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Information Update Smoking Ban



From Monday, 30 April 2007 it will be against the law to smoke in enclosed and substantially enclosed workplaces and public places, and in certain vehicles.



Smoke free legislation – some questions and answers

information taken from Health Promotion Agency web site)

Q. What is the aim of smoke-free legislation?

A. To protect workers and the public from second-hand smoke in enclosed and substantially enclosed workplaces, public places, and in certain vehicles in Northern Ireland.

Q. What are 'smoke-free premises'?

A. Smoke-free premises are premises which are enclosed or substantially enclosed that are: open to the public, that are used as a place of work by more than one person (even if the persons work there intermittently or at different times), or where members of the public might attend for seeking or receiving goods or services from the person or persons working there (even if members of the public are not always present).

Q. What does 'enclosed' or 'substantially enclosed' mean?

A. This answer is based on the draft smoke-free regulations. Essentially, the legislation states that:

- Premises are 'enclosed' if they have a ceiling or roof and except for doors, windows and passageways they are - wholly enclosed, either permanently or temporarily.
- Continued overleaf

- ❑ Premises are 'substantially enclosed' if they have a ceiling or roof but there is an opening or an aggregate area of openings in the walls which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises. In determining the area of opening or an aggregate area of the openings, no account is taken of openings in which there are doors, windows or other fittings that can be opened or shut.
- ❑ The definition of 'roof' includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including for example a canvas awning. As a rule of thumb, evoke the '50% rule' – where there's a roof, only 50% of the aggregate area can be walled / enclosed.

Q. Are any premises exempt from smoke-free legislation?

A. See Legislation / refer to local Council for clarification. Basically, proposed exemptions are in relation to:

- ❑ Private accommodation;
- ❑ Designated bedrooms in a hotel, guesthouse, inn, hostel or members' club;
- ❑ Designated rooms in residential care homes and nursing homes, hospices and mental health units;
- ❑ Prisons;
- ❑ Specialist tobacconists;
- ❑ Research or testing facilities.
- ❑ Persons in control of premises who can rely on exemptions from smoke-free legislation for parts of their premises will be under no obligation to make provision for those who wish to smoke.

Q. Who will enforce the smoke-free legislation?

A. Authorised officers of district councils are responsible for enforcing the legislation. These authorities have powers to enter certain premises in order to check compliance with the smoke-free legislation.



Hostel management can, at their discretion, designate a resident's bedroom as a smoking area.

Please note, A person in charge of residential accommodation to which an exemption from the smoke-free legislation may apply, should carefully consider the definitions of '*designated bedroom*' and '*designated room*', outlined in the section called '**Summary of Smoking (NI) Order 2006**', page 6 of this document ([click here](#)).

Hostel management can, at their discretion, allocate any number of bedrooms as smoking areas for the residents of these said rooms.

Please note: This decision is discretionary. There is no requirement to provide facilities for smokers. In this regard, management can designate all or none of resident rooms as smoking rooms.

There is no obligation upon persons in charge of premises to allow smoking to take place just because an exemption is available under smoke-free legislation. The regulations aim to provide the flexibility for those in charge to decide whether exemptions are appropriate, based on factors that are specific to their premises. These may include the nature of the client, resident or customer base, the physical lay-out of the premises and the application of other legislation, such as health and safety. Thus, management have the discretion to decide that a building will be totally smoke-free. Similarly, there is no obligation to provide facilities (outside the building) for smokers, staff or resident.

Any shelter provided outside must be compliant to the 'enclosed' or 'substantially enclosed' definitions.

No other areas, other than the designated areas, are available as smoking areas

Please note: this includes communal areas already extant for smoking.

Key points to note in designating rooms as smoking rooms are:

- Where a room or bedroom is designated as one where smoking may take place, **the designation must be in writing**, for example in a log-book.
- The person in charge of the premises **must make the written designation available for inspection** by an environmental health officer at any time.
- Rooms or bedrooms that are designated for smoking **must be clearly marked as rooms in which smoking is permitted.**
- Rooms or bedrooms that are designated for smoking **must** have a mechanical / fire door fitted
- Ventilation systems for rooms or bedrooms that are designated for smoking **must not** share route / link with ventilation passing through / for non-smoking areas

Specifications re. Signs / other requirements detailed in the [following guidance \(click to access link\)](#)



The Smoking (NI) Order 2006 prohibits smoking in enclosed and substantially enclosed workplaces and public places, and in certain vehicles. It details the requirements, offences and penalties for non-compliance relevant to the Order. The Order also defines smoke-free premises and enables DHSSPS to make regulations that will exempt certain (parts of) premises from the legislation. Some relevant definitions are set out below.

- ❑ **Smoking** refers to smoking tobacco or anything which contains tobacco, or smoking any other substance. It includes being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked.
- ❑ **Authorised officer** in relation to a district council, means any person (whether or not an officer of the council) who is authorised by it in writing, either generally or specially, to act in matters arising under the Order.
- ❑ **Premises** includes any building, structure, installation (movable or not) and any tent.
- ❑ **Vehicle** includes any type of vehicle, train, vessel or any other means of transport except: (a) an aircraft; (b) any ship or hovercraft in relation to which regulations could be made under section 85 of the Merchant Shipping Act 1995 (c.21) (safety and health on ships) including that section as applied by any Order in Council under section 1(1)(h) of the Hovercraft Act 1968 (c.59).
- ❑ **Work** includes voluntary work.
- ❑ **Enclosed** refers to premises that have a ceiling or roof and, except for doors, windows and passageways, they are wholly enclosed, either permanently or temporarily.
- ❑ **Substantially enclosed** refers to premises that have a ceiling or roof but there is an opening or an aggregate area of openings in the walls which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises. In determining the area of an opening or an aggregate area of the openings, no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

Summary and key points of Order (contd.)



- ❑ **Roof** includes any fixed or moveable structure/device which is capable of covering all or part of the premises as a roof, including for example a canvas awning.
- ❑ **No-smoking symbol** means a symbol which consists of a graphic representation of a single burning cigarette enclosed in a red circle of at least 75 millimetres in diameter with a red bar across it:
- ❑ **Designated bedroom** in a hotel, guest house, inn, hostel or members' club, means a room which:
 - a) is set apart exclusively for sleeping accommodation;
 - b) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;
 - c) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
 - d) does not have a ventilation system that ventilates into any other part of the premises (except any other designated bedroom) or other premises;
 - e) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
 - f) is clearly marked as a bedroom in which smoking is permitted.
- ❑ **Bedroom** does not include any dormitory or other room that a person in charge of premises makes available under separate arrangements for persons to share at the same time.



- ❑ **Designated room** that is used as accommodation for persons aged 16 years or over in residential care homes, nursing homes and hospices means a room used only for smoking which:
 - a) has been designated in writing by the person in charge of the premises in which the room is situated as being a room in which smoking is permitted;
 - b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
 - c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises;
 - d) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
 - e) is clearly marked as a room in which smoking is permitted.

- ❑ **Designated room** for the use of patients aged 16 years or over in residential accommodation in a mental health unit means a room used only for smoking which:
 - a) has been designated in writing by the person in charge of the mental health unit as being a room in which smoking is permitted;
 - b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
 - c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated room) or other premises;
 - d) does not have any door that opens on to smoke-free premises which is not mechanically closed immediately after use; and
 - e) is clearly marked as a room in which smoking is permitted.

Note: the provision for smoking in a designated room in residential accommodation in a mental health unit ceases to have effect from 30 April 2008.

Additional Information and Links



- ❑ **Smoke-free legislation, Important information for employers, managers and those in control of premises in Northern Ireland - [click here](#)**
- ❑ **This publication, along with a web site, www.spacetobreathe.org.uk provides useful information about smoke-free legislation and is for guidance only. **Anyone in doubt about their legal obligations should seek independent legal advice.****
- ❑ Free signage and guidance on the smoke-free legislation will be available to download at www.spacetobreathe.org.uk during March or April 2007.
- ❑ **The Smoking (Northern Ireland) Order 2006** was made on 14 November 2006. Regulations to underpin the Order are still being finalised. Please use the link below to view the Order, but please note that the draft regulations may be subject to amendment. [Click here](#)
- ❑ **For further information and advice, please contact your local Smoke free Environmental Officer, at your Local Council. At this early stage, it is advised to contact these staff through your local Council's direct line. The Space to Breathe site lists the contact details for the various Councils at <http://www.spacetobreathe.org.uk/article.asp?aid=209> ([click here to visit](#))**

Detailed guidance on the smoke-free legislation will be issued to all businesses in Northern Ireland during March or April 2007. The guidance will include free no-smoking signs (additional supplies of the signage and guidance will also be available free of charge by contacting your district council's environmental health department) and a sample smoke-free policy. This information will be issued throughout Northern Ireland by local Councils. CHNI will take steps to ensure that all member organisations receive this (or appropriate alternative) information.

