



# Health Act 2006

## 2006 CHAPTER 28

### PART 1

#### SMOKING

#### CHAPTER 1

##### SMOKE-FREE PREMISES, PLACES AND VEHICLES

###### *Smoke-free premises, etc.*

## 2 Smoke-free premises

- (1) Premises are smoke-free if they are open to the public.

But unless the premises also fall within subsection (2), they are smoke-free only when open to the public.

- (2) Premises are smoke-free if they are used as a place of work—
- (a) by more than one person (even if the persons who work there do so at different times, or only intermittently), or
  - (b) where members of the public might attend for the purpose of seeking or receiving goods or services from the person or persons working there (even if members of the public are not always present).

They are smoke-free all the time.

- (3) If only part of the premises is open to the public or (as the case may be) used as a place of work mentioned in subsection (2), the premises are smoke-free only to that extent.
- (4) In any case, premises are smoke-free only in those areas which are enclosed or substantially enclosed.

*Status: Point in time view as at 01/10/2015.*

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- (5) The appropriate national authority may specify in regulations what “enclosed” and “substantially enclosed” mean.
- (6) Section 3 provides for some premises, or areas of premises, not to be smoke-free despite this section.
- (7) Premises are “open to the public” if the public or a section of the public has access to them, whether by invitation or not, and whether on payment or not.
- (8) “Work”, in subsection (2), includes voluntary work.

#### Commencement Information

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| <b>I1</b> | S. 2 in force for certain purposes at Royal Assent, see s. 83   |
| <b>I2</b> | S. 2 in force at 2.4.2007 for W. in so far as not already in force by <a href="#">S.I. 2007/204</a> , <b>art. 2(a)</b>  |
| <b>I3</b> | S. 2 in force at 1.7.2007 for E. in so far as not already in force by <a href="#">S.I. 2007/1375</a> , <b>art. 2(a)</b> |

### 3 Smoke-free premises: exemptions

- (1) The appropriate national authority may make regulations providing for specified descriptions of premises, or specified areas within specified descriptions of premises, not to be smoke-free despite section 2.
- (2) Descriptions of premises which may be specified under subsection (1) include, in particular, any premises where a person has his home, or is living whether permanently or temporarily (including hotels, care homes, and prisons and other places where a person may be detained).
- (3) The power to make regulations under subsection (1) is not exercisable so as to specify any description of—
  - (a) premises in respect of which a premises licence under the Licensing Act 2003 (c. 17) authorising the sale by retail of alcohol for consumption on the premises has effect,
  - (b) premises in respect of which a club premises certificate (within the meaning of section 60 of that Act) has effect.
- (4) But subsection (3) does not prevent the exercise of that power so as to specify any area, within a specified description of premises mentioned in subsection (3), where a person has his home, or is living whether permanently or temporarily.
- (5) For the purpose of making provision for those participating as performers in a performance, or in a performance of a specified description, not to be prevented from smoking if the artistic integrity of the performance makes it appropriate for them to smoke—
  - (a) the power in subsection (1) also includes power to provide for specified descriptions of premises or specified areas within such premises not to be smoke-free in relation only to such performers, and
  - (b) subsection (3) does not prevent the exercise of that power as so extended.
- (6) The regulations may provide, in relation to any description of premises or areas of premises specified in the regulations, that the premises or areas are not smoke-free—
  - (a) in specified circumstances,
  - (b) if specified conditions are satisfied, or

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- (c) at specified times,  
or any combination of those.
- (7) The conditions may include conditions requiring the designation in accordance with the regulations, by the person in charge of the premises, of any rooms in which smoking is to be permitted.
- (8) For the purposes of subsection (5), the references to a performance—
  - (a) include, for example, the performance of a play, or a performance given in connection with the making of a film or television programme, and
  - (b) if the regulations so provide, include a rehearsal.

#### Commencement Information

- I4** S. 3 in force for certain purposes at Royal Assent, see s. 83
- I5** S. 3 in force at 2.4.2007 for W. in so far as not already in force by [S.I. 2007/204](#), **art. 2(a)**
- I6** S. 3 in force at 1.7.2007 for E. in so far as not already in force by [S.I. 2007/1375](#), **art. 2(a)**

## 4 Additional smoke-free places

- (1) The appropriate national authority may make regulations designating as smoke-free any place or description of place that is not smoke-free under section 2.
- (2) The place, or places falling within the description, need not be enclosed or substantially enclosed.
- (3) The appropriate national authority may designate a place or description of place under this section only if in the authority's opinion there is a significant risk that, without a designation, persons present there would be exposed to significant quantities of smoke.
- (4) The regulations may provide for such places, or places falling within the description, to be smoke-free only—
  - (a) in specified circumstances,
  - (b) at specified times,
  - (c) if specified conditions are satisfied,
  - (d) in specified areas,or any combination of those.

#### Commencement Information

- I7** S. 4 in force for certain purposes at Royal Assent, see s. 83
- I8** S. 4 in force at 1.7.2007 for E. in so far as not already in force by [S.I. 2007/1375](#), **art. 2(a)**

## 5 Vehicles

- (1) The appropriate national authority may make regulations providing for vehicles to be smoke-free.

[<sup>F1</sup>(1A) Regulations under this section may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.]

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- (2) [<sup>F2</sup>Regulations under this section] may in particular make provision—
- (a) for the descriptions of vehicle which are to be smoke-free,
  - (b) for the circumstances in which they are to be smoke-free,
  - (c) for them to be smoke-free only in specified areas, or except in specified areas,
  - (d) for exemptions.
- (3) The power to make regulations under this section is not exercisable in relation to—
- (a) any ship or hovercraft in relation to which regulations could be made under section 85 of the Merchant Shipping Act 1995 (c. 21) (safety and health on ships), including that section as applied by any Order in Council under section 1(1)(h) of the Hovercraft Act 1968 (c. 59), or
  - (b) persons on any such ship or hovercraft.
- (4) In section 85 of the Merchant Shipping Act 1995, at the end add—
- “(8) Safety regulations which make provision in respect of the prohibition of smoking on any ship (“the smoking provisions”) may include provision—
- (a) for the appointment by the Secretary of State of persons to enforce the smoking provisions (whether in respect of ships generally or for any particular case or purpose), and for the removal of any person so appointed,
  - (b) for such persons (if they are not surveyors of ships appointed under section 256) to have the powers of such surveyors for the purposes of their enforcement functions,
  - (c) for any such persons to have, for the purposes of their enforcement functions, powers corresponding to those which authorised officers have under paragraphs 2(b) to (e), 3 and 4, as read with paragraphs 5 and 9, of Schedule 2 to the Health Act 2006 (which confers powers of entry, etc., on authorised officers of enforcement authorities in relation to the enforcement of the provisions of that Act in relation to smoking),
  - (d) in relation to an offence of smoking in a place where smoking is prohibited under the smoking provisions, for purposes corresponding to those of section 9 of and Schedule 1 to the Health Act 2006 (which provide for the giving by authorised officers of penalty notices in respect of such an offence).

In this subsection, “smoking” has the same meaning as in Chapter 1 of Part 1 of the Health Act 2006.”

- (5) In this Chapter, “vehicle” means every type of vehicle, including train, vessel, aircraft and hovercraft.

#### Textual Amendments

- F1** S. 5(1A) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 95(2)(a)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F2** Words in s. 5(2) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 95(2)(b)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

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#### **Commencement Information**

- I9** S. 5 in force for certain purposes at Royal Assent, see s. 83
- I10** S. 5 in force at 2.4.2007 for W. in so far as not already in force by [S.I. 2007/204](#), **art. 2(a)**
- I11** S. 5(1)-(3) (5) in force at 1.7.2007 for E. in so far as not already in force by [S.I. 2007/1375](#), **art. 2(a)**
- I12** S. 5(4) in force at 1.7.2007 for E.S.N.I. in so far as not already in force by [S.I. 2007/1375](#), **art. 2(a)**

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