

Smokefree UK

A guide to the Smokefree Regulations

April 2007

By 1 July workplaces, public premises and certain vehicles in England, Wales, Scotland and Northern Ireland will have to comply with new regulations requiring them to be smoke free.

The Regulations are a health and safety at work measure to protect workers from the health risks of passive smoking.

The UK government's and the Welsh Assembly's powers to make the regulations comes from the Health Act 2006 which makes provision for the prohibition of smoking in certain premises, public places and vehicles. The Scottish Parliament introduced separate legislation in 2006.

The scope of the law

- Although there are limited exemptions, smoking will be banned in all indoor places such as offices, shops, schools, hospitals, pubs, restaurants, theatres, cinemas, casinos and public transport.
- The law will also apply to workplace vehicles if they are used by more than one person at any time, unless they have no roof or the roof is completely stowed away.
- The law will apply to all places that are fully enclosed or "substantially enclosed".
- Generally, "substantially enclosed" means a premises that has a ceiling or roof (including retractable structures such as awnings) and less than half of the perimeter walls have openings other than windows or doors. Temporary or moveable roofs or walls do not provide an exemption to the regulations.

Exemptions

- Some exemptions will apply to workplaces where people also reside such as care homes and prisons. Hotels and guest houses may permit smoking in designated bedrooms. Designated rooms in mental health institutions will be given a temporary exemption until 1 July 2008.
- Private premises where the owner or resident requires personal health care services or assistance with domestic or maintenance services will also be exempt.

- Places that are not "substantially enclosed" such as some railway platforms or sports stadia may also be exempt, although the owners of such premises may lawfully choose to impose a ban on smoking. If they do, warning notices should be displayed.

To achieve these exemptions the rooms have to be designated in writing by the person in charge of the establishment as rooms where smoking is permitted. The rooms must not have a ventilation system which vents into other parts of the premises.

Enforcement

The legislation will make it an offence for those who control or manage smoke-free premises and vehicles to fail to stop people smoking in them. Employers, managers and those who control or manage smoke-free premises and vehicles will need to:

- Identify areas where smoking will constitute an offence and display "no smoking" signs in the form required by the Smoke-Free (Signs) Regulations. In Wales these must include the designated no smoking symbol and a bilingual statement.
- Take reasonable steps to ensure that everyone using premises and vehicles are aware that there is a legal requirement that they be smoke-free and ensure that no one smokes in smoke-free premises or vehicles.
- Amend terms and conditions of employment and invoke disciplinary procedures if necessary.

Local authorities are responsible for enforcement for these regulations, although it is expected that the legislation will be largely self-enforcing.

Individuals or organisations who breach the regulations will be subject to a fine by means of a fixed penalty notice. The levels of fine are:

- Smoking in a smoke free zone: fixed penalty fine of £50 or up to £200 on summary conviction
- Failure to put up clear no smoking signs in a smoke free zone: fixed penalty of £200 or up to £1,000 on summary conviction
- Failure to prevent smoking in a smoke free place: up to £2,500.

Sources of alternative information

www.smokingbanwales.co.uk
www.smokefreeengland.co.uk
www.clearingtheairscotland.com
www.spacetobreathe.org.uk
www.ash.org.uk