Draft Regulations laid before Parliament under section 79(4) of the Health Act 2006, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2007 No.

PUBLIC HEALTH, ENGLAND

The Smoke-free (Exemptions and Vehicles) Regulations 2007

Made - - - -	*2007*
Coming into force - -	*1st July 2007*

The Secretary of State for Health, in exercise of the powers conferred by sections 3, 5 and 79(3) of the Health Act 2006(**1**) makes the following Regulations, a draft of which was laid before Parliament in accordance with section 79(4) of that Act and approved by a resolution of each House of Parliament: —

PART 1

General

Citation, commencement and application

1.—(1) These Regulations which may be cited as the Smoke-free (Exemptions and Vehicles) Regulations 2007 shall come into force on 1st July 2007.

(2) These Regulations apply in relation to England.

PART 2

Exemptions

Application of Part 2

2. The exemptions in this Part apply only to premises that would be smoke-free under section 2 of the Health Act 2006 if those exemptions had not been made.

(**1**) 2006 c.28. As to the meaning of "appropriate national authority" see section 82(1).

Private accommodation

3.—(1) A private dwelling is not smoke-free except for any part of it which is—

(a) used in common in relation to more than one set of premises (including premises so used in relation to any other private dwelling or dwellings); or

(b) used solely as a place of work (other than work that is excluded by paragraph (2)) by—

(i) more than one person who does not live in the dwelling;

(ii) a person who does not live in the dwelling and any person who does live in the dwelling; or

(iii) a person (whether he lives in the dwelling or not) who in the course of his work invites persons who do not live or work in the dwelling to attend the part of it which is used solely for work.

(2) There is excluded from paragraph (1)(b) all work that is undertaken solely—

(a) to provide personal care for a person living in the dwelling;

(b) to assist with the domestic work of the household in the dwelling;

(c) to maintain the structure or fabric of the dwelling; or

(d) to install, maintain or remove any service provided to the dwelling for the benefit of persons living in it.

(3) In this regulation, "private dwelling" includes self-contained residential accommodation for temporary or holiday use and any garage, outhouse or other structure for the exclusive use of persons living in the dwelling.

Accommodation for guests and club members

4.—(1) A designated bedroom in a hotel, guest house, inn, hostel or members' club is not smoke-free.

(2) In this regulation "a designated bedroom" means a room which—

(a) is set apart exclusively for sleeping accommodation;

(b) 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;

(c) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(d) does not have a ventilation system that ventilates into any other part of the premises (except any other designated bedrooms);

(e) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(f) is clearly marked as a bedroom in which smoking is permitted.

(3) In this regulation "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.

Other residential accommodation

5.—(1) A designated room that is used as accommodation for persons aged 18 years or over in the premises specified in paragraph (2) is not smoke-free.

(2) The specified premises are—

(a) care homes as defined in section 3 (care homes) of the Care Standards Act 2000(**2**);

(b) 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; and

(c) prisons.

(3) In this regulation "designated room" means a bedroom or a room used only for smoking which—

(a) has been designated in writing by the person having charge of the premises in which the room is situated as being a room in which smoking is permitted;

(b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms);

(d) is clearly marked as a room in which smoking is permitted; and

(e) except where the room is in a prison, does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use.

Performers

6. Where the artistic integrity of a performance makes it appropriate for a person who is taking part in that performance to smoke, the part of the premises in which that person performs is not smoke-free in relation to that person during his performance.

Specialist tobacconists

7.—(1) The shop of a specialist tobacconist that is being used by persons who are sampling cigars and pipe tobacco is not smoke-free for the duration of that sampling if it—

(a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(b) does not have a ventilation system that ventilates into any smoke-free premises;

(c) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(d) is clearly marked as premises in which smoking is permitted.

(2) In this regulation "cigar" has the same meaning as in the Tobacco Products (Descriptions of Products) Order 2003(**3**) and "specialist tobacconist" has the same meaning as in section 6(2) of the Tobacco Advertising and Promotion Act 2002(**4**).

Offshore installations

8.—(1) A designated room in an offshore installation is not smoke-free.

(2) In this regulation a "designated room" means a room used only for smoking which—

(a) has been designated in writing by the person in charge of the installation in which the room is situated as being a room in which smoking is permitted;

(b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;

(**2**) 2000 c.14.
(**3**) S.I. 2003/1471; see article 5 and the Schedule.
(**4**) 2002 c.36.