
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 90

**The Prohibition of Smoking in Certain
Premises (Scotland) Regulations 2006**

“No-smoking premises”

3.—(1) The premises or classes of premises prescribed⁽¹⁾ under section 4(2) of the Act as being “no smoking premises” for the purposes of Part 1 of the Act are the premises or classes of premises specified in Schedule 1 to these Regulations, being premises or classes of premises which are wholly or substantially enclosed.

(2) The premises or parts of premises or classes of premises or parts of premises prescribed under section 4(2) of the Act which are excluded from the definition of “no smoking premises” are the premises or parts of premises or classes of premises or parts of premises specified in Schedule 2 to these Regulations.

(3) For the purposes of section 4(2) of the Act—

(a) “premises” includes—

- (i) any building or part of a building;
- (ii) any structure or part of a structure, whether moveable or otherwise;
- (iii) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof);
- (iv) any tent, marquee or stall; and
- (v) any vehicle.

(b) “wholly enclosed” means—

- (i) for premises other than a vehicle or part of a vehicle, having a ceiling or roof and, except for doors, windows and passageways, wholly enclosed, whether permanently or temporarily; or
- (ii) for premises that are a vehicle, or part of a vehicle, having a top or roof and, except for doors, windows or exits, wholly enclosed, whether permanently or temporarily;

(c) “substantially enclosed” means—

- (i) for premises other than a vehicle or part of a vehicle, having a ceiling or roof and, except for doors, windows and passageways, substantially enclosed, whether permanently or temporarily; or
- (ii) for premises that are a vehicle, or part of a vehicle, having a top or roof and, except for doors, windows or exits, substantially enclosed, whether permanently or temporarily, and in determining whether premises are “substantially enclosed”, no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut;

(d) premises shall be taken to be “substantially enclosed” if—

(1) Section 41 of the Act defines “prescribed” as meaning prescribed by regulations made by the Scottish Ministers.

- (i) the opening in the premises has an area; or
- (ii) if there is more than one, both or all those openings have an aggregate area, which is less than half of the area of the walls, including any other structures serving the purpose of walls, which constitute the perimeter of the premises;
- (e) where an opening is in, or consists of the absence of, such walls or other structures or a part of them, their area shall be measured for the purposes of paragraph (d) as if it included the area of the opening; and
- (f) “has access” means has access whether on payment or otherwise, and whether as of right or by virtue of express or implied permission.