

Smokefree England 1 July 2007 – What it means for restaurants, cafes and other food businesses

A law requiring smokefree environments in virtually all workplaces comes into effect 1 July 2007. It ensures that all workers and members of the public are protected from the harm caused by tobacco smoke. The regulations have yet to be approved by Parliament and so this guidance may change.

Are all food businesses covered by the legislation?

Yes. The legislation covers all food businesses, which are used as a place of work by more than one person. Smoking rooms and designated smoking areas will no longer be allowed in any wholly or substantially enclosed building or structure.

What does ‘enclosed’ and ‘substantially enclosed’ mean?

Enclosed: the premises has a ceiling or roof and is wholly enclosed, whether on a permanent or temporary basis, eg tents, marquees, conservatories.

Substantially enclosed: the structure has a ceiling or roof and there are openings in the walls which are less than half the perimeter of the walls (doors and windows are not classed as “openings”). This is called the ‘50% rule’. For more detailed information click onto www.smokefreeengland.co.uk.

What will the legislation mean in practice?

It requires the management to:

- Ensure premises are smokefree.
- Display ‘No-smoking’ signs in a prominent position at all public entrances. The sign should carry the international red ‘no smoking’ symbol. Signage will be available free from the Department of Health. Register for free signage and guidance at www.smokefreeengland.co.uk.
- Take reasonable steps to ensure that customers and staff are aware that the premises are legally required to be smokefree.

What about entrances to buildings?

Outside areas are not covered by the legislation. However employers may want to consider making it a policy that smoking is not permitted within a certain distance from outside entrances, if possible, so that staff and visitors do not have to walk through a cloud of smoke to get into the building.

What about vehicles?

Vehicles used at a workplace by more than one person, regardless if they are not in the vehicle at the same time, will have to be smokefree at all times. This is because tobacco smoke is absorbed into soft furnishings and stays around for weeks long after a cigarette has been stubbed out. All vehicles will need to prominently display ‘no-smoking’ signs. See fact sheet on company vehicles.

Are there any exemptions?

Certain establishments where people live and which are also workplaces eg prison cells, hospices and long-stay residential homes will be exempt. However, this does not mean that smoking will be allowed throughout the premises. Instead, employers will have to identify designated smoking rooms which:

- are completely enclosed, except for windows / doors, on all sides by solid floor to ceiling walls
- do not have a ventilation system that ventilates into any other smokefree part of the premises
- if a door opens onto smokefree premises, it needs to close by mechanical means
- are clearly marked as a room in which smoking is permitted.

It is up to the management of individual buildings to decide if visitors will be allowed to access smoking rooms. The exemption exists for residents only and therefore should not be used by staff. There is no obligation for employers of exempt places to have 'smoking rooms' if they do not wish to.

What are the penalties for non-compliance?

For those who have management responsibilities:

- Failure to display minimum no smoking signs: up to £1000 or £200 fixed penalty notice
- Failing to prevent smoking in a smokefree place: up to £2500.

For individuals

- Smoking in a no-smoking place: up to £200 or a penalty notice of £50

Do employers have to provide smoking breaks or outside smoking areas?

No on both counts. By law, employers must give staff an uninterrupted rest break of 20 minutes when their daily working time is more than six hours. Staff can, of course, smoke during their rest period, if they choose, but they must not smoke in an enclosed or partially enclosed area. As an employer you might like to decide where smoking is allowed elsewhere on your premises eg in open car parks, grounds, or shelters.

Is there help for staff to stop smoking?

The NHS offers a wide range of excellent, free and easily accessible support for smokers including local Stop Smoking Services, the NHS Smoking Helpline on 0800 169 0169 and nicotine replacement therapy (NRT) on prescription. Information about your local NHS Stop Smoking Services found at www.smokefreehampshire.co.uk.

Can I get help to make my business smokefree?

Either log onto www.smokefreeengland.co.uk or phone the **Smokefree England Information Line 0800 169 1697** and register for the latest updates and FREE resources. For local advice and information, visit www.smokefreehampshire.co.uk.