

**RC51**

First published 2010  
Version 02

# Risk Control

Recommendations regarding smoking at work



## » IMPORTANT NOTICE

This document has been developed through the RISCAuthority and published by the Fire Protection Association (FPA). RISCAuthority membership comprises a group of UK insurers that actively support a number of expert working groups developing and promulgating best practice for the protection of people, property, business and the environment from loss due to fire and other risks. The technical expertise for this document has been provided by the Technical Directorate of the FPA, external consultants, and experts from the insurance industry who together form the various RISCAuthority Working Groups. Although produced with insurer input it does not (and is not intended to) represent a pan-insurer perspective. Individual insurance companies will have their own requirements which may be different from or not reflected in the content of this document.

The FPA has made extensive efforts to check the accuracy of the information and advice contained in this document and it is believed to be accurate at the time of printing. However, the FPA makes no guarantee, representation or warranty (express or implied) as to the accuracy or completeness of any information or advice contained in this document. All advice and recommendations are presented in good faith on the basis of information, knowledge and technology as at the date of publication of this document.

Without prejudice to the generality of the foregoing, the FPA makes no guarantee, representation or warranty (express or implied) that this document considers all systems, equipment and procedures or state-of-the-art technologies current at the date of this document.

Use of, or reliance upon, this document, or any part of its content, is voluntary and is at the user's own risk. Anyone considering using or implementing any recommendation or advice within this document should rely on his or her own personal judgement or, as appropriate, seek the advice of a competent professional and rely on that professional's advice. Nothing in this document replaces or excludes (nor is intended to replace or exclude), entirely or in part, mandatory and/or legal requirements howsoever arising (including without prejudice to the generality of the foregoing any such requirements for maintaining health and safety in the workplace).

Except to the extent that it is unlawful to exclude any liability, the FPA accepts no liability whatsoever for any direct, indirect or consequential loss or damage arising in any way from the publication of this document or any part of it, or any use of, or reliance placed on, the content of this document or any part of it.

## » CONTENTS

Scope	3
Synopsis	3
Definitions	3
Introduction	3
Legislation	3
Recommendations	4
1. General	4
2. Smoking shelters	4
3. Signs	5
4. Vehicles	5
5. Checklist	6
Annex A: Additional definitions	9
Annex B: No-smoking signs	10
Annex C: Exemptions	10
References	11
Further reading	11

## SCOPE

These recommendations apply to workplaces in the UK and provide practical advice in response to recent legislation designed to protect people at work from the inhalation of secondary smoke. The recommendations are not intended to replace or provide an alternative solution in response to any other health and safety or similar legislation.

## SYNOPSIS

Following recent legislation throughout the UK prohibiting smoking in the workplace, these recommendations provide practical advice on the application of 'no-smoking' legislation, including the provision of smoking shelters.

## DEFINITIONS

### Enclosed\*

Premises are considered 'enclosed' if they have a ceiling or roof and (except for doors, windows or passageways) are wholly enclosed either on a permanent or temporary basis.

### Substantially enclosed\*

Premises will be considered 'substantially enclosed' if they have a ceiling or roof, but have an opening in the walls, which is less than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.

\* There are some important variations in the wording of definitions in the relevant legislation in different parts of the UK. A summary of these is set out in Annex A.

## INTRODUCTION

The implementation of legislation across the UK requiring public places and workplaces to become smoke-free has resulted in businesses having to prohibit smoking in the workplace. Following the introduction of the legislation, many organisations have provided carefully designed external smoking areas or shelters for staff who wish to smoke.

The smoking legislation applies to virtually all 'enclosed' and 'substantially enclosed' public places and workplaces. This includes both permanent structures and temporary ones, such as tents and marquees. This also means that indoor smoking rooms in public places and workplaces (with certain specified exceptions) are no longer allowed.

The legislation was introduced to protect employees and the public from the harmful effects of second-hand smoke, which is a serious health hazard with no safe level of exposure. This is the result of second-hand smoke containing over 4,000 chemicals, many of which are highly toxic.

## LEGISLATION

Smoking in public places and the workplace in the UK is dealt with as a public health matter. The Department of Health takes the lead on this in England, in Wales it is a matter for the Welsh Assembly Government and in Scotland it is the responsibility of the Scottish Executive. The situation is as follows:

### • England

From 1 July 2007, all public places and workplaces, with a limited number of exemptions, in England became smoke-free. Under the Smoke-free (Premises and Enforcement) Regulations 2006 (ref.

1) and supporting legislation, the Smoke-free (Signs) Regulations 2012 (ref. 2), employers, managers and those in control of premises need to display legible no-smoking notices and take reasonable steps to ensure that staff, customers, members and visitors are aware of the new law and do not smoke in buildings.

Public transport and work vehicles used by more than one person must be smoke-free at all times.

### • Wales

In Wales, regulation-making powers on this issue are devolved to the Welsh Assembly. The Smoke-free Premises etc. (Wales) Regulations 2007 (ref. 3) came into force on 2 April 2007. As in the case of other parts of the UK, there are few exemptions to the smoking ban and anyone who breaches the law may face heavy penalties.

### • Scotland

The law on smoking in Scotland changed before that in England and Wales. On 26 March 2006, the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (ref. 4) came into force. At that time, public places and workplaces in Scotland became smoke-free, again with a limited number of exemptions.

Vehicles used for business purposes are also affected by the legislation; these include goods vehicles and public transport such as taxis, buses, trains and ferries. All cars, however, are exempt.

### • Northern Ireland

The Smoking (Northern Ireland) Order 2006 (ref. 5) made provision for the prohibition of smoking in certain premises and vehicles. The Order is supported by three sets of regulations concerning signs, exemptions, penalties and similar matters and a commencement order. The smoke-free legislation came into effect in Northern Ireland on 30 April 2007.

Smoke-free legislation also applies to vehicles which are used for the transport of members of the public, for example, buses, taxis and trains, and vehicles that are used for work by more than one person.

### • Exemptions

Under the Smoke-free (Exemptions and Vehicles) Regulations 2007 (ref. 6) and the national legislation in Wales, Scotland and Northern Ireland (refs 3, 4 and 5), various exemptions are provided to allow smoking in specific, designated areas in certain circumstances. These are summarised in Annex C.

### • Designated smoking rooms

Although the law provides for these exemptions, there is no legal obligation for the occupier of any workplace to offer designated smoking rooms or bedrooms if they do not wish to do so. Where they are provided, the circumstances described above must be observed and it is the legal responsibility of anyone who controls or manages the premises to ensure that the following conditions are met.

Any room where smoking is permitted must:

- be designated in writing by the person in charge of the premises. This written designation should be available for inspection by an enforcement officer if requested (This condition does not apply to specialist tobacconist shops);
- have a ceiling and, except for doors or windows, be completely enclosed on all sides by solid floor-to-ceiling walls;



- not have ventilation systems that ventilate into any other part of the premises (except other rooms designated for smoking) or into any other smoke-free premises;
- have suitable doors, fitted with self closers (This condition does not apply to prisons.); and
- be clearly marked as a room in which smoking is permitted.

If these conditions cannot be met, the room cannot be used for smoking and will need to be smoke-free at all times.

It is the legal responsibility of anyone who controls or manages the premises to prevent people from smoking in all parts of the premises required to be smoke-free.

In addition to the conditions above, designated smoking rooms should not be allowed to be used for any other purpose, for example, as a television room or library.

#### • **Penalties**

Local authorities, rather than the Health and Safety Executive (HSE), are responsible for enforcing the legislation.

Penalties for non-compliance may be served on the occupier or manager of the premises as well as the person smoking. As an example, failing to prevent smoking in a smoke-free place can result in a maximum fine of £2,500 imposed on whoever manages or controls the smoke-free premises, or vehicle, if prosecuted and convicted by a court. The scale of fines varies according to the legislation in each part of the UK. There is no fixed penalty notice for this offence.

## ➤ **RECOMMENDATIONS**

Although smoking is not allowed in the workplace, provisions may be made for staff who wish to smoke outside the premises. When considering the provisions, the following recommendations should be observed.

### **1. General**

- 1.1 Every company should introduce a clear policy with regard to smoking at work. This should be set out to confirm compliance with legal requirements and company philosophy.
- 1.2 The policy should be prominently displayed and communicated and entered into any revised terms and conditions of employment. It should also be referred to in the company's health and safety policy.
- 1.3 All employees should understand that they have the right

to smoke outside the workplace but, as an employer, the company has the right to regulate the incidence and location of smoking on its own premises.

- 1.4 Smoking in areas where it is prohibited because of fire, explosion or other hazards should instigate staff disciplinary procedures.
- 1.5 Organisations should provide support and advice to help smokers who want to give up. (Details can be found in websites listed in the **Further Reading** section.)
- 1.6 A no-smoking policy must be established in outside areas where fire hazards exist. Such areas should include:
  - refuse and storage areas containing combustible materials;
  - areas used for the storage of toxic, flammable or corrosive liquids (including refuelling supplies);
  - areas where compressed gases are present; and
  - areas where high value equipment and special hazards such as foam plastics and stocks of timber are located.
- 1.7 No-smoking notices must be displayed prominently in all parts of the site, including the areas indicated in paragraph 1.6, where smoking should be prohibited.
- 1.8 Areas where smoking is allowed but no shelter is provided must be kept free of combustible materials and long undergrowth.
- 1.9 Where a smoking shelter is provided it should be subject to a specific fire risk assessment, in compliance with the Regulatory Reform (Fire Safety) Order 2005 (ref. 7), which should be recorded and be subject to periodic review.

### **2. Smoking shelters**

- 2.1 As indicated above, there is no requirement for outdoor smoking shelters to be provided for employees or members of the public, but if a shelter is to be built, any plans should be discussed with the local authority since issues such as planning permission, building control, noise and litter issues may need to be considered.
- 2.2 Where a smoking shelter is provided, it must be:
  - outside the building;
  - subject to a specific fire risk assessment;
  - constructed of non-combustible materials;
  - where practicable, sited at least 10m away from any building or structure, including gas cylinder and flammable liquid stores;
  - provided with suitable metal ashtrays and a separate metal waste bin with a fitted metal lid; and
  - provided with a suitable fire extinguisher in compliance with BS 5306-8 (ref. 8). The extinguisher should be maintained in accordance with BS 5306-3 (ref. 9). Where necessary, the extinguisher should be within a proprietary cabinet to protect it from the weather.
- 2.3 The shelter and the immediate area around it should be kept clear of combustible materials, including vegetation and windblown debris.
- 2.4 Raised, slatted floors or decking should not be used and

concealed or semi-open spaces should be sealed to ensure combustible debris cannot accumulate beneath the shelter.

2.5 Combustible curtains, canopies and drapes should not be used to protect smokers from the elements.

2.6 In no circumstances should the shelter be sited near:

- windows;
- ventilation intakes or extracts;
- entrances and exits from the premises;
- hazardous materials;
- waste storage containers (such as skips or bins); or
- beneath a canopy or low slung eaves.

2.7 If the use of portable heaters is proposed, the guidance contained in RC15: **Recommendations for the use of portable and transportable heaters in commercial and industrial premises** should be followed (ref. 10).

2.8 The metal waste bin and the ashtrays in the smoking shelters should be safely emptied and cleaned frequently. During these operations care must be taken not to dispose of the waste smoking materials with the general rubbish, unless suitable precautions, such as damping down, are taken.

2.9 While awaiting removal from the site, the final storage container for rubbish from smoking shelters should be at least 10m from buildings wherever possible.

### 3. Signs

3.1 Legal requirements are different in England from other parts of the UK. In England at least one legible no smoking sign must be displayed in each smoke-free workplace and vehicle. In Wales, Scotland and Northern Ireland suitable no-smoking signs should be prominently displayed at the entrance to all smoke-free premises and also in vehicles. An example sign is shown in Figure 1 and further information is set out in Annex B.

3.2 In Wales, Scotland and Northern Ireland the words 'these premises' may be changed to refer to the type of premises or area concerned, such as 'this restaurant' or 'this doorway', if desired.

3.3 In Wales, Scotland and Northern Ireland a smaller sign consisting of the international no-smoking symbol (see Annex B) may instead be displayed at entrances to smoke-free premises that:

- are only used by members of staff – providing the premises displays at least one A5 area sign; or
- are located within larger smoke-free premises, such as a shop within an indoor shopping centre.



Figure 1: Rectangular no-smoking sign (See Annex B)



Figure 2: Circular no-smoking sign (See Annex B)

### 4. Vehicles

The law requires vehicles to be smoke-free at all times if they are used:

- to transport members of the public; or
- in the course of paid or voluntary work by more than one person (regardless of whether there is more than one person in the vehicle at the same time).

Vehicles that are used primarily for private purposes are not required to be smoke-free.

When carrying persons, smoke-free vehicles with a roof that can be stowed or removed are not required to be smoke-free when the roof is completely removed or stowed.

4.1 In England a legible no smoking sign must be displayed in each smoke-free vehicle. In Wales, Scotland and Northern Ireland, smoke free vehicles need to display a no-smoking sign in each compartment of the vehicle in which people can be carried. This must show the international no-smoking symbol no smaller than 70mm in diameter.

4.2 It is the legal responsibility of anyone who drives, manages or is responsible for order and safety on a vehicle to prevent people from smoking.



## 5. Checklist

		Yes	No	N/A	Action required	Due date	Sign on completion
<b>5.1</b>	<b>General (section 1)</b>						
5.1.1	Has a clear policy with regard to smoking at work been introduced, setting out to confirm compliance with legal requirements and company philosophy? (1.1)						
5.1.2	Is the policy prominently displayed and communicated and entered into any revised terms and conditions of employment? Is it also referred to in the company's health and safety policy? (1.2)						
5.1.3	Do all employees understand that they have the right to smoke outside the workplace in accordance with the company's regulations? (1.3)						
5.1.4	Does smoking in areas where it is prohibited because of fire, explosion or other hazards instigate staff disciplinary procedures? (1.4)						
5.1.5	Is support and advice provided to help smokers who want to give up? (1.5)						
5.1.6	Has a no-smoking policy been established in outside areas where fire hazards exist, such as: <ul style="list-style-type: none"> <li>• refuse and storage areas containing combustible materials?</li> <li>• areas used for the storage of toxic, flammable or corrosive liquids (including refuelling supplies)?</li> <li>• areas where compressed gases are present?</li> <li>• areas where high value equipment and special hazards such as foam plastics and stocks of timber are located? (1.6)</li> </ul>						
5.1.7	Are no-smoking notices displayed prominently in all parts of the site, including the areas indicated in paragraph 1.6, where smoking should be prohibited? (1.7)						
5.1.8	Are areas where smoking is allowed but no shelter is provided kept free of combustible materials and long undergrowth? (1.8)						
5.1.9	Where a smoking shelter is provided, is it subject to a specific fire risk assessment in compliance with the Regulatory Reform (Fire Safety) Order 2005, and is it recorded and subject to a periodic review? (1.9)						
<b>5.2</b>	<b>Smoking shelters (section 2)</b>						
5.2.1	If a smoking shelter is to be built, have plans been discussed with the local authority regarding issues such as planning permission, building control, noise and litter? (2.1)						

		Yes	No	N/A	Action required	Due date	Sign on completion
5.2.2	Where a smoking shelter is provided is it: <ul style="list-style-type: none"> <li>• outside the building?</li> <li>• subject to a specific fire risk assessment?</li> <li>• constructed of non-combustible materials?</li> <li>• sited at least 10m away from any building or structure, including gas cylinder and flammable liquid stores? (2.2)</li> </ul>						
5.2.3	Are metal ashtrays provided together with a separate metal waste bin with a fitted metal lid? (2.2)						
5.5.4	Are the fire extinguishers serviced and maintained in compliance with BS 5306-3? (2.2)						
5.5.5	If necessary, is the extinguisher within a proprietary cabinet to protect it from the weather? (2.2)						
5.2.6	Is the shelter and the immediate area around it kept clear of combustible materials, including vegetation and windblown debris? (2.3)						
5.2.7	Is the smoking shelter free of raised, slatted floors or decking? (2.4)						
5.2.8	Are concealed or semi-open spaces sealed to ensure combustible debris cannot accumulate beneath the shelter? (2.4)						
5.2.9	Is the smoking shelter free of combustible curtains, canopies and drapes intended to protect smokers from the elements? (2.5)						
5.2.10	Is the shelter well away from: <ul style="list-style-type: none"> <li>• windows?</li> <li>• ventilation intakes or extracts?</li> <li>• entrances and exits from the premises?</li> <li>• hazardous materials?</li> <li>• waste storage containers (such as skips or bins)?</li> <li>• canopies or low slung eaves? (2.6)</li> </ul>						
5.2.11	If the use of portable heaters is proposed, is the guidance contained in RC15: <b>Recommendations for the use of portable and transportable heaters in commercial and industrial premises</b> followed? (2.7)						
5.2.12	Are provisions in place to empty and clean the metal waste bin and the ashtrays in the smoking shelters frequently? (2.8)						
5.2.13	During the cleaning operations referred to in 5.2.12, is care taken not to dispose of the waste smoking materials with the general rubbish, unless suitable precautions, such as damping down, are taken? (2.8)						

		Yes	No	N/A	Action required	Due date	Sign on completion
5.2.14	While awaiting removal from the site, is the final storage container for rubbish from smoking shelters at least 10m from buildings? (2.9)						
<b>5.3</b>	<b>Signs (section 3)</b>						
5.3.1	Are suitable no-smoking signs prominently displayed at the entrance to all smoke-free premises and also in vehicles? (3.1)						
5.3.2	In Wales, Scotland and Northern Ireland are signs of suitable dimensions? (See Annex B) (3.2)						
5.3.3	In Wales, Scotland and Northern Ireland do signs carry the following words in characters that can be easily read: 'No smoking. It is against the law to smoke in these premises'? (3.2)						
5.3.4	In Wales, Scotland and Northern Ireland do signs display the international no-smoking symbol (a graphic representation of a single burning cigarette enclosed in a red circle with a red bar across it)? (See Annex B) (3.2)						
<b>5.4</b>	<b>Vehicles (section 4)</b>						
5.4.1	In England is at least one legible no smoking sign displayed? (4.1) In Wales, Scotland and Northern Ireland is a no-smoking sign showing the international no-smoking symbol no smaller than 70mm in diameter displayed in each compartment of vehicles in which people can be carried? (4.1)						
5.4.2	Are staff aware that it is the legal responsibility of anyone who drives, manages or is responsible for order and safety on a vehicle to prevent people from smoking? (4.2)						



## ANNEX A – ADDITIONAL DEFINITIONS

### Enclosed premises (for England, Wales and Northern Ireland)

Enclosed premises:

1. have a ceiling or roof; and
2. except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

### Wholly enclosed premises (for Scotland)

Having a ceiling or roof and, except for doors, windows and passageways, wholly enclosed, whether permanently or temporarily.

### Substantially enclosed premises (for England, Wales and Northern Ireland)

Substantially enclosed if they have a ceiling or roof but there is:

1. an opening in the walls; or
2. an aggregate area (not including doors, windows or other fittings that can be opened or shut) of openings in the walls which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

**Note:** The term 'roof' includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including, for example, a canvas awning.

### Substantially enclosed premises (for Scotland)

Having a ceiling or roof and, except for doors, windows and passageways, substantially enclosed, whether permanently or temporarily. Premises shall be taken to be 'substantially enclosed' if 'the aggregate area of the opening(s) (not including any openings in which there are doors, windows or other fittings that can be opened or shut) in the premises are 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'. 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 as if it included the area of the opening.

### Designated bedroom (for England, Wales and Northern Ireland) in a hotel, guest house, inn, hostel or members' club

Such a room is defined as follows:

1. is set apart exclusively for sleeping accommodation;
2. has been designated in writing by the person having the charge of the premises in which the room is situated as being a room in which smoking is permitted;
3. has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
4. does not have a ventilation system that ventilates into any other part of the premises (except any other designated bedrooms) or (in the Northern Ireland regulations) other premises;
5. does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
6. is clearly marked as a bedroom in which smoking is permitted.

**Note:** 'Bedroom' does not include any dormitory or other room that a person in charge of premises makes available under separate arrangements for persons to share at the same time.

### Designated bedroom (for Scotland) in a hotel

A designated bedroom is defined as follows:

1. is set apart exclusively for the sleeping accommodation of travellers;
2. has been designated by the person having the management or control of the hotel as being a room in which smoking is permitted;
3. has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls;
4. has a ventilation system that does not ventilate into any other part of the hotel (except any other designated hotel bedrooms); and
5. is clearly marked as a bedroom in which smoking is permitted.

### Designated room in a research or testing facility (for England, Wales and Northern Ireland)

Such a room is defined as follows:

1. has been designated in writing by the person in charge of the research or testing facility ('establishment' in Wales) in which the room is situated as being a room in which smoking is permitted for research or tests specified (see the Smoke-free (Exemptions and Vehicles) Regulations 2007 for a complete list – list relates to research associated with smoking matters) and is a room for the use only of the persons who are required to supervise or participate in the research or tests;
2. has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
3. does not have a ventilation system that ventilates into any other part of the premises or other premises (except any other designated rooms); or (in the Northern Ireland regulations) other premises;
4. does not have any door opening onto smoke-free premises that is not mechanically closed immediately after use; and
5. is clearly marked as a room in which smoking is permitted.

### Designated laboratory room (for Scotland)

Designated laboratory room means a room in a laboratory, the recognised activities of which laboratory consist of, or include, the conduct of scientific education or research into smoking, which

1. is set apart exclusively for the testing of smoke;
2. has been designated by the person having the management or control of the laboratory as being a room in which smoking is only permitted for scientific purposes;
3. has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls;

4. has a ventilation system that does not ventilate into any other part of the laboratory (except any other designated laboratory rooms); and
5. is clearly marked as a room in which smoking is only permitted for scientific purposes.

## ANNEX B – NO-SMOKING SIGNS

In England the introduction of the Smoke-free (Signs) Regulations 2012 removed legal requirements for no smoking signs to be of specific dimensions. The legislation now requires that in England at least one legible sign must be displayed in every workplace and vehicle.

The situation in Northern Ireland, Wales and Scotland is set out in the table below.

	Northern Ireland	Wales	Scotland
Minimum sign size – 210mm x 148mm (A5 size)	✓		
Minimum sign size – 230mm x 160mm		✓	✓
Minimum diameter for the no-smoking symbol on these signs – 70mm			
Minimum diameter for the no-smoking symbol on these signs – 75mm	✓		
Minimum diameter for the no-smoking symbol on these signs – 85mm		✓	✓
No-smoking symbol only sign permitted at employee-only entrances	✓		**
Sign has to indicate to whom, at the premises, smoking breach complaints can be made			✓
Bilingual sign required		✓	

\*\* See guidance to the Scottish Regulations for further details.

### Sign location

In England at least one legible no smoking sign has to be displayed in smoke-free premises. In Wales and Northern Ireland, the signs have to be 'displayed in a prominent position at each entrance to smoke-free premises'. In Scotland, the regulations say that signs are to be 'in, on or near to no-smoking premises so as to be visible and legible by persons approaching and inside the premises'.

### Sign content

In England there is no statutory requirement regarding the style of no smoking signs to be displayed in smoke-free premises and vehicles. In other parts of the UK the sign has to include the no-smoking symbol; the minimum diameters are shown in the table above.

In Northern Ireland, the sign also has to include the words 'No smoking. It is against the law to smoke in these premises', but other suitable words may be substituted for the words 'these premises' which refer to the particular smoke-free premises in which a sign is displayed (such as 'this hotel').

In Wales, the sign has to include the words: 'Mae ysmygu yn y fangre hon yn erbyn y gyfraith / It is against the law to smoke in these premises'.

In Scotland, signs must state that the premises are no-smoking premises and that it is an offence to smoke there or knowingly to permit smoking there. The no-smoking sign must display the name of the person to whom a complaint may be made by any person who observes another person smoke in the no-smoking premises in question and state that a complaint may be so made.

## ANNEX C – EXEMPTIONS

### England

Only a few premises are exempt from the Smoke-free (Premises and Enforcement) Regulations 2006 and all exemptions are subject to strict conditions. Exemptions have been provided for workplaces with specific circumstances and are provided to allow managers to designate specific rooms for smoking in the following types of premises:

- hotels, inns, hostels, guesthouses and members' clubs that provide sleeping accommodation. In these premises managers may designate individual guest bedrooms for smoking, but all other parts of the premises must be smoke-free. Dormitories and other shared accommodation that is made available under separate arrangements must be smoke-free at all times;
- care homes<sup>1</sup>, hospices<sup>2</sup> and prisons may designate either individual bedrooms or rooms to be used only for smoking for use by persons over 18 years of age;
- residential mental health units<sup>3</sup> were able to designate either individual bedrooms or rooms to be used only for smoking for use by persons over 18 years of age but this exemption applied only until 1 July 2008 when they were required to become smoke-free;
- offshore installations<sup>4</sup> may designate rooms to be used only for smoking;
- specialist tobacconist shops<sup>5</sup> may allow people to sample cigars or small amounts of pipe tobacco within the shop premises. Smoking of any other product, including cigarettes, is prohibited;
- research and testing facilities may designate certain rooms for smoking only while the rooms are being used for any research or testing activities specified in the smoke-free legislation; and
- in England, smoking may be allowed on stage during theatrical performances (but not rehearsals) if it is deemed necessary for 'artistic integrity'.

<sup>1</sup> Care homes as defined in the section 3 of the Care Standards Act 2000.

<sup>2</sup> Hospices which as their whole or main purpose provide palliative care for persons resident there who are suffering from progressive disease in its final stages.

<sup>3</sup> Residential mental health unit means any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder, as defined in section 1(2) of the Mental Health Act 1983.

<sup>4</sup> Offshore installations as defined in regulation 3 of the Offshore Installations and Pipeline Works (Management and

Administration) Regulations 1995.

- <sup>5</sup> Only specialist tobacconist stores that meet the definition in section 6(2) of the Tobacco Advertising and Promotion Act 2002.

### Wales

Only a few exemptions are provided in the Smoke-free Premises (Wales) Regulations 2007 to cover workplaces which are also a person's place of residence. These include:

- designated rooms in adult residential care home, adult hospice or residential mental health treatment setting;
- designated rooms in residential mental health treatment settings; and
- designated bedrooms in a hotel, guesthouse, inn, hostel or membership club.

### Scotland

Those premises (or parts of premises) which are exempt from The Smoking, Health and Social Care (Scotland) Act 2005 and the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 are:

- residential accommodation;
- designated rooms in adult care homes;
- adult hospices;
- designated rooms in psychiatric hospitals and psychiatric units;
- designated hotel bedrooms;
- detention or interview rooms which are designated rooms;
- designated rooms in offshore installations; and
- private vehicles.

### Northern Ireland

In Northern Ireland the exemptions are set out in detail in The Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007 and apply only to premises that would be smoke-free under Article 3 of the Order if those exemptions had not been made.

The Regulations give detail as to the following:

- private accommodation;
- accommodation for guests and club members;
- other residential accommodation (residential care homes, nursing homes etc);
- prisons, young offenders centres and remand centres;
- temporary exemptions for police detention cells or interview rooms;
- temporary exemptions for police exercise areas;
- specialist tobacconists;
- research and testing facilities;
- temporary exemptions for mental health units; and
- enclosed vehicles.

## REFERENCES

1. Smoke-free (Premises and Enforcement) Regulations 2006, SI 2006 No 3368, The Stationery Office, [www.opsi.gov.uk/si/si2006/20063368.htm](http://www.opsi.gov.uk/si/si2006/20063368.htm)
2. Smoke-free (Signs) Regulations 2012, SI 2012 No 1536, The Stationery Office. [www.legislation.gov.uk/uk/si/2012/1536/made](http://www.legislation.gov.uk/uk/si/2012/1536/made)
3. Smoke-free Premises etc. (Wales) Regulations 2007, SI 2007 No 787 (W.68), The Stationery Office, [www.opsi.gov.uk/legislation/wales/wsi2007/wsi\\_20070787\\_en\\_1](http://www.opsi.gov.uk/legislation/wales/wsi2007/wsi_20070787_en_1)
4. Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006, Scottish SI 2006 No 90, The Stationery Office, [www.opsi.gov.uk/legislation/scotland/ssi2006/20060090.htm](http://www.opsi.gov.uk/legislation/scotland/ssi2006/20060090.htm)
5. Smoking (Northern Ireland) Order 2006, SI 2006 No 2957 (NI 20), The Stationery Office, [www.opsi.gov.uk/si/si2006/uk/si\\_20062957\\_en.pdf](http://www.opsi.gov.uk/si/si2006/uk/si_20062957_en.pdf)
6. Smoke-free (Exemptions and Vehicles) Regulations 2007, SI 2007 No 765, The Stationery Office. [www.opsi.gov.uk/si/si2007/uk/si\\_20070765\\_en\\_1](http://www.opsi.gov.uk/si/si2007/uk/si_20070765_en_1)
7. Regulatory Reform (Fire Safety) Order 2005, SI 2005 No 1541, The Stationery Office. [www.opsi.gov.uk/si/si2005/20051541.htm](http://www.opsi.gov.uk/si/si2005/20051541.htm)
8. BS 5306-8: 2012: **Fire extinguishing installations and equipment on premises. Selection and positioning of portable fire extinguishers. Code of practice**, British Standards Institution.
9. BS 5306-3: 2009: **Fire extinguishing installations and equipment on premises. Commissioning and maintenance of portable fire extinguishers. Code of practice**, British Standards Institution.
10. RC15: **Recommendations for the use of portable and transportable heaters in commercial and industrial premises**, 2006, RISCAuthority. Available from the RISCAuthority website: [www.riscauthority.co.uk](http://www.riscauthority.co.uk)

## FURTHER READING

- Department of Health – [www.dh.gov.uk](http://www.dh.gov.uk)
- Smoke-Free England – [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk)
- Go Smoke Free – [smokefree.nhs.uk](http://smokefree.nhs.uk)
- Clearing the Air Scotland – [www.clearingtheairscotland.com](http://www.clearingtheairscotland.com)
- Smoking Ban Wales – [www.smokingbanwales.co.uk](http://www.smokingbanwales.co.uk)
- Space to Breathe for Northern Ireland – [www.spacetobreathe.org.uk/article.asp?aid=206](http://www.spacetobreathe.org.uk/article.asp?aid=206)

Fire Protection Association  
London Road, Moreton in Marsh  
Gloucestershire GL56 0RH, UK  
Tel: +44 (0)1608 812500 Fax: +44 (0)1608 812501  
Email: [administrator@riscauthority.co.uk](mailto:administrator@riscauthority.co.uk)  
Website: [www.riscauthority.co.uk](http://www.riscauthority.co.uk)

2013 © The Fire Protection Association  
on behalf of RISC Authority

Hard copies of this document may be obtained from the  
publications department of the FPA at the above address.

Electronic copies may be obtained from [www.riscauthority.co.uk](http://www.riscauthority.co.uk).

Printed by: Brightsea Print Group 09.13/0.6