



# Smoking, Health and Social Care (Scotland) Act 2005

2005 asp 13

## PART 1

### SMOKING: PROHIBITION AND CONTROL

#### **1 Offence of permitting others to smoke in no-smoking premises**

- (1) A person who, having the management or control of no-smoking premises, knowingly permits another to smoke there commits an offence.
- (2) A person accused of an offence under this section is to be regarded as having knowingly permitted another to smoke in no-smoking premises if that person ought to have known that the other person was smoking there.
- (3) It is a defence for an accused charged with an offence under this section to prove—
  - (a) that the accused (or any employee or agent of the accused) took all reasonable precautions and exercised all due diligence not to commit the offence; or
  - (b) that there were no lawful and reasonably practicable means by which the accused could prevent the other person from smoking in the no-smoking premises.
- (4) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

#### **Modifications etc. (not altering text)**

- C1** S. 1 applied (15.5.2006) by [Smoking, Health and Social Care \(Scotland\) Act 2005 and The Prohibition Of Smoking In Certain Premises \(Scotland\) Regulations 2006 \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.I. 2006/1115\)](#), arts. 1, 3 (with art. 4)

#### **Commencement Information**

- I1** S. 1 in force at 26.3.2006 at 0600 hours by [S.S.I. 2005/492](#), art. 3(d)

**Changes to legislation:**

There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Section 1.