SMOKEFREE Q&A

When does the smokefree legislation come into effect?

The Health Act 2006 comes into effect in England at 6.00am on Sunday, 1 July 2007.

What is the aim of the smokefree legislation?

The new law will protect all people in virtually all enclosed public places, workplaces, public vehicles and work vehicles, from the harmful effects of secondhand smoke.

Which premises will be affected?

The new legislation will cover virtually all enclosed and substantially enclosed public places and workplaces, including shops, offices, factories, pubs, restaurants, public transport, and work vehicles that are used by more than one person. Indoor workplace smoking rooms will also disappear so anyone wishing to smoke will have to go outside instead.

How many premises will be affected by the smokefree legislation?

In England there are 3.7 million workplaces/businesses which will need to go smokefree.

What constitutes a workplace?

Premises that are places of work for more than one person will be required to be smokefree at all times even if people work there at different times of the day or only intermittently.

Will the regulations include all vehicles?

The new law will not apply to vehicles that are used primarily for private rather than work purposes.

Where a vehicle is used for work by more than one person, regardless of whether they are in the vehicle at the same time, it will be required to be smokefree at all times. This means taxis will be required to be smokefree at all times, regardless of whether there are passengers on board.

Smoking will be permitted in vehicles that are for the sole use of the driver and are not used as a workplace by anyone else, either as a driver or passenger. This means company cars drivers must adhere to the ban if they share their car with any colleagues.

What constitutes an enclosed or substantially enclosed space?

Enclosed - Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis.

Substantially Enclosed - Premises will be considered to be substantially enclosed if they have a ceiling or roof, but have an opening in the walls, which is less than half of the total areas of walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.
Which premises are exempt from the smokefree legislation?

There are very few exemptions permitted by the smokefree legislation and they are limited to specified areas in certain categories of premises. Designated smoking rooms can be provided in “any premises where a person has his home, or is living permanently or temporarily”, such as hotels, care homes, hospices and prisons. Smoking will also be permitted by actors on-stage during a performance, for sampling in specialist tobacconists and on offshore oil rigs.

Can I still smoke in my home?

Yes. The Government has no intention to make private dwellings and private residential spaces smokefree, except for parts of dwellings used solely as a place of work by more than one person.

Have other parts of the UK gone smokefree?

Yes. Scotland’s ban has been in place since March 2006, whilst Wales and Northern Ireland went smokefree this year on 2 April and 30 April respectively. The Republic of Ireland was the first country in Europe to go smokefree in 2004.

ENFORCEMENT

Who is responsible for enforcing the smokefree legislation?

Local councils will be responsible for enforcing the Health Act 2006.

How much cash did councils get to pay for enforcement of the smokefree legislation?

The Department of Health and the Local Government Association have agreed on a total funding package of £29.5 million for first-tier local authorities for 2007/08. This is expected to cover the cost of training existing staff to enforce the new legislation, employing new staff if needed, advertising and promotional campaigns for local businesses and individuals, as well as any other costs such as providing smoking bins.

A full council-by-council breakdown of funding is available on request from the LGA media office.

How will councils enforce the new law?

The approach to enforcement will be educational and non-confrontational, focused on raising awareness and understanding to ensure compliance. Enforcement officers will work closely with local businesses to build compliance through education, advice and support. We expect that enforcement action will be considered only when efforts to encourage compliance have failed.

How likely are people to abide by the new laws?

All the evidence from other parts of the UK and Ireland which already have smokefree legislation suggests that the vast majority of people will abide by the new law. Local councils have been working with businesses in the run up to 1 July to educate and inform them about the smokefree legislation and to make sure they are fully aware of their responsibilities.

Wales: During the first five months of the ban, 25 breaches were reported by councils – however no fixed penalty notices were handed out. Powys council visited 464 premises and gave 11 written warnings. Cardiff council visited 842 premises and did not report any breaches of the new laws.

Scotland: In Edinburgh only nine fixed penalty notices have been handed out. Only one of these involved a pub, for putting up its smoking shelter incorrectly.
Northern Ireland: An overall compliance rate of 99.5% was reported by councils after almost 18,000 premises were inspected during the first few weeks of the ban.

Republic of Ireland: The Irish Office of Tobacco Control reported in December 2004 that compliance levels with the new law were high – 94% in hotels, 99% in restaurants and 91% in licensed premises.

What will happen to people who light up in a prohibited area?

Council enforcement officers can give out fixed penalty notices of £50 to people who they believe are smoking or have smoked - this is reduced to £30 if paid within 15 days. If it goes to court, the maximum fine is £200.

What about owners/managers/licensees?

The person who has management responsibility for the premises or vehicle is legally responsible for preventing smoking. The guidance that businesses have received from Smokefree England includes advice on the steps that can be taken if someone smokes in a smokefree place. Premises can break the law by failing to display no-smoking signs (£200 fixed penalty, maximum fine £1,000). Premises can also be fined for failing to prevent smoking in a smoke-free place, up to £2,500.

How many council officers will be enforcing the smokefree legislation?

A government-run training course is expected to be completed by around 1,200 council officers ahead of 1 July. That is not to say that there will be 1,200 officers patrolling bars and clubs each day – they will simply be certified to enforce the Health Act 2006 as and when is necessary.

Reports that councils will have dozens of “smoking police” patrolling city centres are simply incorrect. Westminster City Council, which was reported would have a 40-strong enforcement team, expects its smokefree enforcement workload to be equivalent to the full time work of two officers.

The majority of councils will not be hiring extra staff; existing officers, usually working in environmental health, will undertake smokefree enforcement duties as part of their ongoing job role.

Will council officers be able to film or take photographs of smokers breaking the law?

Council enforcement officers have the power to film or photograph people breaking the law – an example being filming evidence of an rat infestation in a restaurant kitchen. However, councils have nothing to gain from photographing or filming people smoking in pubs, when persistent offenders can be served with fixed penalty notices.

How can people complain about breaches of the smokefree legislation?

The simplest way to report a breach is to contact your local council environmental health team. A national telephone compliance line (0800 587 1667) will be in operation from 1 July 2007 to enable members of the public to report possible breaches of the law. This information will be passed to local councils to follow-up as appropriate.

Can enforcement officers close a pub for deliberately flouting the smokefree legislation?

There is no provision in smokefree legislation for smokefree offences to result in a review of a pub’s license. We believe the penalties are a sufficient deterrent, and we expect that pubs and other hospitality venues will comply with the legislation to make their premises a healthier place to visit and work.
ATTITUDES AND EFFECTS

What is the point of the smokefree legislation?

The main purpose of the legislation is to protect employees and the public from the effects of second-hand smoke. It is clear that there is no risk-free level of exposure to secondhand smoke, which can cause a range of serious medical conditions including heart disease, lung cancer, sudden infant death syndrome and asthma attacks.

Is the smokefree legislation supported?

An Office for National Statistics survey released 6 July 2006 found:

- 91% of people favoured smoking restrictions in restaurants, 86% supported restrictions at work, 65% supported restrictions in pubs

Independent opinion polls have also confirmed similar levels of public support:

- YouGov poll conducted in December 2005 which asked ‘The government has announced plans to make most public places smoke-free. Would you support a proposal to make ALL workplaces, including all pubs and all restaurants smoke-free?’ – 71% said they’d support such a proposal.

A survey of 501 business decision makers in England conducted by Continental Research in August 2006 showed overwhelming support amongst employers for smokefree:

- 91% agreed that people at work have the right not to breathe in other workers’ smoke
- 79% said they would support a law which made all workplaces smokefree

Will the smokefree legislation lead to a drop in business for the hospitality trade?

Evidence from around the UK suggests that many pubs can look forward to increased business. Mitchells & Butlers, the pub group that owns the All Bar One and O’Neill’s chains, reported in September 2006 that food sales, which make up 28% of their sales mix, were up by 11% as a result of the introduction of smokefree legislation in Scottish pubs. Pub chain Wetherspoons has reported that overall sales in August, September and October 2006 were up 9.2% on the previous year, but rose 11.8% in their 101 non-smoking outlets.

Will the smokefree legislation mean extra cigarette litter on the streets?

According to Keep Britain Tidy, 122 tonnes of cigarette litter is dumped across the UK each day. Figures from Dublin show that cigarette litter rose by 20% following the Irish ban in 2004. If the same were to happen across the UK, an extra 25 tonnes of cigarette litter would be dropped onto the streets each day.

What are councils doing to deal with the excess litter?

Many councils, including St Helens, Bournemouth and Wigan are giving out free ashtrays to pubs and clubs for outdoor use, and is giving free portable ashtrays to smokers. Colchester, Chelmsford and Essex councils have teamed up to bulk-buy cigarette bins and give away free ashtrays to pubs.

The vast majority of councils have also mounted information campaigns to let people know that anyone caught dropping litter of any kind, including cigarette butts, can be issued with a £75 fixed penalty notice.

For further information, please contact the LGA media team on 020 7664 3333