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## Smokefree Legislation

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### Smokefree Legislation: The Health Act 2006

Smoking has been prohibited by law in virtually all enclosed and substantially enclosed work and public places throughout the United Kingdom since July 2007. Smokefree legislation in England forms part of the [Health Act 2006](#). Implementation followed the introduction of a similar law in Scotland in 2006<sup>1 2</sup> and regulations in Wales and Northern Ireland (April 2007).

Under the Health Act, “**substantially enclosed**” means premises or structures with a ceiling or roof (including retractable structures such as awnings) and where there are permanent openings, other than windows or doors, which in total are less than half of the area of the walls. So, for example, bus stops can be required to be smokefree if the shelter is substantially enclosed. The law also applies to workplace vehicles which are used by more than one person at any time.

Full details of the law including the detailed regulations can be accessed at: [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)

### Exemptions to the Health Act 2006

There are very few exemptions to the law and where they do exist they do not apply to the entirety of the premises but to “designated rooms”. These include:

- Guest bedrooms in **hotels and guest houses** and certain rooms in **care homes, hospices and prisons**.
- **Private homes**. However, if part of a home is used as a workplace, for example a room set aside for childminding or music lessons, that room must be smokefree. Where work is undertaken solely to provide personal care for a person living in the dwelling, to assist with domestic work or to maintain the building, the private dwelling is not considered to be a workplace and is exempt from the smokefree legislation.
- Places such as open air **sports stadia** are exempt. However the owners of such premises may choose to implement a smokefree policy.
- **Bus stops** may be exempt if the shelter is not “substantially enclosed”.
- In England, smoking by **actors** may be permitted if appropriate for the artistic integrity of the performance. This exemption does not apply to other countries of the United Kingdom.
- **Offshore installations**, such as oil rigs, may designate a room for smoking.
- **Specialist tobacco shops**. Exemptions are allowed only for the sampling of cigars or pipe tobacco and are subject to stringent conditions.

Full details can be accessed at:

[www.smokefreeengland.co.uk/files/everything\\_u\\_need\\_new\\_sf\\_law.pdf](http://www.smokefreeengland.co.uk/files/everything_u_need_new_sf_law.pdf)

## Compliance and Enforcement

The owners or managers of premises are required to uphold the law by ensuring that no-one smokes where it is against the law to do so. In order to comply, they must take reasonable steps such as:

- Ensuring that staff, customers, visitors and members of the public are aware that premises and vehicles are legally required to be smokefree
- Displaying the legally required no-smoking signs at all of the entrances to their buildings and inside their work vehicles.
- Identifying areas inside their premises where smoking might be taking place and displaying additional no-smoking signs, or installing smoke detectors and alarms.
- Including the requirements in their personnel procedures and being prepared to use their disciplinary procedures if necessary.

Local authorities have the power to enforce the smokefree legislation, although compliance with the law has been high and there has been little need for enforcement measures.

In England a compliance line has been set up for members of the public to report any breaches of the law. The number is 0800 587 1667.

## Offences

Offences for which individuals can be fined or prosecuted occur when the law is not complied with in the following ways:

- Failure to display no-smoking signs
- Smoking in a smokefree workplace, public place or vehicle
- Failure to prevent smoking in a workplace, public place or vehicle

Full details about penalties can be accessed at:

[www.opsi.gov.uk/si/si2007/uksi\\_20070764\\_en\\_1](http://www.opsi.gov.uk/si/si2007/uksi_20070764_en_1)

## Background to the legislation

In 1998, the Government's White Paper, "Smoking Kills" proposed an Approved Code of Practice (ACOP) to supplement the Health and Safety and Work Act (HASAW) to protect workers from secondhand smoke, with an opt-out for the hospitality trade, which became known as the Public Places Charter. This voluntary scheme was designed to encourage places such as restaurants and pubs to increase provision for non-smokers and improve overall air quality.

Despite extensive publicity to promote the Public Places Charter, compliance with the initiative was low. A progress report published in April 2003 revealed that 46% of restaurants and pubs surveyed still allowed smoking throughout, with only 22% having separate smoking and non-smoking areas. Less than 1% banned smoking entirely.<sup>3</sup>

In November 2004, the Government published a White Paper on public health, which proposed to end smoking in the great majority of workplaces and public places except for private clubs and for pubs which did not serve food.<sup>4</sup> Despite a public consultation which revealed overwhelming support for a comprehensive smoking ban, the Government retained the proposed exemptions for pubs and clubs when it published the Health Bill in late 2005. However on 14 February 2006, MPs voted by a large majority to remove the exemptions for pubs and clubs.

The bill also received majority support in the House of Lords and became law in July 2006.

## Why we need a smokefree law

The evidence that exposure to other people's smoke is dangerous to health is incontrovertible. It has been confirmed by the former Chief Medical Officer (CMO) Sir Liam Donaldson (in July 2003) as well as by the heads of all of Britain's thirteen Royal Colleges of Medicine (in November 2003), and by the former Scottish CMO Dr Mac Armstrong (in April 2004).

Comprehensive reviews of the effects of passive smoking include reports by

- the US Surgeon General <sup>5 6</sup>
- National Health and Medical Research Council of Australia <sup>7</sup>
- US National Research Council <sup>8</sup>
- World Health Organization (WHO) <sup>9 10</sup>
- California Environmental Protection Agency (EPA) <sup>11</sup>
- International Agency for Research on Cancer (IARC).<sup>12</sup>

In addition, the Government's advisers, the Scientific Committee on Tobacco and Health, reported in November 2004 that exposure to secondhand smoke was a "substantial public health hazard".<sup>13</sup> The report found that exposure to secondhand smoke increased a non-smoker's risk of contracting lung cancer and heart disease by around 25%.<sup>13</sup>

Prior to the implementation of the smokefree law, it was estimated that exposure to secondhand smoke in the workplace caused around 617 premature deaths in the UK each year.<sup>14</sup> By comparison, the total number of deaths in the UK from all other industrial accidents was reported to be 235 in 2003/4.<sup>15</sup> The degree of risk depends on the extent and duration of exposure. Particularly at risk were bar staff, casino workers and other employees in workplaces where smoking was routine. It was estimated that secondhand smoke caused one premature death a week among workers in the hospitality industries.<sup>14</sup>

## Public support for smokefree legislation

Opinion polls show that public support for smokefree legislation is strong and has continued to rise since the law came into effect in 2007.

Year of survey	Support for smokefree legislation - adults England (%)
May 2004 (MORI)	51
Dec 2005 (YouGov)	66
May 2007 (YouGov)	72
Feb 2008 (YouGov)	76
Mar 2010 (YouGov)	80

The Smoking-Related Behaviour and Attitudes Survey for 2008/09 found the following high level of support for smoking restrictions among adults in Great Britain:

- 85 per cent agreed with restrictions on smoking at work.
- 93 per cent in restaurants.

- 91 per cent in indoor shopping centres.
- 94 per cent in indoor sports and leisure centres.
- 85 per cent in indoor areas at railway and bus stations.
- 94 per cent in other public places such as banks and post offices.
- 75 per cent in pubs.<sup>16</sup>

**Compliance** Compliance has remained consistently high since the law was introduced. During the first 18 months of the legislation, authorities in England inspected almost 600,000 premises and vehicles and found that:

- 98.2% of premises and vehicles were smokefree
- 89.3% were displaying the correct no smoking signage.<sup>17</sup>

**Economic impact** According to the Department of Health's report "Smokefree England - One Year On":

- 81% of businesses agreed that smokefree legislation is 'a good idea'.
- 40% of businesses reported a positive impact on the company, compared with 3% reporting a negative impact.
- 38% of licensed premises reported a positive impact on the company, outnumbering those reporting a negative impact by three to one (12% reported a negative impact).
- 59% of businesses and 62% of licensed premises reported that staff reactions to the law were positive (4% and 15% respectively reported negative reactions).<sup>18</sup>

**Health impact** The smokefree legislation in England resulted in 1200 fewer emergency admissions to hospital for heart attacks (a reduction of 2.4%) in the 12 months following implementation of the 2007 law.<sup>19</sup> Other jurisdictions have shown reductions in hospital admissions for heart attacks ranging from 8% to 40%. Other health benefits associated with smokefree legislation include reduced incidence of childhood asthma<sup>20</sup> and an increase in the number of people cutting down or quitting smoking.<sup>21</sup>

**International evidence on economic impact** Studies in the USA have shown that banning smoking in restaurants has either a neutral or beneficial effect and may increase tourist business.<sup>22 23</sup> A review of studies examining the economic effects of smoke-free policies found that those studies claiming a negative economic impact were backed by the tobacco industry and that most were subjective and of poor quality.<sup>24</sup>

**Related information and Resources**

- [Smokefree England - One year on](#)
- [Smoke-free workplaces in Ireland: a one year review](#)
- [Smoke-free New York City - one year review](#)
- [New Zealand: The smoke is clearing: anniversary report 2005](#)
- [ASH research report on secondhand smoke](#)
- [ASH Fact Sheet: Secondhand smoke](#)
- [Smokefree laws in the European Union](#) – an interactive map
- [Chartered Institute of Environmental Health](#) provides guidance on compliance with the smokefree laws in the UK.

## References

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- 2 Smokefree Success: ASH Scotland presents the Scottish experience. [\[View document\]](#)
- 3 The Public Places Charter on smoking. Industry progress report. The Charter Group, April 2003.
- 4 Choosing Health. Making healthy choices easier. Department of Health, November 2004. [\[View document\]](#)
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- 21 Bauld L. The impact of smokefree legislation in England: Evidence review. University of Bath, 2011 [View report](#)
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- 23 Glantz S and Charlesworth, A. Tourism and hotel revenues before and after passage of smoke-free restaurant ordinances. JAMA 1999; 281: 1911-18 [\[View abstract\]](#)
- 24 Scollo M et al. A review of the quality of studies on the economic effects of smoke-free policies on the hospitality industry. Tobacco Control 2002; 12: 13-20 [tc.bmjournals.com](http://tc.bmjournals.com)