

Monday, 09 October 2006

Smoke-free Regulations Consultations
Health Improvement Directorate
Department of Health
Room 712, Wellington House
133-155 Waterloo Road
London
SW1 8UG

Dear Sirs,

RE: Smoke-free premises and vehicles: Consultation on proposed regulations to be made under powers in the Health Bill

Thank you for inviting us to respond to the consultation document regarding the regulation of the smoking ban in England. We hope you find our comments useful.

Tourism South East (TSE) has the prime responsibility for co-ordinating and developing tourism in the South East, and an essential element of this is having close links with businesses. They include accommodation providers, pubs, restaurants, attractions and transport operators. With these businesses, we have undertaken a consultation exercise of our own, the findings of which form the basis of our observations below.

We welcome the ban on smoking in enclosed areas and support the government's commitment to an important health issue which will subsequently improve the quality of visitor experience.

For simplicity, we have broken our comments on the regulations down to four key areas.

1. Definitions of 'enclosed' and 'substantially enclosed' premises

All elements of the implementation of the smoking ban in Scotland must be borne in mind when compiling the English equivalent. To this end, we support the definitions given for enclosed, substantially enclosed and roof areas. We are, however, concerned about the time periods available to proprietors for the planning and construction of outdoor shelters and smoking areas. These structures will be essential for many establishments who rely on the trade of individuals who will continue to wish to smoke. The consultation document indicates that the smoking ban will be implemented in the summer of 2007. Following the close of this consultation and the time necessary to analyse and finalise the regulations, the period left for proprietors to plan, apply for permission and build structures will be limited; possibly less than six months. We feel that this is will not be adequate and may force businesses to provide temporary solutions for customers in the interim period. This would be an additional burden for businesses and does little for the quality of experience for customers.

Business in Sport and Leisure (BSL), the British Hospitality Association (BHA) and the British Beer and Pub Association (BBPA) have approached the Department of Communities and Local Government regarding the provision of a fast-track planning system for applications that are the direct result of the smoking ban. We fully support the implementation of such a system to ensure that proprietors are able to fully comply with the new regulations while continuing to offer the highest levels of service to customers. We would also wish to see the publication of good-practice guidance on the kind of structures that will be acceptable under current planning law and how best these can be implemented quickly and effectively. This would go some way towards offsetting the short time period available for planning and construction.

2. Exemption for self-catering establishments and designated smoking bedrooms

As an integral part of the tourism product in the UK, the accommodation sector must be able to offer the products and services that guests demand. As such, we welcome the inclusion of flexibility for businesses to offer accommodation in which guests can choose to smoke. The identification of self-catering as essentially short-term private accommodation and the associated exemption from the law is a welcome one. This is also true of the provision for designated smoking bedrooms in hotels and other serviced accommodation. A high level of ventilation is essential and we welcome the specifications for the design of these rooms. This is an important feature of the regulations which will go some way to safeguarding the health of employees.

3. Signage requirements

We recognise that the requirement to display notification of a property's smoke-free status is important and welcome the simplicity of design constraints built into the regulations. However, there will be additional costs associated with producing and displaying the required signage. This additional cost will fall on the businesses involved and, although in some cases this will be minimal, there are issues of aesthetics which may increase costs for some properties. Historic and listed buildings in particular will require signage that compliments the structure and aesthetics of the building, increasing the associated costs.

4. Penalties

Penalties for both individuals and businesses who deliberately flout the smoking ban are essential. It is, however, important that enforcement authorities are careful about imposing these penalties on proprietors and managers who have acted reasonably in attempting to stop individuals from smoking. The levels of fines are relatively low for large establishments but for small and medium sized businesses these could have a significant impact. It is important that enforcement takes account of the actions taken by the proprietor or manager to halt both accidental and deliberate violations of the law.

To conclude, we feel that the ban on smoking in public places is important for both the health of employees and the quality of the visitor experience. However, we do have reservations over the timing of the implementation of the law and the impact this will have on businesses who wish to accommodate smoking customers. In order to ensure that these businesses can comply with the regulations it is important that there is an element of flexibility built into the planning system. Once the legislation comes into force, it is important that enforcement is carried out in a reasonable manner. Businesses who attempt to maintain the law on their properties should not be unfairly punished for the actions of an individual.

Thank you for the opportunity to comment on this consultation. If we can be of any further assistance please feel free to contact us at the address above.

Yours faithfully



Robert Collier
Managing Director



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