

## Smokefree England factsheet

### SMOKEFREE REGULATIONS – DECEMBER 2006 UPDATE

The Department of Health has published two sets of regulations which set out some of the detail of the Health Act 2006. These sets of regulations cover:

- Definition of 'enclosed' and 'substantially enclosed' premises
- Enforcement authorities
- Signage

The [Smoke-free \(Premises and Enforcement\) Regulations](#), which include definitions of enclosed and substantially enclosed and details of enforcement authorities, were laid before Parliament on Monday, 18 December 2006.

The [Smoke-free \(Signs\) Regulations](#), which relate to required signage under smoke-free legislation, are currently being considered by Europe under the Technical Standards Directive and will be laid before Parliament after the 3 month consultation process is complete. There is no intention to change these regulations any further, they therefore should be used as the final regulations until these are laid.

[Three further sets of regulations](#) will be published in the New Year containing: exemptions and vehicles; penalties and discounted amounts; and offences in vehicles and the format for fixed penalty notices. The last two sets of regulations will be subject to Parliamentary debate.

Below we give outline information on Smoke-free (Premises and Enforcement) Regulations and Smoke-free (Signs) Regulations.

#### **Smoke-free (Premises and Enforcement) Regulations**

##### ***Definition of 'enclosed' and 'substantially enclosed' premises:***

Premises will be considered to be [enclosed](#) if they have a [ceiling or roof](#) and, except for doors, windows or passageways, are wholly enclosed, whether on a [permanent or temporary](#) basis.

Premises are [substantially enclosed](#) if they have a ceiling or roof, but there are permanent openings in the walls which are [less than half](#) of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of premises. When determining the area of an opening, no account can be taken of openings in which doors, windows or other fittings that can be open or shut. [This is known as the 50% rule.](#)

A [roof](#) includes any [fixed or movable](#) structures, such as canvas awnings.

[Tents, marquees or similar](#) will also be classified as enclosed premises if they fall within the definition.

Further guidance will be produced for local authorities, business and other enforcement authorities. If you are at all unsure whether your premises is enclosed you can take your own legal advice.

### ***Enforcement authorities:***

The following authorities are designated as enforcement authorities:

- (a) a unitary authority;
- (b) a district council in so far as it is not a unitary authority;
- (c) a London borough council;
- (d) a port health authority;
- (e) the Common Council of the City of London;
- (f) the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple; and
- (g) the Council of the Isles of Scilly.

An enforcement authority has enforcement functions in relation to the premises and vehicles that are within

- (h) in the case of a port health authority, the district for which it is a port health authority; and
- (i) in the case of other authorities, the area for which it is a local authority other than any part of that area which falls within the district of a port health authority,

The regulations explain how enforcement functions may be transferred from one enforcement authority to another.

## **Smoke-free (Signs) Regulations**

### ***Proposed required signage***

Premises and vehicles that are to be smokefree under the law will be required to have no-smoking signs in place at each entrance, displayed in a prominent position.

Signage should be a minimum area of any shape that is equal to the size A5 showing the international no smoking symbol at least 70mm in diameter (the most commonly used minimum size currently); and contains in characters that can be easily read the following words:

*“No smoking. It is against the law to smoke in these premises”.*

Substitute words can be used for “these premises” as long as they refer to the particular smoke-free premises in which a sign is displayed e.g. “this hotel”.

A no smoking sign which displays only the international no smoking symbol (a minimum of 70mm in diameter) may be displayed in a prominent position at an entrance instead of the above A5 no-smoking sign with required words when:

- premises are located within other smokefree premises that carry the A5 sign e.g. a bar within a train station, or a shop within an indoor shopping centre.

- entrances to smokefree premises that are not for public use, i.e. staff entrances, as long as that premises carries at least one A5 sign, with the required wording as above, at one entrance.

### ***For vehicles***

It is proposed that smokefree vehicles display a no smoking sign which carries only the international no smoking symbol (a minimum of 70mm in diameter).

If the vehicles has two or more compartments it must display a no smoking sign in each compartment e.g. in each carriage of a train.

The Department of Health will make available signs to businesses free of charge that meet the requirements set out in the regulations.