

Bulletin 111

16th April 2007

SMOKE FREE PREMISES

To protect the health of all workers, it will be a legal requirement in England that all workplaces are smoke free from 1 July 2007. The legislation will cover all workplaces, work vehicles and public places including bars and restaurants, which are enclosed or substantially enclosed, and used as a place of work by more than one person.

Employer Obligations :-

- To ensure that buildings and vehicles are smoke-free.
- To take reasonable steps to ensure that staff, customers and visitors are aware that your workplace and work vehicles are legally required to be smoke-free.
- To display no-smoking signs in a prominent position at public entrances to buildings.
- The signs must be A5 in size and include the red no-smoking symbol and the words: "No Smoking. It is against the law to smoke in these premises".

Failure to Comply

Anyone caught smoking in smoke-free premises could face a fine of up to £200, or a penalty notice of £50. The penalty for failing to display a no smoking sign with the required content at each public entrance could result in a fine of up to £1,000 for the owner or manager of the premises. Owners and managers can also be made personally liable for up to £2,500 if somebody is reported smoking in a smoke-free premises under their control.

Employment Issues

- Grievances may be raised by employees dissatisfied with your no-smoking policy (or lack of one) or you may face a grievance from a non-smoker disgruntled because their smoking colleagues get additional 'fag breaks'.
- You may face a constructive dismissal claim from an employee who is unhappy working in an environment where people smoke.
- Employees who complain about your failure to comply with the legislation may have made a protected disclosure under the whistle blowing legislation.
- Employees may argue that you are not providing a safe system of work by allowing smoking in the workplace.
- Personal injury claims may be brought by employees suffering from emphysema or asthma which they claim have been caused by working in a smoky environment.

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Employment Bulletin

Practical Tips

- Develop and implement a no-smoking policy.
- Provide training to employees on the organisation's obligations, their obligations and potential penalties.
- Display updated no-smoking signs in the workplace for the attention of staff, customers and visitors.
- Make sure that smokers and non-smokers alike feel that they are being treated fairly.
- Create areas for customers and/or employees to smoke in, for example outside smoking shelters. If you wish to provide a 'smoking shelter' ensure that you comply with planning permission.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

This bulletin is for general guidance purposes only and should not be used for any other purpose.

Brabners Chaffe Street is listed in The Sunday Times 100 Best Companies to Work For

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