



THE PUBLIC HEALTH (TOBACCO) ACT 2006

**THE PROHIBITION OF SMOKING IN CERTAIN PREMISES
REGULATIONS 2007**

Approved by Tynwald

Coming into operation

In exercise of the powers conferred on the Department of Local Government and the Environment by section 15(3) and 20(2) of the Public Health (Tobacco) Act 2006¹, and of all other enabling powers, and after consultation with appropriate persons, the following Regulations are hereby made:—

1. Citation, interpretation and commencement

(1) These Regulations may be cited as the Prohibition of Smoking in Certain Premises Regulations 2007 and shall come into operation on the

(2) In these Regulations -

“the Act” means the Public Health (Tobacco) Act 2006;

“bar” means any premises exclusively or mainly used for the sale and consumption of beverages, whether alcoholic or not;

“car” means a mechanically propelled road vehicle which is not –

- (a) a goods vehicle;
- (b) a motor cycle; or
- (c) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used;

“care home” means any premises which provide or are intended to provide, whether for reward or not, residential accommodation with board and personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder;

“club premises” means any premises which are used by and for the purposes of a club or other unincorporated association, whether for profit or not;

“designated hotel bedroom” means a room in a hotel which -

- (a) is set apart exclusively for the sleeping accommodation of travellers;
- (b) has been designated by the person having the management or control of the hotel as being a room in which smoking is permitted;

¹ 2006 c.??

- (c) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor-to-ceiling walls;
- (d) has a ventilation system that does not ventilate into any other part of the hotel (except any other designated hotel bedrooms);
- (e) does not have any door that opens onto smoke free premises which is not mechanically closed immediately after use; and
- (f) is clearly marked as a bedroom in which smoking is permitted;

“designated room” means a room which -

- (a) 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;
- (b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor-to-ceiling walls;
- (c) has a ventilation system that does not ventilate into any other part of the no-smoking premises in question (except any other designated rooms);
- (d) does not have any door that opens onto smoke free premises which is not mechanically closed immediately after use; and
- (e) is clearly marked as a room in which smoking is permitted;

“detention or interview room” means a room

- (a) within a police station which is used for the purposes of interviewing or detaining persons; or
- (b) within a police station which is used for the purposes of cell accommodation;

“domestic premises” means premises occupied as a private dwelling (including any garage, outhouse, or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling), and “non-domestic premises” shall be construed accordingly;

“educational institution” means -

- (a) nursery school;
- (b) primary school;
- (c) secondary school;
- (d) college; or
- (e) independent school,

as described by the Education Act 2001²

“health care premises” means any premises where services are provided under Parts 2 or 3 of the National Health Service Act 2001³ which are used for the purpose of providing services to non-resident persons;

² 2001 c.33

³ 2001 c.14

“hospice” means an establishment the whole or main purpose of which is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages;

“hospital” means

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home,
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes any clinic, dispensary and out-patient department;

“hotel” means a hotel, boarding house, guest house, inn or hostel containing at least two rooms or apartments set apart exclusively for the sleeping accommodation of travellers;

“illness” includes

(a) mental disorder, within the meaning of section 1 of the Mental Health Act 1998⁴, and

(b) any injury or disability requiring medical or dental treatment or nursing;

“no-smoking notice” means a notice displayed in accordance with section 15(1) of the Act;

“offshore installation” means any offshore installation within the meaning given by section 1 of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974⁵;

“premises” includes

- (a) any building or part of a building;
- (b) any structure or part of a structure, whether moveable or otherwise;
- (c) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof);
- (d) any tent, marquee or stall; and
- (e) any vehicle;

“private vehicle” means

- (a) any vehicle which is not a public transportation vehicle; and
- (b) any other vehicle which is used primarily for the private purposes of the person who owns it or of a person having the right to use it, provided always that such right to use a vehicle does not, in relation to that motor vehicle, include a reference to a person whose right to use

⁴ 1998 c.33

⁵ 1974 c.33

the vehicle derives only from having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey nor does it include a reference to any public transportation vehicle;

“psychiatric unit” means a hospital the whole or main purpose of which is to treat persons with a mental disorder within the meaning of section 1 of the Mental Health Act 1998

“public house” includes an inn, ale house, victualling house or other premises in which alcoholic drink is sold by retail for consumption either on or off the premises;

“public transportation facilities” includes train stations, bus stations, bus shelters, waiting rooms, ticket offices and terminal buildings provided in connection with any public transportation vehicle;

“public transportation vehicle” means any vehicle available to the public as a means of transportation;

“residential accommodation” means so much of any premises as is for the time being occupied or used by any person for residential purposes or otherwise as living accommodation, (including that within a hotel, or sheltered housing that is occupied or used as a person's principal place of residence), but not including a reference to so much of any premises as constitutes any common area to which the person has or is allowed access in connection with the person's use or occupation of any accommodation, nor including a reference to an residential care home, a hospice, or a psychiatric unit;

“residential care home” means an establishment as defined by the Nursing and Residential Homes Act 1988⁶;

“restaurant” means

- (a) a cafe, coffee shop, bistro, fast food establishment or snack bar; and
- (b) any other premises exclusively or mainly used for the sale and consumption of food;

“roof” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including for example, a canvas awning;

“secure accommodation” means accommodation provided for the purpose of restricting liberty under the Children and Young Persons Act 2001⁷;

“sports centre” means any gymnasium, health spa, swimming pool, roller or ice rink, bowling alley and other similar premises used to engage in sports, athletics or recreational activities or to witness sports, athletics, recreational or similar activities; and

“vehicle” includes any train, bus, car and any vessel (whether navigable or not), boat or hovercraft.

(3) A reference to premises includes any premises within premises.

(4) These Regulations shall come into force at 04.00 hours on 30th March 2008

⁶ 1988 c.9

⁷ 2001 c.20

Display of no-smoking notices

2. (1) At least one no-smoking notice displayed in no-smoking premises that are not a vehicle shall

- (a) be a minimum dimensions of A5 in size (210mm by 148mm);
- (b) 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 75mm in diameter;
- (c) display the words “No smoking. It is illegal to smoke in these premises” and “Maximum Fine £5000”; and
- (d) 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.

(2) 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 75mm in diameter.

(3) A no-smoking notice displayed in no-smoking premises that are a vehicle shall -

- (a) 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 75mm in diameter; and
- (b) display the holder of a particular post 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.

(4) 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.

(5) The requirements in paragraphs (1) to (4) as to the manner of display, form and content of no-smoking notices are to be treated for the purposes of section 15(1) of the Act as if incorporated in it.

“No-smoking premises”

3. (1) The premises or classes of premises prescribed under section 20(2) of the Act as being “no-smoking premises” for the purposes of Part 2 of the Act are the premises or classes of premises specified in Schedule 1 to these Regulations, being premises or classes of premises which are wholly or substantially enclosed.

(2) The premises or parts of premises or classes of premises or parts of premises prescribed under section 20(2) of the Act which are excluded from the definition of “no-smoking premises” are the premises or parts of premises or classes of premises or parts of premises specified in Schedule 2 to these Regulations.

(3) For the purposes of section 20(2) of the Act

- (a) “premises” includes
 - (i) any building or part of a building;
 - (ii) any structure or part of a structure, whether moveable or otherwise;
 - (iii) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof);
 - (iv) any tent, marquee or stall; and
 - (v) any vehicle.
- (b) “wholly enclosed” means
 - (i) for premises other than a vehicle or part of a vehicle, having a ceiling or roof and, except for doors, windows and passageways, wholly enclosed, whether permanently or temporarily; or
 - (ii) for premises that are a vehicle, or part of a vehicle, having a top or roof and, except for doors, windows or exits, wholly enclosed, whether permanently or temporarily;
- (c) “substantially enclosed” means
 - (i) for premises other than a vehicle or part of a vehicle, having a ceiling or roof and, except for doors, windows and passageways, substantially enclosed, whether permanently or temporarily; or
 - (ii) for premises that are a vehicle, or part of a vehicle, having a top or roof and, except for doors, windows or exits, substantially enclosed, whether permanently or temporarily,

and in determining whether premises are “substantially enclosed”, no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut;

- (d) premises shall be taken to be “substantially enclosed” if -
 - (i) the opening in the premises has an area; or
 - (ii) if there is more than one, both or all those openings have an aggregate area, which is less than half of the area of the walls, including any other structures serving the purpose of walls, which constitute the perimeter of the premises;
- (e) where an opening is in, or consists of the absence of, such walls or other structures or a part of them, their area shall be measured for the purposes of paragraph (d) as if it included the area of the opening; and
- (f) “has access” means has access whether on payment or otherwise, and whether as of right or by virtue of express or implied permission.

4. Offences and Penalties

If any person contravenes any of these Regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5000

5. Enforcement

These Regulations shall be executed and enforced by the Department of Local Government and the Environment.

Regulation 3(1)

SCHEDULE 1

NO-SMOKING PREMISES

1. Restaurants.
2. Bars and public houses.
3. Shops and shopping centres.
4. Hotels.
5. Libraries, archives, museums and galleries.
6. Cinemas, concert halls, theatres, bingo halls, gaming and amusement arcades, casinos, dance halls, discotheques and other premises used for the entertainment of members of the public.
7. Premises used as a broadcasting studio or film studio or for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition.
8. Halls and any other premises used for the assembly of members of the public for social or recreational purposes.
9. Conference centres, public halls and exhibition halls.
10. Public toilets.
11. Club premises.
12. Offices, factories and any other premises that are non-domestic premises in which one or more persons work.
13. Offshore installations.
14. Educational institution premises.
15. Premises providing care home services.
16. Prison and other secure accommodation.
17. Hospitals, hospices, psychiatric units and health care premises.
18. Crèches, day nurseries, day centres and other premises used for the day care of children or adults.
19. Premises used for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.

20. Sports centres.
21. Airport and Seaport passenger terminals and any other public transportation facilities.
22. Public transportation vehicles.
23. Vehicles which one or more persons use for work.
24. Public telephone kiosks.

SCHEDULE 2

EXEMPTIONS

1. Residential accommodation.
2. Designated rooms in care homes.
3. Designated rooms in hospices.
4. Designated rooms in psychiatric units.
5. Designated hotel bedrooms.
6. Detention or interview rooms which are designated rooms.
7. Designated rooms in offshore installations.
8. Private vehicles.

Made

Minister for Local Government and the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision under Part 2 of the Public Health (Tobacco) Act 2006 (“the Act”) in relation to the prohibition of smoking in certain wholly or substantially enclosed premises.

Regulation 1 contains the citation, commencement and interpretation provisions to be applied to the Regulations, and gives the time and date on which they will come into force.

Regulation 2 makes provision in relation to the display of no-smoking notices, providing further requirements in addition to those already stipulated under section 15(1) of the Act. Paragraph (1) of regulation 2 sets out the requirement that at least one no-smoking notice within no-smoking premises that are not a vehicle must be a minimum size and must display certain specified details. Paragraph (2) provides that all other no-smoking notices on no-smoking premises that are not a vehicle, as well as any no-smoking notices on or near no-smoking premises that are not a vehicle, must still display the international no-smoking symbol. Paragraph (3) makes separate

provision in relation to no-smoking premises that are vehicles by requiring certain specified details to be displayed.

Regulation 3(1) gives effect to Schedule 1 to the Regulations, which sets out the premises or classes of premises which are prescribed under section 20(2) of the Act to be no-smoking premises for the purposes of Part 1 of the Act, being premises or classes of premises which are wholly or substantially enclosed.

Regulation 3(2) gives effect to Schedule 2 to the Regulations, which sets out the premises or parts of premises or classes of premises or parts of premises which are prescribed under section 20(2) of the Act to be excluded from the definition of “no-smoking premises” in accordance with section 20(3) of the Act, that is those which are excluded from the list of “no-smoking premises” in Schedule 1 to the Regulations.

Regulation 3(3) defines and elaborates the meaning of certain expressions (“premises”; “wholly enclosed”; “substantially enclosed”; and “has access”) used in section 20(6) of the Act.

Regulation 4 prescribes a penalty for contravention of the Regulations.

Regulation 5 provides for the enforcement of the Regulations by the Department of Local Government and the Environment.