



## Health Act 2006

# Information on smoking in enclosed workplaces and public places

***A law requiring smoke free environments in virtually all workplaces in England will be implemented from Sunday 1<sup>st</sup> July 2007 at 6am.***

### **What workplaces will be covered by the legislation?**

The legislation covers *all premises, which are wholly or substantially enclosed, and used as a place of work by more than one person. Smoking rooms will no longer be allowed.*

Essentially it ensures that almost all workers, regardless of their place of work, will be protected from the risks to health of exposure to tobacco smoke and guaranteed the right to smoke free air.

### **What does 'substantially enclosed' mean?**

It is proposed that premises will be considered *substantially enclosed* if they have a ceiling or roof, and the openings in the walls are less than half the total area of the walls. A roof includes any fixed or moveable structure or device, eg retractable canvas awning, capable of covering all or part of the premises. Smoking will be allowed in shelters which are not substantially enclosed.

### **What will the smoke-free legislation mean in practice?**

Employers, owners and managers must ensure their premises are smoke free. Proposed actions include putting up 'no smoking' signs which meet the following minimum standards:

- displayed at each public entrance to the premises
- in a position that is prominently visible to persons entering the premises
- are A5 (148mm by 210mm) in size
- include the international red "no smoking" symbol and the words: "No smoking. It is against the law to smoke in these premises."

### **What about vehicles?**

It is proposed that vehicles used at a workplace by more than one person, regardless if they are not in the vehicle at the same time, will also have to be smoke free at all times. This is because tobacco smoke is absorbed into soft furnishings and stays around for weeks long after a cigarette has been stubbed out. All work vehicles will need to display 'no-smoking' signs.

### **Are there any exemptions?**

Exemptions are proposed in certain establishments where people live and which are also workplaces, eg prison cells, hospices and long stay residential homes. However this does not mean that smoking is allowed throughout the premises. Instead, in premises with exemptions, employers will have to identify 'designated smoking rooms' which meet the following specifications:

- Is completely enclosed, except for windows / doors, on all sides by solid floor to ceiling and walls
- The ventilation system does not ventilate into any other smoke-free part of the premises
- If a door opens onto smokefree premises, it can be closed by mechanically means to prevent smoke drift
- Is clearly marked as a room in which smoking is permitted

It is up to the management of individual buildings to decide if visitors will be allowed to access smoking rooms. The exemption exists for residents only and therefore and should not be used by staff. There is no obligation for employers of exempt places to have 'smoking rooms' if they do not wish to do so.

### **Will employers be required to provide smoking breaks and external smoking areas?**

By law, employers must give staff an uninterrupted rest break of 20 minutes when their daily working time is more than six hours. Staff can, of course, smoke during their rest period, if they choose, but they must not smoke in an enclosed or partially enclosed area. As an employer you must decide whether or not to permit smoking elsewhere on your premises e.g. in open car parks, grounds, or shelters and you should indicate where smoking is allowed in your smoking policy. The TUC has published guidance on negotiating smokefree workplaces - see [www.smokefreeaction.org.uk](http://www.smokefreeaction.org.uk)

There is no legal requirement for employers to provide designated external smoking areas, e.g. smoking shelters.

### **What about entrances to buildings?**

Outside areas are not covered by the legislation. However employers may want to consider making it a policy that smoking is not permitted within a certain distance from outside entrances, if possible, so that staff and visitors do not have to walk through a cloud of smoke to get into the building.

### **What are the penalties for non compliance?**

Each local authority will identify enforcement officers, e.g. environmental health officers, who will be authorised to issue the following penalties. The final penalty amount will be decided by a Court rather than the local authority.

- Failure to display minimum no smoking signs: up to £1000 or a fixed penalty notice of £200
- Smoking in a no-smoking place: up to £200 or a penalty notice of £50
- Failing to prevent smoking in a smoke-free place: up to £2500

### **What help is there for staff who want to stop smoking?**

The NHS provides a wide range of excellent, free and easily accessible support for smokers including; local NHS Stop Smoking Services, The Together Programme, the NHS Smoking Helpline on 0800 169 0 169, [www.givingupsmoking.co.uk](http://www.givingupsmoking.co.uk) and Nicotine Replacement Therapy (NRT) available on prescription.

### **What help is available to make my business smokefree?**

Phone the **Smoke Free England Information Line 0800 169 1697** and register for the latest updates and FREE resources. Information on smoking policies and how to go smoke free can also be found at [www.smokefreeaction.org.uk](http://www.smokefreeaction.org.uk) and [www.cleanairaward.org.uk](http://www.cleanairaward.org.uk)