

88



Your Ref:

Our Ref: DGY/JB
(182)

8th November 2006

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

Dear Sirs

RE: CONSULTATION ON THE DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS (NORTHERN IRELAND) 2007; AND THE DRAFT SMOKE-FREE (EXEMPTIONS, VEHICLES, PENALTIES AND DISCOUNTED AMOUNTS) REGULATIONS (NORTHERN IRELAND) 2007

I refer to the above Consultation and wish to submit comments from North Down Borough Council, following their consideration of the Consultation Document in October 2006.

Council's response to the specific questions is supportive of the recommendations from the Chief Environmental Health Officers Group for Northern Ireland as is as follows: -

DRAFT SMOKE-FREE (GENERAL PROVISIONS) REGULATIONS (NI) 2007

Q1. 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.

CEHOG believes that the requirement for signage at entrances is crucial in securing compliance with smoke-free requirements. It is essential that signs are correctly positioned and contain the right information. There is concern that the wording in the explanatory guidance appears to be more stringent than in the Draft Regulation in a particularly important respect. It has been noted that, even where no smoking signs comply with the requirement to be displayed in entrances, they may still not be visible to persons entering and therefore accidental smoking could occur.

The following recommended wording should therefore be used –

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“In each entrance to a smoke-free premises there shall be displayed in a prominently visible position at all times to persons entering the premises at least one A5 sign made of durable materials that -”

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 CEHOG’s 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. It is felt that the following could be added to 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. Do you agree with the proposals for the content and display of no-smoking signs in smoke-free vehicles?

Yes (qualified)

No

If you wish to comment please do so here.

CEHOG agrees with the proposal in relation to the need for a sign in each compartment of the vehicle, including the drivers’ compartment. However, they believe that there is a need for signage requirements to be consistent across the UK particularly as vehicles will cross between jurisdictions. CEHOG therefore believes that the only sensible way to proceed is to harmonise the signage requirements for vehicles. As Scotland has already enacted requirements for smoke-free signs in vehicles, it accepted that England, Wales and Northern Ireland should replicate those requirements. In order that the new legislation does not become a burden on transport operators, 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.

It is as important for vehicle signs to be prominent, visible and durable as it is for premises signs, we therefore believe that the same wording as proposed for signs above should be used.

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

Q3. Do you agree with the proposals in the draft regulations for private accommodation?

Yes ✓ (qualified)

No

If you wish to comment please do so here.

CEHOG notes that it is not intended to require private residential space per se to be smoke-free unless they are open to the public or used as places of work and CEHOG accepts the principle that in all other circumstances it is for the person who lives in the premises to decide whether or not to permit smoking.

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 (ie 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 is a cause for concern, as CEHOG believes that all workers deserve protection from secondhand smoke. However it is acknowledged that 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. Do you agree with the proposed exemptions and conditions in Draft Regulation 3 for hotels, guesthouses, hostels etc?

Yes

No ✓

If you wish to comment please do so here.

CEHOG believes that there is no convincing argument for the inclusion of this exemption in the Draft Regulations and feels that, in certain instances, it is possible that this exemption could be abused so that, in effect, a smoking room is being created in smoke-free premises.

Should the Department proceed with proposals to enable designated bedrooms to be exempt from smoke-free requirements then it is felt that the conditions set out in the Draft Regulation are appropriate. However, it is felt that the exemption should only be for the residents of the bedroom and not for guests or employees of the

hotel, as 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 CEHOG feels that it may be helpful if "designated" was more clearly defined in the Regulations or guidance. 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, CEHOG believes that there is a need for some mechanism to regulate the designation process and that this may be best achieved through guidance.

Q5. Do you agree with the proposed exemptions and conditions in draft regulation 4 for care homes & nursing homes, hospices and mental health units?

Yes (qualified)

No

If you wish to comment please do so here.

In CEHOG's response to the consultation on the Smoking (NI) Order 2006, CEHOG it stated that it believed that all workers deserved the same level of protection from secondhand smoke but acknowledged the difficulties that may be caused in certain premises. CEHOG believes that the Department must put measures in place that ensure the protection of workers from secondhand smoke, even where exemptions from smoke-free requirements are permitted. It feels 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 has been stated above in relation to hotel bedrooms.

It is CEHOG's view that, where an exemption is available, then if the owner of the premises takes 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. CEHOG would be keen to participate in the development of any such guidance.

Q6. 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 is however a need to ensure the protection of any person who has to work in the facility from the effects of second-hand smoke.

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

Yes ✓

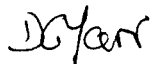
No

If you wish to comment please do so here.

The proposals for smoke-free vehicles appear to be appropriate, however it is not clear to what extent the regulation applies to a person's private car that they use for business purposes and receive expenses for the running of the vehicle from their employer. If such vehicles are covered by smoke-free requirements by virtue of the fact that they are used for work by more than one person do they then have to display no smoking signs and do they have to be smoke-free at all times? This issue needs to be clarified to ensure there is no confusion.

I hope this is helpful and apologise for the delay in responding beyond the deadline.

Yours sincerely



GRAHAM YARR
Director of
Environmental Services