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TESCO

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27th September 2006

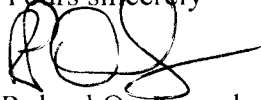
Telephone: 01707 678734
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Dear Sir,

Smoke-free Consultation

Please find enclosed my response to the Smoke-free regulations that you are currently consulting on.

Yours sincerely



Roland Overvoorde
Trading Law and Technical Manager

Encl.

TESCO
27/9.

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?

No

If you wish to comment, please do so here.

The signage requirement must be consistent with the Scottish regulations or better still, simpler than them. Your current proposals complicate the situation.

The signage requirements in these regulations for premises are unnecessary. There is a requirement for persons in control of the premises to prevent smoking and these persons should have the flexibility to use whatever means necessary. The Scottish regulations only required a minimum of one sign to be displayed, not one at every entrance as these regulations require. Where a person was charged with failing to prevent smoking in a premises, the court would presumably take into account what measures were employed to prevent smoking, signage could well be an appropriate means but not necessarily the only one. Within Tesco all our sites (nearly 2000) are ‘no smoking’ except for designated smoking areas. No signage is in place to achieve this and none will be needed when the entire building is ‘no smoking’. The only change we will make is to prohibit smoking in our staff restaurants; we can achieve this by briefing our staff and removing the ash trays. Putting up signage will be a waste of money where no smoking requirements are already established in a premise. It is probably a simpler idea and less costly that signage is put up in buildings where smoking is allowed.

The signage may be considered necessary to enforce the regulations for people who choose to smoke in a premises or vehicle. In practice the chances of this sort of enforcement occurring is very remote and it is more likely that warnings will be given. I believe Ireland’s experience is that enforcement was generally not needed and it was only after several warnings that action was taken. By this stage smokers were very clear that an area was no smoking regardless of whether signage was necessary therefore enforcement could not fail because of a lack of signage.

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?

No

If you wish to comment please do so here.

The signage requirement for vehicles is again unnecessary but also impractical for private vehicles used for work. Employers would find it difficult to insist an employee put a no smoking sign in their vehicle. Equally the regulations require signage where a vehicle is shared but this is impossible to predict and means the signs would be required in all vehicles as a precaution. Under the Scottish regulations vehicles primarily used private purposes were not required to display signage. Commercial vehicles in our fleet, lorries and vans, have no smoking signs in them in line with the Scottish regulations as they will travel there from time to time. The signage requirements for vehicles in any other regulations should be identical or simpler.

The signage may be considered necessary to enforce the regulations for people who choose to smoke in a premises or vehicle. In practice the chances of this sort of enforcement occurring is very remote and it is more likely that warnings will be given. I believe Ireland's experience is that enforcement was generally not needed and it was only after several warnings that action was taken. By this stage smokers were very clear that an area was no smoking regardless of whether signage was necessary therefore enforcement could not fail because of a lack of signage.

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.

No comment

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.

No comment

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.

No comment

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.

No comment

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?

No

If you wish to comment please do so here.

There is no clarity in the regulations concerning private vehicles used for work. Many private vehicles are used for work and it will be impractical to make them no smoking or put signs in them. Employers can only require that smokers do not smoke when sharing a vehicle with another non-smoking employee. The Scottish regulations specifically exclude vehicles used primarily for private use and these regulations should be the same.