



Breathe Again!

BUSINESS GUIDE to the **SMOKING BAN**

BREATHE AGAIN from 2nd APRIL 2007

Working towards a cleaner, healthier environment...



www.smokingbanwales.co.uk



TIME'S UP FOR
SECOND-HAND SMOKE



Mae'r ddogfen hon ar gael yn Gymraeg, ac mewn ieithoedd a fformatau eraill ar gais.
This document is available in Welsh, and in other languages and formats on request.

YOUR QUESTIONS ANSWERED...

SMOKE-FREE PREMISES

- Q.** What is the reason for the ban on smoking in enclosed public places?
- A.** The law aims to protect workers and the general public from the harmful effects of passive smoking. Exposure to second-hand smoke has been proven to cause lung cancer and heart disease in adult non-smokers and respiratory disease, cot death, middle ear disease and asthmatic attacks in children.
- Q.** When will the ban come into effect?
- A.** April 2nd 2007, at 6am. This will mean that premises will be smoke free from the start of the business day.
- Q.** Will the ban affect my business premises?
- A.** Yes, if they are wholly or substantially enclosed.
- Q.** What is meant by "wholly enclosed" and "substantially enclosed"?
- A.** "Wholly Enclosed" relates to an area with a ceiling or roof that - except for doors, windows and passageways - is wholly enclosed (whether permanently or temporarily). "Substantially Enclosed" is an area with a ceiling or roof, where more than 50% of the total wall area is enclosed (windows and doors that close are counted as walls). A legal definition is set out in Regulations.
- Q.** How will the new law affect my business premises?
- A.** The law will require all enclosed public places, including workplaces, to be smoke-free. This means you, your staff, customers and visitors will not be allowed to smoke in the enclosed area of your premises.
- Q.** Does this apply to my customers?
- A.** Yes.
- Q.** Will there be support for businesses?
- A.** Detailed guidance will be sent out to all businesses in Wales and will also be available on the website www.smokingbanwales.co.uk. The guidance will include samples of the bilingual signs that will need to be displayed in

FAQ'S FOR BUSINESS

Wales, and a sample smoke-free policy. It will also set out the steps that employers, managers and those in control of premises should take to comply with the law. The signs will also be downloadable from the website.

- Q.** My workplace has designated or segregated areas for smoking. Isn't this enough?
- A.** No. Only a complete ban on smoking in enclosed areas will reduce exposure to second-hand smoke. This means that the provision of smoking rooms inside workplaces will no longer be allowed.
- Q.** My workplace is well-ventilated. Doesn't that provide protection from passive smoking?
- A.** No. There is no safe level of exposure to second-hand smoke. Ventilation systems improve comfort by removing the smell and visibility of the smoke. They do not eliminate toxic carcinogens from the air.
- Q.** I have a very small business with only a couple of employees who smoke. Does this law still apply to me?
- A.** Yes, if your business is wholly or substantially enclosed.
- Q.** I run a hotel. How is this affected?
- A.** Hotels, boarding houses, guest houses, inns and hostels are covered by the new law. However, as a proprietor you will have the ability to designate one or more bedrooms where the occupants can smoke. This must be done in writing. Designated rooms should have a ventilation system that does not ventilate into any other part of the no-smoking premises and should be clearly marked as a room where smoking is permitted. The room must be fitted with self-closing doors. However, you are not required to designate any rooms for smokers if you do not wish to do so. All communal areas of your hotel should be smoke-free.
- Q.** I lease out self-catering accommodation. Is this affected by the legislation?
- A.** No.

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- Q.** Will the new law affect private clubs, e.g. rugby clubs, snooker clubs, golf clubs, working men's clubs etc?
- A.** Yes. Premises in respect of which a club premises certificate (within the meaning of section 60 of the Licensing Act 2003) has effect are covered by the new law. Members and staff of private clubs deserve the same protection from the health effects of second-hand smoke as everyone else.
- Q.** I run a day centre for the elderly. Will this be affected by the new law?
- A.** Yes. It is proposed that the exemption for designated rooms in adult care homes will relate only to residential homes.
- Q.** What about taxis and other vehicles?
- A.** All vehicles used for transporting the public, or used in a work activity by more than one person (even at different times) must be smoke-free. They are considered to be smoke-free premises under the Regulations. The international no smoking symbol will have to be displayed in each compartment of the vehicle.
- Q.** My workplace is already smoke-free. Will I have to do anything?
- A.** You will have a duty to comply with the law (see below).
- Q.** As an employer, or person in control of premises, what will I have to do to comply with the law?
- A.** Employers, managers and those in control of no-smoking premises will need to display no-smoking notices and to take reasonable steps to ensure that staff, customers, members and visitors are aware of the new law and that they do not smoke in their premises. We recommend the following minimum action:
- display of no-smoking notices, or symbols in vehicles, (as specified in the legislation and business guidance). These must be displayed at or near every entrance.
 - developing and implementing a smoke-free policy;
 - removing all ashtrays from premises;
 - informing anyone smoking that he/she is committing an offence;
 - requesting that they extinguish their smoking material immediately or leave;
 - and refusing service (if your business provides a service for customers or members).
- Q.** What do I do if someone ignores the ban and smokes on my premises?
- A.** You will be expected to take all reasonable steps outlined above to ensure that the person stops smoking. If he/she refuses, implement your normal procedure for anti-social/ illegal behaviour in the premises. In all cases where physical violence or intimidation is threatened, seek the assistance of the police.
- Q.** I run a pub where the majority of customers smoke. How can I be expected to make them stop? - it will cause a disturbance.
- A.** The vast majority of the population are law-abiding citizens and we envisage high levels of self-compliance. The reasonable steps which you will be required to take are outlined above. If you take all reasonable measures to prevent smoking and the customer will not extinguish his or her cigarette/ cigar/ pipe or leave the premises, you will not be liable under the legislation. There will also be a telephone compliance-line where you can report the incident.
- Q.** Who will enforce the law?
- A.** Authorised officers of the local authority will have powers to enter all no-smoking premises in order to establish that the smoke-free legislation is being enacted in accordance with the law. They will also be able to give out fixed penalty notices to people whom they believe are committing, or have committed, an offence under the legislation.
- Q.** Will my business be subject to checks?
- A.** Authorised officers of the local authority will have powers to enter no-smoking premises in order to check whether an offence has taken place or is being committed.
- Q.** What specific offences are created by the legislation?
- A.** The legislation creates three specific offences:
- Failing to display no-smoking signs in premises covered by the law
 - Smoking in a smoke-free place
 - Failing to prevent smoking in a smoke-free place.
- In addition, it will be an offence to intentionally obstruct an officer authorised by the local authority to enforce the legislation or to fail to assist the officer in the exercise of his functions without reasonable cause.

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- Q.** What penalties are faced by those who break the law?
- A.** Individuals may be fined a fixed penalty of £50 for smoking in no-smoking premises. For a summary conviction, the maximum fine will be up to £200.
- A.** The manager or person in control of any no-smoking premises could be fined a fixed penalty of £200 for failing to display warning notices in no-smoking premises. For a summary conviction, the maximum fine will be up to £1,000.
- A.** The manager or person in control of any no-smoking premises could be fined up to £2,500 for allowing others to smoke in no smoking premises.
- A.** The offence of obstruction of an officer authorised by the local authority to enforce the legislation carries a maximum fine of £1,000.
- Q.** Will fixed penalty notices be applied at the time of the offence, or at a later date?
- A.** That will be up to the enforcement officers. The aim will be to be non-confrontational.
- Q.** Am I obliged to provide external smoking shelters for any of my staff or customers who smoke?
- A.** No. However, you may wish to review your smoking policy and discuss with your staff how best to meet their needs within the new legislation. If your staff want help to stop smoking, they can phone the Smokers Helpline Wales (0800 169 0169) or contact the All Wales Smoking Cessation Service (0800 085 2219).
- Q.** I want to provide external smoking shelters where my staff and customers can smoke. How should I go about this?
- A.** You will need to ensure that what you are proposing complies with the law, i.e. is not wholly or substantially enclosed. You are advised to seek legal and local planning advice on the issue, in case what you have in mind requires planning or building consent.
- Q.** What about a marquee?
- A.** The definition of smoke-free premises will include any tent or marquee open to the public or used as a workplace, if wholly or substantially enclosed.
- Q.** I don't want staff congregating to smoke outside my premises. What should I do?
- A.** You may wish to discuss with your staff how best to meet your wishes, while acknowledging their needs. As a first step, review your existing smoking policy in consultation with staff. A model smoking policy will be on the website and in the business guidance pack.
- Q.** Am I obliged to provide external stubbing bins for staff who smoke outside?
- A.** No. However, where an outdoor area is not being created, and staff and/or customers need to leave the premises to smoke, you might want to consider providing external stubbing out bins at entrances or exits to keep litter to a minimum.
- Q.** I work alone in my business premises and don't have any employees. Does the law apply to me?
- A.** Yes.
- Q.** Are there any exemptions to the law?
- A.** Only a few exemptions are proposed, mainly on humanitarian grounds or to cover workplaces which are also a person's place of residence. These are:
- designated rooms in adult residential care homes
 - designated rooms in residential mental health treatment settings
 - designated hotel bedrooms.
- Q.** How do I write a no smoking policy for staff and customers?
- A.** If businesses would like any help or support in developing and implementing a no smoking policy guidance is available by ringing **01495 241218**.