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AIL-LAW AR BEN  
TIME'S UP FOR  
SECOND-HAND SMOKE



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

# 2 April 2007

What you need to  
know about the new  
smoke-free law



# The new smoke-free law at a glance

- The Smoke-free Premises etc. (Wales) Regulations 2007 are due to come into effect at 6am on 2 April 2007. The new law is being introduced to save lives and prevent diseases caused by second-hand smoke.
- The effect of the law will be that you, your staff, customers and visitors will not be allowed to smoke within your business or organisation's premises, if these are 'enclosed' or 'substantially enclosed'. This includes previously-designated 'smoking rooms'.
- There are very few exemptions to the smoking ban. The new law will affect most public premises, including workplaces and work vehicles.
- Failure to comply with the law will be a criminal offence, as set out in the Health Act 2006. Penalties and fines are being set in regulations to be made by the Department of Health:
  - Individuals may be liable to a fixed penalty of £50 for smoking in smoke-free premises. In cases of prosecution and conviction, the maximum fine is £200.
  - The manager or person in control of any smoke-free premises could be fined a fixed penalty of £200 for failing to display 'No Smoking' signs. In cases of prosecution and conviction, the maximum fine is £1,000.
  - The manager or person in control of any smoke-free premises could be fined up to £2,500 for failing to prevent others from smoking in those premises.
- Authorised officers within each local authority will enforce the new law and offer businesses support in meeting their legal obligations.
- A compliance helpline will be set up before the law takes effect so that breaches of the law can be reported and followed up by the relevant local authority.

If you'd like to know more, visit [www.smokingbanwales.co.uk](http://www.smokingbanwales.co.uk) to receive regular updates by email, find out how other businesses have successfully gone smoke-free or to order additional posters and signage. Authorised enforcement officers can be contacted at your local authority (see your telephone directory or council website for details).

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## Free resources included in the pack

- 'No Smoking' signage for premises
- A request form for additional signage
- A ready to use 'No Smoking' policy

A copy of the Smoke-free Premises etc. (Wales) Regulations 2007 can be found online at [www.smokingbanwales.co.uk](http://www.smokingbanwales.co.uk) or by contacting the Welsh Assembly Government's Tobacco Policy Branch on 029 2082 5687.



# Background

## The guidance pack

The new smoke-free legislation is due to take effect in Wales on Monday 2 April 2007. From this day onwards smoking will no longer be allowed in 'enclosed' or 'substantially enclosed' public places, including workplaces.

This guidance pack aims to ensure that every business and other public place required to be smoke-free under the new law is ready when the ban on smoking takes effect as intended at 6am on 2 April 2007.

This pack contains free 'No Smoking' signage and a sample smoking policy to assist you in making the transition to smoke-free premises.

**The information in this pack is for guidance only. It is not intended to be legal advice or to provide formal interpretation of the law, which is a matter for the courts. If you are in any doubt about your legal obligations, you are advised to seek your own independent legal advice.**

## Why the law has to change

The National Assembly for Wales has agreed that new regulations can be made to protect people in Wales from the harmful effects of second-hand tobacco smoke (passive smoking). Similar legislation came into force in Scotland in March 2006 and will take effect in England and Northern Ireland during 2007.

The UK Scientific Committee on Tobacco and Health reviewed the evidence on second-hand smoke in 2004. They concluded that it was a serious risk to public health.

Many people assume that proper ventilation can eliminate the health risks associated with second-hand smoke. However, substantial evidence shows that ventilation systems only eliminate the smell and visibility of smoke – not the toxic carcinogens (cancer-causing agents). As there's no safe level of exposure to second-hand smoke, ventilation is not an option.

It is estimated that introducing this new law will prevent 400 deaths each year in Wales among non-smokers.



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## Long-term effects of second-hand smoke

In adult non-smokers, exposure to second-hand smoke can:

- Increase the risk of lung cancer by 24%.
- Increase the risk of heart disease by 25%.
- Increase the risk of respiratory disorders.

In children, it can cause:

- Respiratory disorders.
- Cot death.
- Middle ear infection.
- Asthma attacks.

## Places where the law will apply

Subject to the exemptions below, all public places, including workplaces and premises where voluntary work is carried out, will be required to be smoke-free in order to protect staff and the public against the risks to health posed by second-hand smoke. This means that you, your staff, customers and visitors will not be allowed to smoke in the enclosed area(s) of your premises.

The law prohibits smoking in all public places which are **'enclosed'** or **'substantially enclosed'**. There are only a few exemptions, which are detailed in the next section.

### But what does 'enclosed' mean?

Premises will be considered 'enclosed' if they have a ceiling or roof (either a fixed or moveable structure or device), and except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis.

### And 'substantially enclosed'?

Premises will be considered 'substantially enclosed' if they have a ceiling or roof (either a fixed or moveable structure or device), but there are openings in the walls, which are *less than half of the total area of walls*. This definition includes other structures that serve the purpose of walls and constitute the perimeter of the premises. When determining the area of an opening, no account should be taken of openings in which doors, windows or other fittings can be opened or shut.

If you currently operate designated 'smoking rooms', these will probably now fall under the definition of 'enclosed' or 'substantially enclosed'. They will no longer be permitted under the new legislation. Information on creating outdoor smoking shelters can be found on page 10.



Pubs: The smoke-free law will extend to pubs and clubs

### **Private dwellings**

In general private dwellings are not covered by the new law. However, any part of a private dwelling that is shared with other premises will be required to be smoke-free if these premises are open to the public. This means that shared facilities such as communal lifts and stairways in blocks of flats and shared kitchens or laundries in dormitory-style accommodation will be required to be smoke-free.

Holiday homes, caravans, chalets or other forms of private rental accommodation will be treated as private residencies and are not made smoke-free by the legislation.

### **Working from home**

If you have a room at home which is used solely for work purposes, and if other people who do not live in the building attend that room in connection with the work that is carried out there, e.g. as workers or customers, the room will be required to be smoke-free.

### **Vehicles**

The smoke-free legislation covers vehicles which are used to transport the public or which are used by more than one employee in carrying out work duties – even if this use is at different times or only intermittently.

However, private vehicles (i.e. vehicles which are used primarily for private purposes by persons who own them or have a right to use them in an unrestricted way) are not required to be smoke-free.

Ships and vessels will be covered by regulations to be made by the UK Department of Transport.

## **Places that will be exempt**

Only a few exemptions to the law have been granted, mainly to cover workplaces that are also a person's place of residence.

### **'Designated rooms' in adult residential care homes, adult hospices and residential mental health treatment settings**

Separate guidance is being issued to the NHS, local authorities and the care sector where these exemptions will mainly apply. This is to ensure that sound smoking policies are in place so that non-smoking patients and residents are not unnecessarily exposed to second-hand smoke.

## **'Designated bedrooms' in a hotel, guesthouse, inn, hostel or membership clubs**

Hotels, boarding houses, inns, hostels, etc. can designate one or more bedrooms as rooms in which smoking is permitted.

### **What are 'designated' rooms and bedrooms?**

A **'designated room'** or a **'designated bedroom'** means a room which:

- Has been designated by the person in charge of the establishment as a room in which smoking is permitted and has been clearly marked as a smoking room.
- Has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls.
- Does not have a ventilation system that ventilates into any other part of the premises (except any other 'designated rooms' or 'designated bedrooms').
- Does not have any door which opens on to smoke-free premises that is not mechanically closed immediately after use.

Although the legislation provides for these exemptions, there is no legal obligation for privately run businesses to offer designated smoking rooms or bedrooms if they do not wish to do so.



## **Making it clear**

In order to comply with the law, you will be required to display 'No Smoking' signage in smoke-free premises and vehicles. Signage requirements are set out in the regulations and are different for premises and vehicles.

Restaurants: The smoke-free law will be enforced in restaurants and canteens

## **'No Smoking' signage for premises**

You are required by the law to display a 'No Smoking' sign in a prominent position at or near each entrance to smoke-free premises, so that people entering the premises can see it.

If your premises have more than one entrance used by employees, visitors or customers, you'll need to display more than one notice.



If you choose to personalise your own signs, be mindful of the following requirements that are set out in the regulations:

**A 'No Smoking' sign in premises must:**

- Be flat and rectangular and at least 160mm by 230mm in size.
- Display the international 'No Smoking' symbol in red, at least 85mm in diameter.
- Contain the following bilingual statement: 'Mae ysmygu yn y fangre hon yn erbyn y gyfraith/It is against the law to smoke in these premises.'

## 'No Smoking' signage for vehicles

You are also required by law to display 'No Smoking' signs in any vehicles covered by the legislation (enclosed vehicles used to transport the public or used by more than one employee for carrying out work duties).

You will be required to display a 'No Smoking' sign in a prominent position in each compartment of the vehicle which is wholly or partly covered by a roof, including the driver's compartment. As most public transport vehicles are already smoke-free, signage requirements have been kept to a minimum in order to avoid unnecessary duplication.

**A 'No Smoking' sign in a vehicle must:**

- Display the international 'No Smoking' symbol in red, at least 75mm in diameter.

There are no requirements relating to the overall size or wording of the notice.

Additional signage can be ordered free of charge, either by faxing back the order form contained in this pack or by ordering the amount you require online at [www.smokingbanwales.co.uk](http://www.smokingbanwales.co.uk)  
A downloadable version of the signs can also be obtained online.



## Getting prepared

From 6am on Monday 2 April 2007, every business and organisation in Wales to which the law applies will need to take steps to ensure that employees, customers and other visitors do not smoke on their premises.

This section details the minimum action that you are advised to take to ensure that your business or organisation complies with the new law.



In addition to the minimum actions required it also provides extra information and advice on other actions which, although not legally required, you may wish to consider in order to support your staff, customers/members and visitors in adapting to the new arrangements.

## How to comply with the new law

### **We recommend you take the following minimum action:**

- Display 'No Smoking' signs in smoke-free premises and vehicles covered by the law.
- Take steps to ensure that staff, customers/members and visitors are aware that premises and vehicles are legally required to be smoke-free.
- Be prepared to inform anyone smoking that he/she is committing an offence and to take any other reasonable steps to prevent them from smoking. You'll find a flowchart on page 11 that takes you through the necessary steps to ensure any non-compliance situation has been dealt with in the appropriate manner.

## Going a step further to support the ban

This section will highlight the actions you may wish to take to ease the transition to smoke-free premises for your staff, customers/members and visitors. Many businesses have found these actions of benefit when going smoke-free. They have been detailed here to provide you with guidance – you are under no legal obligation to carry these out.

### **Developing a written smoke-free policy**

To communicate the new law and all its implications, we strongly recommend that you develop and implement a written smoke-free policy.

#### **This policy should:**

- Be concise and simple to understand.
- Identify the members of management and staff who are responsible for its implementation.
- State the procedures to be followed in the event of non-compliance.
- Acknowledge the right of employees to work in a smoke-free environment.
- Provide information on how to obtain help to quit smoking.
- Be communicated to all staff – and in particular to new and part-time staff before they commence employment.

If the policy is broken, you should implement disciplinary procedures normally used for breaches of health and safety requirements.

To give you an idea of what should be included in the policy, there's a sample policy in this pack. If you are happy to use this policy you can fill it in and use it with your own business or organisation. A more comprehensive policy can be found online at [www.smokingbanwales.co.uk](http://www.smokingbanwales.co.uk)

### **Creating an outdoor smoking shelter**

If you wish to provide a smoking shelter you are advised to contact your local authority to ensure that your proposals comply with the law. In designing any outdoor smoking shelter, please remember the legal definition of an 'enclosed' or 'substantially enclosed' area detailed on page 5.

### **Supporting staff who want to quit smoking**

Many people will use the new smoking law as an opportunity to cut down or give up smoking. Workplaces that have smoking policies in place can help those people who want to quit. Surveys show that two-thirds of smokers say that they want to quit.

Supporting those staff that would like to quit couldn't be easier. Your business or organisation could take the following steps:

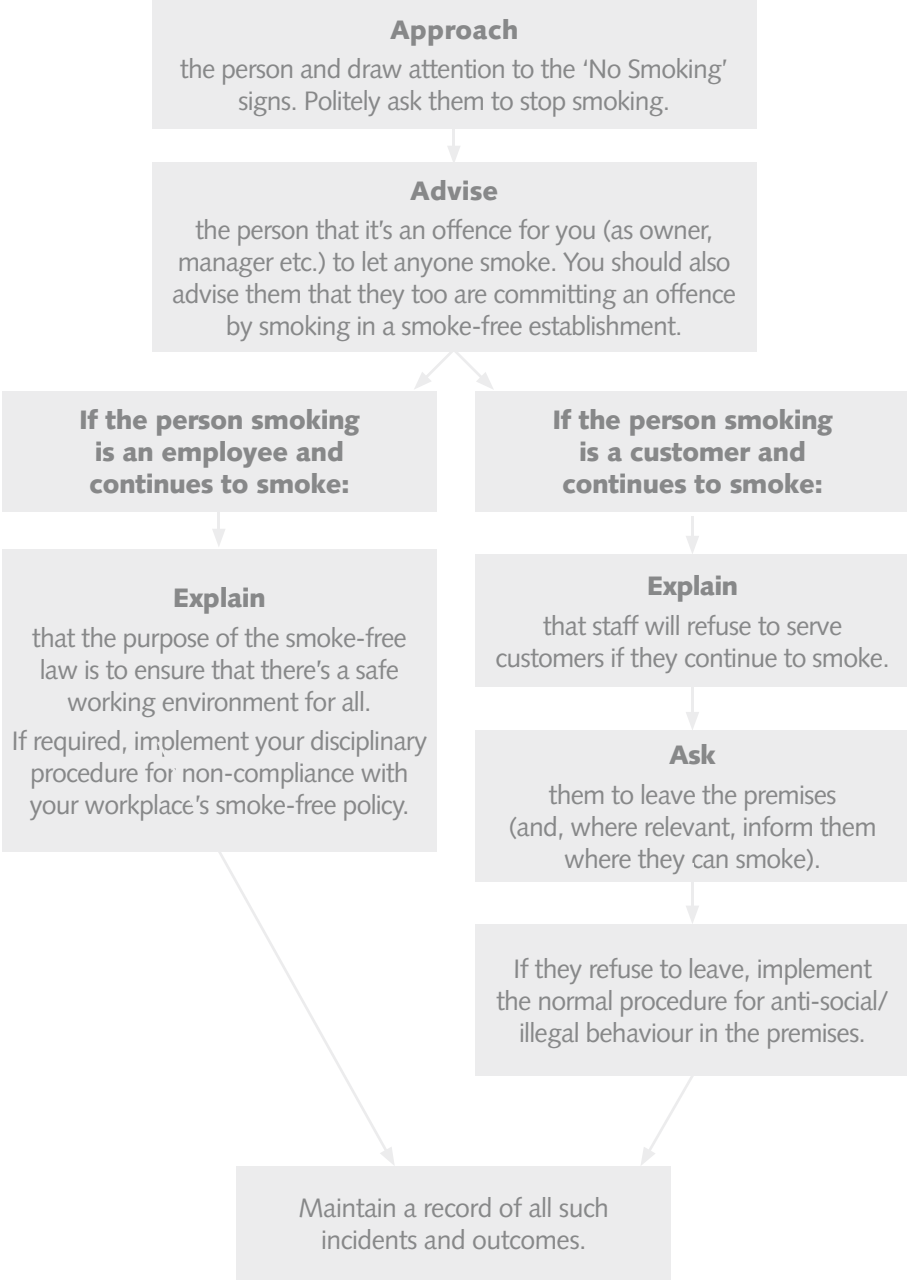
- Display posters in staff rooms or advertise the following free services on your intranet system:
  - Smokers Helpline Wales (0800 169 0 169)
  - All Wales Smoking Cessation Service (0800 085 2219)
- Support No Smoking Day 2007, the UK's national campaign. This annual campaign takes place every second Wednesday in March. To find out more log onto [www.nosmokingday.org.uk](http://www.nosmokingday.org.uk)



Office spaces: The smoke-free law will cover all office premises

# Action to consider if someone ignores the smoking ban

We're confident that the majority of the people of Wales will respect the new law on smoking. However, it is important that you have a strategy for dealing with someone who decides to smoke in your smoke-free premises. The following chart sets out some steps for your consideration.



In all cases where physical violence or intimidation is threatened or encountered, seek the assistance of the police.

# Making it work

## **Enforcing the new smoke-free law**

Authorised officers within each local authority will enforce the new law across Wales. They will work closely with businesses to build compliance through advice and support.

Both the Welsh Assembly Government and local authorities will be carrying out awareness-raising activity in advance of the ban, to ensure that the public are aware of the new legislation. In Ireland and Scotland, where smoking bans are already in place, the legislation has been largely self-policing, with very high rates of public compliance and support.

The intention is that enforcement action will be considered only when the seriousness of the situation warrants it and that it will be fair, proportional and consistent. Enforcement inspections will be based on risk and, where possible, combined with other regulatory inspections to reduce burdens on businesses.

A compliance line will operate after the new law is introduced. This will allow the public to report alleged breaches of the smoke-free legislation. The number will be advertised before the law comes into force and the relevant local authority will investigate all complaints.



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