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STATUTORY INSTRUMENTS

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**2006 No. 3368**

**PUBLIC HEALTH, ENGLAND**

**The Smoke-free (Premises and Enforcement) Regulations 2006**

*Made* - - - - *13th December 2006*  
*Laid before Parliament* *18th December 2006*  
*Coming into force* - - *1st July 2007*

The Secretary of State for Health, in exercise of the powers in sections 2(5), 10(1) and (2) and 79(3) of the Health Act 2006(1), makes the following Regulations:—

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Smoke-free (Premises and Enforcement) Regulations 2006 and shall come into force on 1<sup>st</sup> July 2007.

(2) These Regulations apply in relation to England only.

(3) In these Regulations “the Act” means the Health Act 2006.

**Enclosed and substantially enclosed premises**

2.—(1) For the purposes of section 2 of the Act, premises are enclosed if they—

(a) have a ceiling or roof; and

(b) except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

(2) For the purposes of section 2 of the Act, premises are substantially enclosed if they have a ceiling or roof but there is—

(a) an opening in the walls; or

(b) an aggregate area 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.

(3) In determining the area of an opening or an aggregate area of openings for the purposes of paragraph (2), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

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

(4) In this regulation “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.

## **Enforcement**

**3.—(1)** Each of the following authorities is designated as an enforcement authority for the purposes of Chapter 1 of Part 1 of the Act—

- (a) a unitary authority;
- (b) a district council in so far as it is not a unitary authority;
- (c) a London borough council;
- (d) a port health authority;
- (e) the Common Council of the City of London;
- (f) the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple; and
- (g) the Council of the Isles of Scilly.

(2) In this regulation—

“port health authority” means an authority constituted under section 2(3) (port health districts and authorities) of the Public Health (Control of Disease) Act 1984(2) or continued to be so known and styled under paragraph 1 of Schedule 1 (transitional provisions and savings) to that Act; and

“unitary authority” means—

- (a) the council of a county so far as it is the council for an area for which there are no district councils; or
- (b) the council of any district comprised in an area for which there is no county council.

(3) An enforcement authority has enforcement functions in relation to the premises and vehicles that are within—

- (a) in the case of a port health authority, the district for which it is a port health authority; and
- (b) in the case of other authorities, the area for which it is a local authority other than any part of that area which falls within the district of a port health authority,

except to the extent that those functions have been transferred to another enforcement authority under paragraph (5).

(4) In addition, each enforcement authority has enforcement functions in relation to premises and vehicles to the extent to which functions are transferred to it under paragraph (5).

(5) Where more than one enforcement authority is investigating the same person for an offence under section 6(5) (no-smoking signs), 7(2) (smoking in a smoke-free place), 8(4) (failing to prevent smoking in a smoke-free place) or 11(1) (obstruction etc of officers) of the Act, enforcement functions may be transferred from one or more of those enforcement authorities to—

- (a) an enforcement authority that is carrying out any of those investigations; or
- (b) any other enforcement authority,

under arrangements made between the transferring and receiving authorities.

Signed by authority of the Secretary of State for Health

13th December 2006

*Caroline Flint*  
Minister of State for Public Health  
Department of Health

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations which apply in England are made under Chapter 1 of Part 1 of the Health Act 2006 (smoke-free premises, places and vehicles).

Regulation 2 specifies the meanings of “enclosed” and “substantially enclosed” premises. By paragraph (1) premises are enclosed if they have a ceiling or roof and, except for doors, windows and passageways, they are wholly enclosed either permanently or temporarily. By paragraphs (2) and (3) premises are substantially enclosed if they have a ceiling or roof and less than half of their perimeter consists of openings in the walls, other than windows, doors or openings which can be shut. Paragraph (4) defines “roof” for the purposes of the regulation to include any fixed or moveable structure which is capable of covering all or part of the premises.

Regulation 3 specifies enforcement authorities and makes other provision relating to enforcement.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies can be obtained from the Smokefree Legislation Team, Room 712, Department of Health, Wellington House, 133-135 Waterloo Road, London SE1 8UG.