

3 November 2006

Dear Sir/Madam,

Cancer Research UK welcomes the consultation on proposed regulations to be made under powers in the Draft Smoking (Northern Ireland) Order 2006 and the opportunity to submit comments to the Department via the Questionnaire.

The Charity strongly supports the Department's commitment to implement smokefree legislation in enclosed public places and workplaces in Northern Ireland. We are generally supportive of the draft regulations.

In summary, we would like to draw your attention to our opinions in seven key areas:

1. Implementation date- We believe that the smokefree measures should be implemented at the earliest opportunity, as there is no case for delay.
2. Communicating the legislation- A high profile communications campaign is *essential* to aid implementation. Adequate advice and support must be available for employers, those responsible for smokefree premises and the general public.
3. Smoking cessation services- Extra funding is needed, in advance of implementation, for additional cessation services to accommodate the increased numbers that will want to quit, and to cater for groups in newly smokefree premises.
4. Monitoring and evaluation- It is crucial that the legislation is adequately resourced in terms of financing and human resources in order to a) ensure compliance; b) maintain public support; c) ensure the rebuttal of potential misinformation from vested interests; and d) monitor the health and social impact of the measures (intended and unintended).
5. Review- We hope the Department will regularly review the impact of the smokefree measures and take any necessary steps to amend the legislation to ensure continued effectiveness.
6. Exceptions- We believe there is no justification for an 'artistic exemption'; performers can and do often use fake products. Any exceptions to the measures should be kept to a minimum, and should be regularly monitored with a view to increasing smokefree provision in the near future. Where very limited exceptions to the legislation are granted, for example in designated hotel rooms, we believe that there should be consistency in the designation of rooms, and smoking rooms should be placed together. This should also be the case in university halls of residence.

It is possible for care homes, psychiatric units, hospices, prisons and other similar premises to go smokefree. Whilst we accept that some limited exceptions to the legislation will be made, we urge the Department to be clear that these premises

can go further if they wish, and they should be encouraged to go smokefree where possible.

7. Additional smokefree places- Though we are generally supportive of the draft regulations, we are disappointed that the Department does not currently intend to designate 'other places', not captured in the definition of an 'enclosed' public place or a 'substantially enclosed' public place, to be designated smokefree. This would allow the Department to classify certain types of public places, where large numbers of people congregate closely together, as smokefree, for example sports stadia bus shelters and railway stations.

Not doing this, as is the case in Scotland, has caused inconsistency and confusion, so that for example, not all railway stations are smokefree. We believe that by using this power, the legislation will be simpler to understand and easier to enforce.

Please see our response to the Questionnaire for our detailed comments on the Draft Order. If you have any other queries, please do not hesitate to contact me at [publicaffairs@cancer.org.uk](mailto:publicaffairs@cancer.org.uk) or on 020 7061 8360.

Yours faithfully,



Mr Richard Davidson  
Director of Policy and Public Affairs

## The Draft Smoke-free Regulations (Northern Ireland) Response Form

### Question 1

Draft regulation 3 sets out proposed requirements for the content and display of no-smoking signs in premises.

Each entrance to smoke-free premises will be required to display a no-smoking sign that meets the standard minimum requirements i.e. a flat rectangular sign with minimum dimensions of 148mm by 210mm, display the international "no smoking" symbol and carry the words "No smoking. It is against the law to smoke in these premises" (Paragraphs 2.6 - 2.11 of the consultation document refers).

Do you agree with the proposals for the content and display of no-smoking signs in premises set out in regulation 3?

Yes  No

Comments:

*Cancer Research UK is not expert in this area, and believe that others are best placed to offer comments. However, it is important that there is sufficient signage to indicate places that are to be considered smokefree. In addition, every effort should be made to ensure the signs are clear, consistent and displayed in prominent places at all times to aid understanding of the requirements of the legislation and compliance.*

*Furthermore:*

- The regulations should clearly identify who is responsible and guilty of an offence if the signage is not adhered to.*
- The regulations should specify the person to whom complaints should be addressed.*
- The compliance line telephone number should be clearly displayed in all smokefree premises.*
- We recommend that signs be made of a durable material.*
- The regulations should specify that signage must be displayed so that it is protected from tampering, damage, removal or concealment.*
- We support the proposal to ensure that smokefree signage is displayed at all principal entrances to premises, although we believe that the definition of "public entrance" should be broadened to include any entrance reserved for staff use only.*
- If there are any open areas on the premises where smoking is permitted, such areas should be identified on the signs.*

### Question 2

Draft regulation 4 sets out proposed requirements for the content and display of no-smoking signs in smoke-free vehicles.

The operator of the smoke-free vehicle will be required to ensure that at least one no smoking symbol is displayed in each compartment of his vehicle. The no smoking symbol consists of a graphic representation of a burning cigarette enclosed in a red circle with a red bar across it, at

least 75mm in diameter (Paragraphs 2.12 - 2.15 of the consultation document refers).

Do you agree with the proposals for the content and display of no-smoking signs in smoke-free vehicles?

Yes  No

Comments:

*Every effort should be made to ensure the signs are clear, consistent and displayed in prominent places at all times to aid understanding of the requirements of legislation and compliance.*

## **Draft Smoke-free (Exemptions, Vehicles, Penalties And Discounted Amounts) Regulations (Northern Ireland) 2007**

### **Question 3**

Draft regulation 2 sets out a proposed exemption for a private dwelling.

Those parts of the dwelling that are shared with other premises (including other private dwellings) such as communal lifts, indoor stairwells, communal corridors in a block of flats etc., which are open to the public or used as places of work will be smoke-free.

It is proposed that any part of a private dwelling that is used solely as a place of work by more than one person will be smoke-free. The smoke-free requirement will not apply to work that is undertaken in any part of private dwellings for the provision of personal care for the person living there or to maintain the structure or fabric of the building etc (Paragraphs 3.3 - 3.6 of the consultation document refers).

Do you agree with the proposals in the draft regulations for private accommodation?

Yes  No

Comments:

*We are generally supportive of the proposals in the regulations relating to private accommodation, and in particular the proposals relating to private dwellings which are also considered a workplace. We are pleased, for example, that dormitories and other communal areas that members of the public and workers have access to in residential premises, are to be considered smokefree.*

*However, we believe it is essential that relevant employers (including District Councils and health and social services) develop policies on how smoking during residential visits will be addressed and implement them before smokefree legislation comes into force. Care workers, cleaners and others working in private homes have as much right as anyone else not to have their health affected by exposure to secondhand smoke. Employers who do not adopt effective policies in this area risk legal action under health and safety legislation, and possibly human rights legislation, if their employees' health suffers as a result. Useful guidance on these issues has been issued by the Royal College of Nursing.*

### **Question 4**

Draft regulation 3 sets out proposed exemptions for designated bedrooms in a hotel, guest house, inn, hostel or members' club.

It also specifies certain conditions which must be satisfied (Paragraphs 3.7 - 3.8 of the consultation document refers).

Do you agree with the proposed exemptions and conditions in draft regulation 3 for hotels, guest houses, hostels etc?

Yes  No

Comments:

*Any exceptions to the measures should be kept to a minimum, and should be regularly monitored with a view to increasing smokefree provision in the near future. Where very limited exceptions to the legislation are granted, for example in designated hotel rooms, we believe that there should be consistency in the designation of rooms, and smoking rooms should be placed together. This should also be the case in university halls of residence.*

*Cancer Research UK does not support the proposed exemption for performers. We do not see the justification for the exception as performers can and do use fake products, and we believe use of such products would ensure that the artistic integrity of performances is upheld.*

*We believe that the proposed exception could lead to the spirit of the legislation being compromised. There are clearly difficulties in defining circumstances where smoking on stage or on film is 'essential to the artistic integrity' of a production. An exemption of this nature will make the legislation more difficult to enforce and has the potential of compromising compliance.*

*It is important that efforts are taken to undermine the perception of smoking as a glamorous activity. We believe the proposal could enable smoking to be portrayed in this way.*

## **Question 5**

Draft regulation 4 sets out proposed exemptions for designated rooms in residential care homes and nursing homes, hospices and those mental health units that provide long-term residential accommodation (long-term is defined as accommodation which, in the normal course of events, is provided for patients to occupy for not less than 6 months).

It also specifies certain conditions which must be satisfied (Paragraphs 3.9 - 3.11 of the consultation document refers).

Do you agree with the proposed exemptions and conditions in draft regulation 4 for care homes, nursing homes, hospices and mental health units?

Yes  No

Comments:

*The overriding view of Cancer Research UK is that if limited exceptions to the smokefree legislation are granted, measures to minimise exposure of others to secondhand smoke and to protect the worker should be taken. In addition, there is still a duty of care on the employer to protect workers from workplace hazards and growing acceptance that the Health and Safety at Work etc. Act 1974 will apply.*

***We strongly believe that wherever possible, all enclosed premises should be smokefree. 'Residential exemptions' and more general exceptions should therefore be kept to a minimum. In addition, staff should not be allowed to smoke while on duty in their workplace.***

*Cancer Research UK believes that where limited exceptions to the legislation are granted, **premises should be obliged to review their arrangements in the future, to strengthen their policies with a view to going smokefree.** The Government should also consider whether staff have the right to opt out of working in places where they might be exposed to secondhand smoke.*

*We believe that individual premises should also take appropriate measures to minimise secondhand smoke exposure and minimum standards must be clearly outlined and we are supportive of the draft regulations in this respect. For example:*

- We support the stipulation that where exceptions are agreed, they should not be granted for communal areas;*
- If care is being provided, patients should not be able to smoke when particular treatment or care is being administered by a member of staff;*
- We believe that all precautions must be taken to limit the migration of smoke from a smoking room to the rest of the non-smoking environment;*
- The status of rooms as smoking or non-smoking should not change, except to add more non-smoking rooms, or enhance overall non-smoking provision;*
- Members of the public, when visiting such places, should be given adequate protection; and*
- There should be readily accessible and appropriate smoking cessation services that are part of individuals'/patients' care plans. Senior members of staff should regularly review these.*

### ***Prisons***

*We believe that prison officers, other prison staff, and inmates have as much right to protection from secondhand smoke as individuals in any other setting. We recommend that the Government works in partnership with the prison service to develop a comprehensive strategy for increasing smokefree provision in prisons in Northern Ireland.*

***It is possible to go further.*** *Smokefree policies have been successfully introduced in a number of long stay institutional establishments and have been supported by readily accessible smoking cessation services.<sup>1</sup> Willingness to abide by a smokefree policy has also been suggested as a condition of acceptance into other long-term but voluntary places e.g. nursing homes and hospices.<sup>2</sup>*

*We hope that the exemption of some residential premises will not lead to greater health inequalities among certain groups. For example, there is very high smoking*

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<sup>1</sup> el\_Guebaly N, Cathcart, J, Currie S et al. Public health and therapeutic aspects of smoking bans in mental health and addiction settings. *Psychiatric Service[s]* Dec 2002; 53: 1617- 22.

<sup>2</sup> Ibid.

*prevalence among mental health service users. We would not wish to see the gap between average prevalence and prevalence among mental health facility residents widen. **It is imperative that efforts to create smokefree environments and encourage cessation are not neglected in more challenging settings.***

### **Question 6**

Draft regulation 8 sets out a proposed exemption for a designated room in a research or testing facility.

This includes research or tests in relation to smoking and smoking cessation (Paragraphs 3.15 - 3.16 of the consultation document refers).

Do you agree with the proposed exemption in draft regulation 8 in relation to research and testing facilities?

Yes  No

Comments:

*We accept that an exception to the smokefree legislation should be made for research and treatment facilities. However, we urge that the regulations are sufficiently tight to ensure that the spirit of the legislation is upheld, that only designated areas in research and treatment facilities are excepted, where absolutely necessary, and that staff in such premises are not generally permitted to smoke.*

### **Question 7**

Draft regulation 9 sets out proposals for certain vehicles to be smoke-free (Paragraphs 3.27 - 3.32 of the consultation document refers).

Do you agree with the proposals for smoke-free vehicles?

Yes  No

Comments:

*We are generally supportive of the proposals to make certain vehicles smokefree. However, we would wish to see rented vehicles treated in the same way as hotel rooms, i.e. the owner or manager would designate and sign vehicles as either smokefree or not. This designation should be communicated in all advertising material.*

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