

Smoking legislation

Guidance in care homes for adults



Smoking Legislation

Scottish Statutory Instrument 2006/90

Public Health

The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006

Care Home for Adults

Care Homes for Adults are considered to be exempt within the Smoking, Health and Social Care (Scotland) Act 2005. In addition to this smoking is prohibited for children and young people under the age of 16, and such care homes are defined as follows:

- “adult care home” means an establishment providing a care home service exclusively for adults;

Designated rooms where smoking is permitted are intended for the use of residents only, not for staff or visitors. The exemption for designated rooms in these premises was made in recognition that they are residential establishments. These rooms must, under the terms of the exemption, be enclosed spaces for example, not one end of a large room. Finally, they must be clearly marked as a room in which smoking is permitted.

Ventilation systems may make the air appear cleaner, by diluting the larger particles found in tobacco smoke, but ventilation cannot protect people from the health risks associated with second-hand smoke.

Staff should not normally be required to work in these designated smoking rooms. If they have to enter them, then their time of exposure to second-hand smoke must be kept to a minimum. Staff with pre-existing conditions exacerbated by second-hand smoke for example, asthma, should not be asked to enter them at all.

Effective tobacco and smoking policies, sensitively communicated, can help to encourage smokers to stop smoking, which brings health benefits at any age.

If it is not possible to provide a designated room for smoking in line with the legislation, then the building must be smoke-free. This ensures that residents and staff are protected from the dangers of second-hand smoke.

Designated Room

A “designated room” means a room which:

- has been designated by the person having the management or control of the no-smoking premises in question as being a room in which smoking is permitted;
- has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor-to-ceiling walls;
- has a ventilation system that does not ventilate into any other part of the no-smoking premises in question (except any other designated rooms and not immediately beneath or next to a window);

and

- is clearly marked as a room in which smoking is permitted;

Ideally they would be separated from the corridor or connections to the rest of the building by a double door.

Display of no-smoking notices

A no-smoking notice shall be displayed by the person having the management or control of the no-smoking premises in such a manner that it is protected from tampering, damage, removal or concealment.

At least one no-smoking notice displayed in no-smoking premises that are not a vehicle shall:

- be a minimum size of 230mm by 160mm
- display the international “no smoking” symbol, consisting of a graphic representation of a burning cigarette enclosed in a red circle with a red bar across it, at least 85mm in diameter;

and

- display the name of the person to whom a complaint may be made by any person who observes another person smoke in the no-smoking premises in question and state that a complaint may be so made.

The remainder of no-smoking notices displayed in no-smoking premises that are not a vehicle and any no-smoking notices displayed on or near no-smoking premises that are not a vehicle shall display the international “no smoking” symbol, consisting of a graphic representation of a burning cigarette enclosed in a red circle with a red bar across it, at least 85mm in diameter.

It is important to note that there is no legal obligation on the proprietors of those premises, to which an exemption applies under the new law to provide designated areas for smoking if they do not wish to do so.

Source of information

<http://www.legislation.gov.uk/asp/2005/13/contents>

http://www.legislation.gov.uk/ssi/2006/90/pdfs/ssi_20060090_en.pdf

<http://www.gov.scot/Publications/2005/12/21153341/33431>

Further information

<http://www.ashscotland.org.uk/>

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