

Smoking Ban Come into Force on 1 July 2007



All enclosed public places and workplaces became smoke-free from 1st July 2007.

The implementation of the smoke-free elements of the Health Act 2006 means that virtually all enclosed public places and workplaces have become smoke-free environments. This includes offices, factories, shops, pubs, bars, restaurants, membership clubs, public transport and work vehicles that are used by more than one person.

The legislation makes it an offence for those who control or manage smoke-free premises to fail to stop people smoking on them. An employer has a valid defence if it takes reasonable steps to prevent people smoking; does not know or cannot reasonably be expected to know that they are smoking; or can show other grounds why it is reasonable not to fulfil its duty.

If employers occupy or manage smoke-free premises, they are also under a duty to ensure that compliant no-smoking signs are displayed. Again, a defence is available for those who, for example, could not have been expected to know that signs previously in place had been removed by vandals.

Employers need to implement appropriate procedures to ensure their employees and others who access their premises refrain from smoking. These procedures should have in place and communicated to the workforce and visitors alike since the ban came into effect.

The law means that indoor smoking rooms, still common in some workplaces, are no longer be allowed. Employees and others wishing to smoke have to go outside instead. Companies may also therefore need to consider the effect of this on productivity and any procedures that should be put in place governing the number of breaks and the areas that smokers may congregate in as well as any associated new risks that may arise. West Lancashire District Council is reported to be the first local authority in England to ban its staff from taking smoking breaks since it banned smoking in and around all council buildings.

There is no requirement to provide smoking shelters for employees and others. However, if you do have an outsider smoking shelter or area, you need to be sure that it is not "enclosed" or "substantially enclosed" under the definitions that are set out in the draft smoke-free regulations. The ban applies to partially covered venues - the open areas of which make up less than half their total area. For example, if 40% of a pub's garden area is covered the ban would not apply. But if 60% of it is covered, then the ban would apply. An enclosed area can be so even if this is temporary and "roof" includes, for example a canvas awning.

Employers, managers and those in charge of smoke-free premises and vehicles need to:

- Identify all areas where smoking constitutes an offence and display 'no smoking' signs (to comply with regulatory minimum requirements as stated in the draft regulations),

- take reasonable steps to ensure that staff, customers/members and visitors are aware that premises and vehicles are legally required to be smoke-free
- ensure that no one smokes in smoke-free premises or vehicles - this may involve altering the staff handbook, invoking disciplinary procedures and ejecting visitors from the premises if the policy is breached

Best Practice suggestions:

- remove ashtrays from smoke-free areas
- develop a smoke-free policy in consultation with staff, including how to deal with non-compliance
- provide your staff and customers with support to quit smoking
- ensure that your staff and customers know where they can smoke if they choose to

For further advice and guidance please feel free to us at **BQM Consulting**.

Further information on the Health Act 2006 can be obtained from:

The office of public sector information website

http://www.opsi.gov.uk/acts/acts2006/ukpga_20060028_en.pdf

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