
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Smoke-free (Exemptions and Vehicles) Regulations 2007

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.

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⁽¹⁾;
- (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;

(1) 2000 c.14.

- (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(2) and “specialist tobacconist” has the same meaning as in section 6(2) of the Tobacco Advertising and Promotion Act 2002(3).

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;
- (c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms);
- (d) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and
- (e) is clearly marked as a room in which smoking is permitted.

Research and testing facilities

9.—(1) A designated room in a research or testing facility is not smoke-free whilst it is being used for any research or tests specified in paragraph (2).

(2) The research or tests that are specified are those that relate to—

- (a) emissions from tobacco and other products used for smoking;
- (b) development of products for smoking with lower fire hazards;
- (c) the fire safety testing of materials involving products for smoking;
- (d) development of smoking or pharmaceutical products that could result in the manufacture of less dangerous products for smoking; or
- (e) smoking cessation programmes.

(3) In this regulation a “designated room” means a room which—

- (a) has been designated in writing by the person in charge of the research or testing facility in which the room is situated as being a room in which smoking is permitted for research or tests specified in paragraph (2) and is a room for the use only of the persons who are required to supervise or participate in the research or tests;
- (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 or other premises (except any other designated rooms);
- (d) does not have any door that opens onto smoke-free premises which is not mechanically closed immediately after use; and

(2) [S.I. 2003/1471](#); see article 5 and the Schedule.

(3) [2002 c.36](#).

- (e) is clearly marked as a room in which smoking is permitted.

Temporary exemption for mental health units

10.—(1) A designated room for the use of patients aged 18 years or over in residential accommodation in a mental health unit is not smoke-free.

(2) 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 in charge of the mental health unit 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 room);
- (d) is clearly marked as a room in which smoking is permitted; and
- (e) does not have any door that opens on to smoke-free premises which is not mechanically closed immediately after use; and

“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⁽⁴⁾.

(3) Paragraphs (1) and (2) shall cease to have effect on 1st July 2008.

(4) 1983 c.20.