive a free car sticker designed by the winner of our local children’s drawing competition.

Consider making your vehicle smokefree at all times - Passengers who respect you and appreciate the use of your vehicle will comply.
Appendix 7

Tips to keep your car smokefree (21)

Consider stopping smoking completely. It's tough to quit an addictive habit. This new law can be a good time to consider stopping smoking. If you want to stop, you don't have to go it alone. There is support: contact the Quit4You Stop Smoking Service (642404 or email tobacco@gov.im) or speak to your GP.

Remove all reminders. If you smoke in your car, you may need to clean up. Remove ashtrays and the built-in lighter. Clean your car completely, and vacuum the inside of your car to remove stale leftover cigarette smoke and toxic residue.

Change your habits. Chewing gum and mints can keep your mouth busy when you are craving a cigarette. Those trying to stop smoking may choose from the range of nicotine replacement therapy products (NRT) available through the stop smoking service or over-the-counter at the pharmacy. These include patches, gums, sprays, inhalators and lozenges all of which provide nicotine in various forms as a substitute for tobacco.

Smoke before you leave on car trips. If you have to, smoke outside your vehicle before driving off.

Hide the cigarettes. Instead of storing your cigarettes in your purse or glove compartment, put them away in the boot of your car.

Take breaks. On long trips, the temptation to light up may get to be too much. Pull over at rest stops or areas that allow smoking and smoke outside the vehicle. Your children will still be close to you, but the open air will make their exposure to secondhand smoke much less dangerous.

Change course. You may want to switch the routes you drive every day to avoid temptations to smoke, like the corner shop where you buy cigarettes.

Pack snacks. Keep a few healthy, non-perishable snacks in your car. Nuts, raisins, and those one portion snack bags all travel well.

Stay smokefree - even when you're kid-free. Challenge yourself to keep a smokefree car even when you're on your own or with other adults. That way, you keep the air fresh and the upholstery unpolluted, and you’ll give your own lungs a break.

Beat your cravings. In addition to gum and mints, research other quick “craving cures,” like rubbing your hands together (at a stoplight!) or massaging your earlobes.

Remember why you're doing it. In the toughest moments of temptation, remind yourself that the difficulty you feel is nothing compared to the damage that secondhand smoke has on your child’s health.

Post a sign. Stick a no-smoking sign to your car windows making it a smokefree zone. If you can’t remove your car ashtray, attach small no-smoking stickers to it. Homemade signs made by your children may be even more meaningful.
References


5. Youth Trust (Nov 2015). The BIG Youth survey (3rd), Isle of Man, Children’s Services Partnership. Contact: gary.mcmanus@gov.im


This document can be provided in large print or in audio format on request

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and

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