

Draft Smoke-free Regulations 2007 – E-Consultation on-line response

Response from Cancer Research UK

Q1: YES

Q1a: 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.

Q2: YES

Q2a: 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.

Q3: YES

Q3a: 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.

Q4: YES

Q4a: 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.

Q5: YES

Q5a: 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. 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.

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 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.

Q6: YES

Q6a: 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.

Q7: YES

Q7a: 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.