

HEALTH ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Smoking

Chapter 1 - Smoke-Free Premises, Places and Vehicles

Section 2: Smoke-free premises

35. *Section 2* makes provision for enclosed or substantially enclosed premises which are open to the public, and shared workplaces, to be smoke-free.
36. *Subsection (1)* provides that premises that are open to the public are to be smoke-free when they are open to the public. However, unless such premises also fall within the provisions of *subsection (2)*, they are smoke-free only when open to the public.
37. *Subsection (2)* provides that if premises are used as a place of work by more than one person, irrespective of whether such people work there at the same time, or if they are used a place of work where the public might attend to seek or receive goods or services, then they are to be smoke-free all the time. *Subsection (3)* provides that if only part of any premises are open to the public or used as a place of work, then the premises are only smoke-free to that extent.
38. *Subsection (4)* provides that only enclosed or substantially enclosed premises are smoke-free under section 2. The appropriate national authority (the Secretary of State in the case of England and the National Assembly in the case of Wales) may define in regulations under *subsection (5)* the meaning of “enclosed” or “substantially enclosed”.
39. *Subsection (6)* is a signpost to section 3, which provides that premises that would otherwise be smoke-free under section 2 may be exempted from that requirement by regulations made under section 3.
40. *Subsections (7) and (8)* make provision as to what is covered by the terms “open to the public” and “work”.