

Smokefree England 1 July 2007 - what it means for eating places

A law requiring smokefree environments in workplaces, including all types of eating places, comes into effect on 1 July 2007. The legislation ensures that workers and members of the public are protected from the risks to health from tobacco smoke and are guaranteed their right to a smokefree environment. Final regulations have yet to be cleared by Parliament and the guidance is therefore subject to final parliamentary clearance.

What eating places are covered by the legislation?

The legislation covers all restaurants, cafes and takeaways. Designated smoking areas and rooms in these eating places will become illegal. Smoking in other enclosed places such as tents and marquees is also not allowed.

What do 'enclosed' and '*substantially enclosed*' mean?

Enclosed: the premises has a roof and is wholly enclosed by walls. It includes temporary structures such as tents and marquees.

Substantially enclosed: the structure has a roof and openings in the walls represent 50% or less of total wall area. This is called the '50% rule'. For more detailed information click onto www.smokefreeengland.co.uk

What will the legislation mean in practice?

It requires the restaurant, café and takeaway owner or manager to:

- Ensure all enclosed and substantially enclosed premises are smokefree.
- Display required 'No-smoking' signage at public entrance and within the eating place. The required signage will be available free by registering at www.smokefreeengland.co.uk.
- Take reasonable steps to ensure that staff, customers and members of the public are aware that the premises is legally required to be smokefree and that everyone complies with the law.

What about outdoor smoking areas?

Here are some of the issues to consider in order to designate an outdoor drinking area for smoking:

- Check that your alcohol licence extends to outside areas. If not, you will need to apply to the local council
- If the outdoor area is licensed, check the permitted hours. If the outdoor area has an earlier closing time than the bar, customers cannot take their drink with them after the permitted time when going for a cigarette.
- Drinking outside will generate noise and litter and may cause light pollution which might result in neighbours raising objections to the council.
- If you want to erect a structure outside, you need planning permission from the local council.

Do employers have to provide smoking breaks or outside smoking areas?

No on both counts. By law, employers must give staff an uninterrupted rest break of 20 minutes when their daily working time is more than six hours (staff under 18 are entitled to 30 minutes break after 4½ work). Staff can, of course, smoke during their rest period, if they choose, but they must not smoke in an enclosed or substantially enclosed area. As an employer you must decide whether or not to permit smoking elsewhere on your premises eg in open car parks, grounds, or shelters and you should indicate where smoking is allowed in your smoking policy.

My home is above the café/takeaway. Does it have to be smokefree too?

No. The legislation does not cover private residential space. However, any room of your home used as a workplace in which someone not living in the house comes into work or visit on work-related business will need to be smokefree and display “no smoking” signage.

What are the penalties for non-compliance?

Responsibility for compliance rest with centre personnel accountable for complying with legislation:

- Failure to display required no smoking signs: up to £1000 or £200 fixed penalty notice
- Smoking in a no-smoking place: up to £200 or a penalty notice of £50
- Failure to prevent smoking in an enclosed or substantially enclosed place: up to £2500.

What help is there for staff to stop smoking?

The NHS offers a wide range of excellent, free and easily accessible support for smokers including local NHS Stop Smoking Services, the Together Programme, the NHS Smoking Helpline - 0800 169 0169, and nicotine replacement therapy (NRT) on prescription. For details of stop smoking services in the East of England, visit www.smokefreeeast.co.uk

Where can I get signage and resources?

Log onto www.smokefreeengland.co.uk or phone the Smokefree England Information Line 0800 169 1697 and register for the latest updates, free signage and resources.