

Smoke Free Workplaces

A legal ban on smoking in enclosed public places (including workplaces) has been in force since March 2006 in Scotland, and bans followed in Wales (2 April 2007), Northern Ireland (30 April 2007) and England (1 July 2007). The Republic of Ireland prohibited smoking in enclosed public places on 29 March 2004.

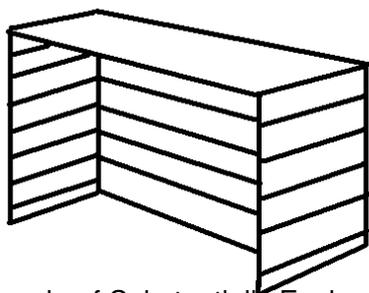
Smoking is a serious risk to smokers' health, but the main purpose behind smoking restrictions is to address the issue of passive smoking - protecting the health of people who are exposed to second-hand smoke.

Second-hand smoke arises from two main sources. Firstly, there is mainstream smoke, which is drawn through the cigarette and inhaled before being released into the air. This is distinct from side-stream smoke, the smoke that is produced from the slow burning of the cigarette. It is the side-stream smoke that contains higher concentrations of highly toxic and carcinogenic chemicals.

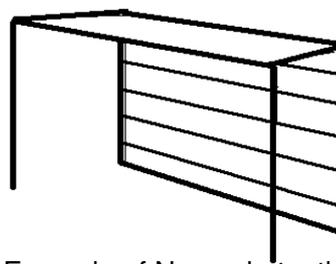
Smoke Free Premises

The smoke free legislation applies to virtually all 'enclosed' and 'substantially enclosed' public places and workplaces. This includes both permanent structures and temporary ones such as tents and marquees. This also means that indoor smoking rooms in public places and workplaces are no longer allowed.

Premises will be considered 'enclosed' if they have a ceiling or roof and (except for doors, windows or passageways) are wholly enclosed either on a permanent or temporary basis. Premises will be considered 'substantially enclosed' if they have a ceiling or roof, but have an opening in the walls, which is less than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.



Example of Substantially Enclosed



Example of Non-substantially Enclosed

For further guidance on whether a premise is 'enclosed' or 'substantially enclosed' you may need to contact your local council.

Smoke Free Vehicles

The smoke free legislation requires vehicles to be smoke free at all times if they are used:

- to transport members of the public; and
- in the course of paid or voluntary work by more than one person - regardless of whether they are in the vehicle at the same time.

Vehicles that are used primarily for private purposes will not be required to be smoke free.

Duties under the Regulations

Employers, managers and those in charge of smoke free premises and vehicles must:

- display 'no smoking' signs in smoke free premises and vehicles;
- take reasonable steps to ensure that staff, customers/members and visitors are aware that premises and vehicles are legally required to be smoke free;
- remove any existing indoor smoking rooms; and
- ensure that no one smokes in smoke free premises or vehicles.

You may also want to take these supportive measures:

- remove ashtrays from smoke free areas;
- develop a smoke free policy in consultation with staff; and
- offer staff training to help them understand the new law and what their responsibilities.

A smoke free checklist for employers is available as a separate guidance note.

What signage do I have to display?

The smoke free legislation requires no-smoking signs to be displayed in all smoke free premises and vehicles. Signs will make it clear which premises and vehicles are smoke free and demonstrate that you are taking the necessary steps to meet the requirements of the legislation.

Sizes of signage differ in England, Scotland, Wales and Northern Ireland. See below for further information.

What about a smoking shelter?

There is no requirement to provide smoking shelters. If you do have an outside smoking shelter or area, you must ensure that it is not 'enclosed' or 'substantially enclosed' as defined in legislation. If you do decide to build a shelter, we suggest you discuss any plans you may have with your local council, as there may be a range of issues you need to consider e.g. planning permission.

How is the legislation enforced?

Local councils are responsible for enforcing the relevant legislation in England. Similar arrangements are in place in Wales, Scotland and Northern Ireland. Authorised officers of the local authority have powers to enter all no-smoking premises in order to establish that the smoke-free legislation is being enacted in accordance with the law. They will also be able to give out fixed penalty notices to people whom they believe are committing, or have committed, an offence under the legislation.

Under the regulations, if caught smoking in a banned area individuals could be fined £50 and those in charge of the premises could face a £2,500 fine if they fail to stop an individual. Those in charge could also be issued with on-the-spot fines of £200 if they fail to display no-smoking signs, with the penalty increasing to £1,000 if the issue goes to court. A number of prosecutions have been successful to date.

Places that will be exempt

Only a few exemptions to the law have been granted, mainly to cover workplaces that are also a person's place of residence. These include:

- 'Designated rooms' in adult residential care homes, adult hospices and residential mental health treatment settings.
- 'Designated bedrooms' in a hotel, guesthouse, inn, hostel or membership clubs. (Hotels, boarding houses, inns, hostels, etc. can designate one or more bedrooms as rooms in which smoking is permitted).

What are 'designated' rooms and bedrooms?

A 'designated room' or a 'designated bedroom' means a room which:

- Has been designated by the person in charge of the establishment as a room in which smoking is permitted and has been clearly marked as a smoking room.
- Has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls.
- Does not have a ventilation system that ventilates into any other part of the premises (except any other 'designated rooms' or 'designated bedrooms').
- Does not have any door which opens on to smoke-free premises that is not mechanically closed immediately after use.

Although the legislation provides for these exemptions, there is no legal obligation for privately run businesses to offer designated smoking rooms or bedrooms if they do not wish to do so.

Employers of staff operating in exempted premises must still comply with the requirements of the Health and Safety at Work Act and in this respect employers are required to take all reasonable steps to reduce exposure to their employees from the harmful effects of tobacco smoke. Guidance on how to protect employees who work in this type of premise, or in the community in peoples' homes where there is no legal ban on smoking, can be accessed via the following web link:

http://www.rcn.org.uk/__data/assets/pdf_file/0006/78702/003043.pdf

Required Signage for England

Premises:

No-smoking signs must be displayed in a prominent position at every public entrance to smoke free premises. These must meet the following minimum requirements:

- be a minimum of A5 in area;
- display the international no-smoking symbol* at least 70mm in diameter; and
- carry the following words in characters that can be easily read: 'No smoking. It is against the law to smoke in these premises'.

A smaller sign consisting of the international no-smoking symbol at least 70mm in diameter may instead be displayed at entrances to smoke free premises that are:

- only used by members of staff, providing the premises displays at least one A5 area sign, or
- located within larger smoke free premises, such as a shop within an indoor shopping centre.

Vehicles:

Smoke free vehicles must display a no-smoking sign in each compartment of the vehicle in which people can be carried. This must show the international no-smoking symbol at least 70mm in diameter.

Required Signage for Scotland

Premises:

- Sign must be at least 230mm by 160mm in size;
- States that the premises are no-smoking premises and that it is an offence to smoke there or knowingly to permit smoking there;
- Displays the international 'No Smoking' symbol, at least 85mm in diameter; and
- Displays the name of the person to whom a complaint may be made by anyone who observes someone smoking.

Vehicles:

- States that the vehicle is no-smoking and that it is an offence to smoke there or knowingly to permit smoking there;
- Displays the international 'No Smoking' symbol; and
- Displays the holder of a particular post (e.g. the manager) to whom a complaint may be made by anyone who observes someone smoking.

Required Signage for Wales

Premises:

- At least 160mm by 230mm from the outer edge of the red rectangle; and
- At least 85mm diameter from the outer edge of the red circle situated within the rectangle.

Vehicles:

- At least 75mm diameter from the outer edge of the red circle.

Required Signage for Northern Ireland

Premises:

- Must be a flat, rectangular sign that is not less than 148 millimetres by 210 millimetres;
- Must bear the international no-smoking symbol (in full colour) at least 75 millimetres in diameter; and
- Must contain, in characters that can be easily read, the words 'No smoking. It is against the law to smoke in these premises'.

Vehicles:

- Responsible for a smoke-free vehicle to display a no-smoking sign in each compartment; and
- Must display the international no-smoking symbol in full colour and be at least 75mm in diameter.

Compliant no smoking signage can be copied and downloaded free of charge online. See websites listed under 'further information'.

Smoke Free Policy

To ensure employees are aware of smoke free legislation and changes to your workplace you may wish to consider developing a written smoke free policy for your workplace.

Effective smoke free policies:

- are simple to understand;
- explain the reasons for the policy;
- acknowledge the right of employees to work in a smoke free environment;
- make reference to the relevant smoke free legislation;
- state that the policy applies to workers at all levels as well as to visitors and customers;
- identify where smoking is/is not permitted;
- identify the members of management and staff who have responsibility for the implementation of the policy;
- state how the organisation will deal with non-compliance;
- provide information on how to obtain help to quit smoking;
- include a consultation with members of staff; and
- are communicated to all members of staff (including new employees before they start work).

An example smoke free policy is included as a separate guidance note.

How can I support staff who wish to stop smoking?

If you'd like to help your to stop smoking, the NHS offers free support. Employers can speak to their local NHS Stop Smoking Services about support for their employees during or outside working hours. For more details and advice on stopping smoking you can contact NHS Smoking Helpline on:

tel: 0800 022 4332

website: <http://smokefree.nhs.uk/>

New guidance from the National Institute for Health and Clinical Excellence (NICE) advises employers on how to help employees stop smoking. This guidance is available at the following webpage:
<http://www.nice.org.uk/Guidance/PH5>

Further Information & References

* Health Act 2006 – available to download from:

http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060028_en.pdf

* Smoking, Health and Social Care (Scotland) Act 2005 – available to download from:

http://www.opsi.gov.uk/legislation/Scotland/acts2005/asp_20050013_en_1

* Smoking (Northern Ireland) Order 2006 – available to download from:

http://www.opsi.gov.uk/si/si2006/uksi_20062957_en.pdf

Copies are also available from the Stationery Office (HMSO), telephone: 0870 600 5522

Further information on the ban is available on the following websites:

* <http://www.smokefreeengland.co.uk/>

* <http://www.clearingtheairscotland.com>

* <http://new.wales.gov.uk/smokingbanwalessub/home/?lang=en>

* <http://www.spacetobreathe.org.uk/>