

## A guide to the smoke – free regulations (England)

The new smoke-free law will apply to premises in England from 6.00am on 1<sup>st</sup> July 2007.

The new law applies to anything that can be smoked. This includes cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes.

The smoke-free law applies to virtually all “enclosed” and “substantially closed” public places and work places.

It includes permanent and temporary structures (e.g. tents and marquees).

“Enclosed” mean premises which have a ceiling or roof and are wholly enclosed either permanently or temporarily (disregarding any doors and windows).

“Substantially enclosed” mean premises which have a ceiling or roof and openings in wall s less than half the total wall area (disregarding doors and windows and similar fittings).

“Roof” includes fixed or moveable structures (e.g. canvas awnings).

From 1<sup>st</sup> July 2007 a dedicated telephone line will be in operation to enable employees and members of the public to report possible breaches of the law.

Anyone who does not comply with the smoke-free law will commit an offence.

The fine for each offence is contained in the table below.

Fixed penalty notices are available for some offences. Discounts are made for early payment. If the fixed penalty notice is not accepted a person can choose to be dealt with the offence if a fixed penalty notice is not paid. The table below sets out the relevant details.

<b>Offence</b>	<b>Who is liable?</b>	<b>Fixed penalty notice (if paid in 15 days)</b>	<b>Fixed penalty notice (if paid in 29 days)</b>	<b>Court awarded fine</b>
Smoking in a smoke-free place	Anyone who is smokes in a smoke-free place	£30	£50	Up to £200
Failing to display required no-smoking signs	Anyone who manages or occupies the smoke-free premises or vehicle	£150	£200	Up to £1000
Failure to prevent smoking in a smoke-free place	Anyone who manages or controls the smoke-free premises or vehicle	N/A	N/A	Up to £2500

## Vehicles

Vehicles are included if used:

- For public transport, or
- For paid or voluntary work by more than one person whether or not in the vehicle at the same time

Vehicles are excluded if:

- They are convertible and the roof is completely removed or stowed away, or
- Used primarily for private purposes

## Working from home

An office or room in a private dwelling is included if it is used solely for work purposes and:-

- It is used by more than one person who does not live at the dwelling, or
- Members of the public visit to deliver or receive goods and/ or services

## Signage

At every entrance to smoke-free premises no smoking signs must be displayed which:

- Are a minimum size A5 (210mm x 148mm), and
- Display the International No Smoking symbol at least 70mm in diameter and
- Contain the words:  
"No Smoking. It is against the law to smoke in these premises"

It is possible to personalise the wording by referring to the name or type of the premises e.g.:

"No Smoking. It is against the law to smoke in this pub/ bingo club/ restaurant"

"No Smoking. It is against the law to smoke in The Dog and Duck"

As an alternative a smaller sign containing the International No Smoking symbol at least 70mm in diameter may be displayed at entrances to smoke-free premises which are:

- Only used by staff providing that there is at least one A5 sign displayed at another entrance, or
- Located within a larger smoke-free premises (e.g. a pub/club within an indoor shopping centre)

Smoke-free vehicles must display a no smoking sign showing the International No Smoking symbol at least 70mm in diameter in each part of the vehicle in which people may be carried.

Both signs can be downloaded and printed or ordered from [www.smokefreeengland.co.uk/resources](http://www.smokefreeengland.co.uk/resources).

## Enforcement

Local Councils are responsible for enforcing the law in England. Each council will appoint authorised officers who can:

- At any reasonable time, enter any premises (except a private dwelling house not open to the public)
- Carry out any inspections and examinations
- Require production of any substance or product, inspect it and take samples or extracts from it
- Take possession of any substance or product on the premises and retain it
- Require anyone to provide information, facilities or assistance

These powers can only be exercised:

- If requested, on production of the officer's written authorisation form the council
- If considered necessary by the officer for the proper exercise of their duties
- If anything is removed, provided that the officer leaves a statement at the premises containing details of what has been taken

The powers can be exercised without a warrant but an officer can apply to a Magistrate for a warrant authorising entry, by force if necessary, if:

- Entry has been, or is likely to be, refused and notice of intention to apply for a warrant has been given to the occupier or manager of the premises, or
- A request for, or notice of, admission would defeat the object of entry, the premises are unoccupied or the occupier is absent

It is an offence for any person to:

- Intentionally obstruct an authorised officer in the exercise of their duties
- Without reasonable excuse, to fail to give an authorised officer exercising their duties any facilities, assistance or information reasonably required
- Make a false or misleading statement when complying with a requirement made by an authorised officer when exercising their duties

The penalty for any offence is a maximum fine of £1,000.

If you have any queries or questions relating to the smoking ban please contact the Licensing Team on 01159 888 777 or email [licensing@fraserbrown.com](mailto:licensing@fraserbrown.com)