

HEALTH ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Smoking

Chapter 1 - Smoke-Free Premises, Places and Vehicles

Section 3: Smoke-free premises: exemptions

41. *Section 3* enables regulations to be made by the appropriate national authority to specify descriptions of premises, or specified areas within such premises, which are not to be smoke-free where they would otherwise be covered by the provisions of *Section 2*.
42. *Subsection (2)* gives examples of the types of premises that might be specified under such regulations. These might include, in particular, premises where someone has their home or where they are living, whether permanently or temporarily. Such premises might include places such as rooms in a hotel, bed and breakfast accommodation, a hostel or a care home. They could also include a place where a person is detained, such as a prison.
43. *Subsection (3)* provides that such regulations may not exempt from the smoke-free requirement premises where the sale of alcohol is permitted under a premises licence under the Licensing Act 2003 (which could include places such as pubs, bars, discos and nightclubs) or premises which operate under a club premises certificate under the Licensing Act. However, by virtue of *subsection (4)*, if someone has their home, or is living either temporarily or permanently, in some area within such premises, the regulations may specify that particular living area as being exempt from the smoke-free requirement. This could permit, for example, a publican's living accommodation above a pub to be exempt from the smoke-free requirement that applies to the pub itself.
44. *Subsection (5)* provides that such regulations may make provision for those taking part in performances, so as to permit smoking by such performers if artistic integrity so requires. Performances may, by virtue of *subsection (8)*, include the performance of a play or a performance in connection with a film or television production (including rehearsals in each case but only if the regulations so provide). This would, for example, enable provision to be made enabling those participating in an artistic performance to smoke (where the artistic integrity of the performance made it appropriate) where that performance takes place on licensed premises.
45. *Subsection (6)* makes provision in respect of the matters such regulations may deal with, including the circumstances and conditions under which, and the times at which, premises may be exempt from the smoke-free requirement. *Subsection (7)* provides that regulations may also make provision for the designation of rooms in which smoking may be permitted. This would enable provision to be made for designated smoking rooms, for example, in premises such as hotels, prisons or long term adult care homes or in other premises where it may be impossible for smoking to take place outside for safety, health or practical reasons, such as oil rigs.