

SMOKE FREE REGULATIONS

KEY POINTS

Regulations which came into effect from 5th April in Wales and 1st July 2007 in England and specify premises which must be smoke-free.

- Internal common parts of block of flats must be smoke-free by law.
- Residents who smoke in common parts can be prosecuted by the local authority and fined up to £200.
- Signage announcing smoke-free premises must be placed in all blocks with internal common parts. There are different regulations about signage for England and Wales.
- It is an offence not to display the signs.
- Whether you agree or disagree the law your landlord and managing agents have a duty to prevent anyone from smoking in common parts of blocks of flats. If they do not challenge smokers they can be fined.

IMPACT ON BLOCKS OF FLATS

The enclosed common internal parts of blocks of flats are designated as smoke-free premises. It does not matter whether someone is working in them or not. External porches if less than 50% open sided must also be smoke-free.

Resident management companies, landlords or their agents have to display no-smoking signs that meet the requirements of regulations.

If there is an office within a block for a member of staff, say a porter or concierge, then that also must be smoke-free. If there are rooms used by employees only (perhaps store rooms or meter rooms) they also must be smoke-free.

IMPACT ON OWNERS OF FLATS

Private dwellings are exempt. The regulations do not prevent lessees from smoking in the privacy of their own flats. But you must not smoke

in the internal common areas of the block, it is against the law. So you have to put out your cigarette at the front entrance of the block if you do not do so already. Lessees that smoke in the common areas can be fined up to £200 if prosecuted by the local authority.

If you continue to smoke in the common areas of the block your landlord, resident management company's directors or your agent have to challenge you to stop. It is not that they are anti-smoking per se but the laws put a duty on them to challenge smokers. If they do not then they can be fined up to £2500, if prosecuted, for failure to prevent smoking in smoke-free premises.

Also bear in mind that if you want a member of staff or your managing agent to visit you in your home and you are a smoker, the law puts a duty on their employer to consider their health and safety from smoke. So some companies may adopt policies whereby employees decline to visit or work in a flat if the resident is smoking or is a regular smoker.

Alternatively the words "these premises" can be changed to refer to something more specific to the usage of the premises such as 'in communal parts of this building' or 'in this doorway'.

If a room or office is located within the block for staff (say a porter's office), then the signage can be simply the no-smoking symbol in colour at a minimum diameter of 70mm (assuming the entrance has the larger sign described above).

Your ARMA Agent can advise how to obtain the signs.

SIGNAGE REQUIREMENTS IN ENGLAND

From 1st July 2007 to 1st October 2012 the signage requirements for England were similar to those in Wales. But from 1st October 2012 the requirements regarding No Smoking signs in England were relaxed.

While a legal duty remains to display at least one sign in smoke-free premises and vehicles, there will be discretion as to the design and location of the signs.

ENFORCEMENT AND PENALTIES

The enforcement bodies are local authority environmental health officers. The penalties are:

- Failure to display a sign - up to £1,000 or a fixed penalty notice of £200 on the landlord, resident management company or their agent.
- Smoking in a smoke-free place - up to £200 or a fixed penalty of £50 discounted to £30 for early payment on a resident smoking in the internal common parts.
- Failure to prevent smoking in a smoke-free place - level 4 fine up to £2,500 on the resident management company, landlord or their agent.