



Cookstown

DISTRICT COUNCIL

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M G Kelso

EH/gj

1 November 2006

Investing for Health Team (Tobacco Control)
Department of Health, Social Services & Public Safety
Room C4.22
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BELFAST BT4 3SQ

Dear Sirs

THE DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS
(NORTHERN IRELAND) 2007

THE DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND DISCOUNTED
AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007

I wish to advise that Council considered this matter at their Policy, Resources and Services Committee Meeting, held on Tuesday 24th October 2006.

I have attached a full comprehensive comment in regard to each of the issues raised as part of the consultation process for both sets of Regulations.

In consideration of the above, Members agreed the attached comments in regard to the proposals.

In the process of discussion, some Members did raise the issue of 'private parties' within licensed premises and whether the proposed controls would be sufficient to control same, where the use of the Function Room has been temporarily handed over to the control of a private individual.

Undoubtedly there will be other issues which come to light, however it is hoped that the draft controls will be implemented as quickly as possible, to enable the smoking ban to take effect.

If you wish to discuss any of the above matters, please do not hesitate to contact me.

Yours faithfully


M G KELSO
Director of Environmental Health

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QUESTIONNAIRE

DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS (NORTHERN IRELAND) 2007

Q1. 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 210 mm, 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 refer).

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

Yes No

If you wish to comment, please do so here.

This requirement should extend to any entrance that is not exclusively providing access to private residential accommodation or in use only as a fire exit.

In order to avoid signs at entrances becoming damaged and defaced they should be required to be of durable material or be suitably protected.

It is our view that signs should also contain details of to whom a complaint should be made should someone observe smoking in smoke free premises. This requirement exists in both Scotland and the Republic of Ireland. We feel that the following could be added to the regulation 3

“(c) displays the name of the person or holder of a particular post to whom a complaint may be made by any person who observes another person smoke in the smoke-free premises in question and state that a complaint may be so made.”

Q2. 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 refer).

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

Yes

No

If you wish to comment please do so here.

In order that the new legislation does not become a burden on transport operators then there is a need for pragmatic enforcement in relation to vehicles fitted with signage that would not meet new requirements. Such an approach would enable signage to be updated over a period of time. The inclusion of text on vehicle signs stating "No smoking. It is against the law to smoke in this vehicle" would be of assistance to those with responsibilities for ensuring that vehicles are smoke-free.

DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND DISCOUNTED AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007

Q3. 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 refer).

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

Yes

No

If you wish to comment please do so here.

The requirement for communal areas and common parts of private accommodation to be smoke-free is welcomed.

The proposal to exclude certain types of work (i.e. work that is undertaken to provide personal care for a person living there, to assist with domestic work, to maintain the structure or fabric of the dwelling, or to provide service there), from smoke free requirements for private accommodation causes some concern as we believe that all workers deserve protection from secondhand smoke. However there is a need to achieve the correct balance between protection of workers from secondhand smoke and the rights of a person in their own home. If this exemption is to remain there is a need for employers and self employed persons who provide such services to make arrangements about smoking and to adopt model policies that ensure the protection of workers who have to carryout work in private accommodation.

Q4. 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 refer).

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

Yes

No

If you wish to comment please do so here.

Should the department proceed with proposals to enable designated bedrooms to be exempt from smoke-free requirements then we feel that the conditions set out in the draft regulation are appropriate. However we feel that the exemption should only be for the residents of the bedroom and not for guests or employees of the hotel, this would ensure that abuse of the purpose of the designation does not take place.

There is need for clarity in relation to the process of designation and feel that it may be helpful if "designated" was defined in the regulations. The definition should make clear that designated means designated in writing. There is also a need for clarity in relation to changing bedroom designations, particularly when a bedroom has been designated as a smoking bedroom. Complaints can be anticipated from non smoking residents of hotels etc if they are allocated a non designated room and yet there is evidence of smoking in the room in the past. While there is no need for bedroom designation to be permanent we feel there is a need for some mechanism to regulate the designation process, this may be best achieved through guidance.

Q5. 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 refer).

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

If you wish to comment please do so here.

We feel that the exemption from smoke-free requirements can only be justified for residents of such premises and should not extend to visitors or staff similar to what we have stated above in relation to hotel bedrooms.

It is our view that where an exemption is available then for the owner of the premises to take advantage of the exemption from smoke-free requirements a set of detailed requirements should be established. These should ensure that persons who have to work in premises where a room is exempt from smoke-free requirements are given the maximum protection available from secondhand smoke while not placing an unrealistic burden on the owner of the premises. The requirements could be set out in a code of good practice or guidance to accompany the regulations.

Q6. 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 refer).

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

Yes No

If you wish to comment please do so here

The proposed exemption for research and testing facilities appears appropriate. There may however be a need to ensure the protection of any person who has to work in the facility from the effects of secondhand smoke.

We believe that the department should issue guidance that sets out the standards that should be applied in protecting employees who have to work in such facilities.

Q7. Draft regulation 9 sets out proposals for certain vehicles to be smoke-free (Paragraphs 3.27 – 3.32 refer).

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

Yes No

If you wish to comment please do so here.

The proposals for smoke-free vehicles appear appropriate however it is not clear to what extent the regulation applies to a person's private car that they use for business purposes.