



Fact Sheet

Outlawing Smoking - for a brighter future

Set to change the way we think and act with regard to smoking

In February, MPs voted for a total smoking ban in every enclosed public and work place. This ban takes effect from Summer 2007 and includes offices, bars, clubs, restaurants and cafes and vehicles used for business purposes: it excludes private homes, residential and care homes and hotel bedrooms, bed and breakfast and hostel rooms.

One of the main reasons for the ban is to improve the health of the nation and particularly its workforce. There have been personal injury claims brought by employees who have had to work in a smoky environment and their health has suffered - this might see the end to such claims.

According to a survey commissioned by the charity "No Smoking Day", 28 million smokers in the UK (22%) said they would give up when the ban comes in. A further 53% said they would try to quit the habit when the new laws are introduced.

At Pellys we must advise employers that they should act now to consider the impact on the ban within their businesses and decide how they are going to deal with it. Future problems could be avoided by drafting a smoking policy setting out rights and rules, in conjunction with employees so that everyone is clear about what they can and cannot do.

It will also be important for employers to decide how far staff should go to enforce the ban, for instance, with regard to bar and restaurant staff having to stop customers smoking whilst on the premises. They could, potentially, be dealing with a very difficult situation. Training and written guidance on how to deal with non-compliant members of the public and possibly, co-workers on not only observing the ban but also in taking steps to enforce it will help employers to defend any legal action taken against them for failing to enforce the ban. Possible costs for employers range from £200 and £1,000 in fines for failing to display "No Smoking" signs and between £200 - £2,500 for failing to enforce the ban. Employers should review their disciplinary policy now to decide what will constitute misconduct in the light of the changes.

Employers may also want to keep in mind their staff who are smokers, smoking is after all, an addiction. It might be appropriate to send employees to Counsellors* who will help them to quit the habit. Smoking rooms may be permitted but the law is clear that smoking will not be allowed in an "enclosed place to which the public has access". Some employers offer cigarette breaks which is clearly unfair to those employees who do not smoke. It may mean a major re-think on the employer's part as they may choose to withdraw the "privilege".

Vehicles used for work are likely to be covered and so will have to be smoke-free i.e. lorry drivers will not be permitted to smoke in their cabs.

However, we are short on detail at present and await the written regulations governing the ban.

*Hertfordshire Stop Smoking Service is funded by the NHS. To find out more please call free on : 0800 389 3998. Similar funded NHS services are established across England. Alternatively, you may wish to get in touch with The NHS Smoking Helpline on : 0800 169 0169.

Who to contact for assistance

Pellys LLP Employment Team

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