

PREPARING FOR THE SMOKING BAN

1. The Health Act 2006 comes into force at 6.00a.m. on 1st July 2007.
2. £30 million has been set aside to enforce the ban against smoking.
3. Premises **must** be “smoke-free” if they are:
 - i. open to the public,
 - ii. used as a place of work by more than one person (even if persons who work at the site do so at different times) or where members of the public might attend.
4. The law applies to premises that are enclosed or substantially enclosed.
5. Openings for doors, windows or passageways cannot be taken into account to escape the Act and so all roofed buildings including marquees/tents are caught by the legislation.
6. The law does not apply where the opening in the walls of a roofed structure exceeds 50% - so for example a canvas awning with waist high wind barriers is exempt, but a hotel balcony, as it generally has three walls, is not. An open wire cage is an open structure.
7. There are exemptions in respect of hotels (i.e designated bedrooms only) care homes and prisons.
8. However, it would not be possible to hire out a designated bedroom for a business meeting and allow smoking- as then it ceases to be used as a bedroom and becomes a work place.
9. Company cars are work places and if used by more than one employee or customers attract the new law and must be smoke-free at all times. Remember use of car windows/ sunroofs does not provide protection from prosecution.
10. Offences of permitting smoking in a “smoke-free” place can be committed by a company, partnership or unincorporated associations. Where committed with the consent or connivance of a partner or officer of the firm then that person is also liable.
11. Regulations require that signs with specific dimensions be displayed - even in cars.

12.Fixed Penalty notices can be issued to persons who smoke in breach of the rules.

13.The heavier penalty of a criminal conviction in the court is the only option for persons who permit smoking on the premises.

A couple of issues:

1. If you run a small bed and breakfast operation – can non-smokers be allowed to use designated smoking rooms? Loss of ability to fill your guest rooms could have serious repercussions on the viability of your business.
2. How do you cope if you have no outside areas, and are located in landlocked premises?

Finally a provocative thought about the company car. Can you allow your spouse to light up in a car that is not for your sole or exclusive use? The answer I am afraid is “no”.