

# Smokefree Legislation

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## Introduction

Secondhand smoke contains many chemicals that pollute the air around a person who is smoking, with some of them causing extreme harm to the health of those nearby.

Laws to restrict where and when people can smoke have been introduced in various forms across the world to protect people when visiting public places and at their workplaces including in vehicles.

Laws are necessary because voluntary measures, although popular, rarely protect everyone. The UK laws are regarded as good examples since they are clear and contain few exemptions or loopholes.

### SMOKING IN WORKPLACES AND PUBLIC PLACES: THE HEALTH ACT

Smoking has been prohibited by law in virtually all enclosed and substantially enclosed workplaces and public places throughout the United Kingdom since July 2007. Smokefree legislation in England forms part of the [Health Act 2006](#) and [The Children and Families Act 2014](#). Implementation followed the introduction of a similar law in Scotland in 2006<sup>1 2</sup> and in Wales and Northern Ireland in April 2007.

Under the Health Act, “substantially enclosed” means premises or structures with a ceiling or roof (including temporary and retractable coverings such as awnings) and where there are permanent openings, other than windows or doors, which in total are less than half of the area of the walls. So, for example, market stalls and bus stops can be required to be smokefree if their structure is substantially enclosed.<sup>3</sup>

As part of the Health Act 2006, smoking in all public transport was prohibited as well as vehicles used for work purposes by more than one person at any time. The regulations require that a vehicle must be smokefree if it is used “in the course of paid or voluntary work by more than one person” (even if those persons use the vehicle at different times, or only intermittently).<sup>4</sup> Vehicles used for work purposes include taxis and minicabs, as well as business vehicles such as vans and lorries and specialised transport e.g. farm tractors. Public transport and vehicles used for work purposes must display a “No Smoking” sign at all times.<sup>5</sup> In addition, the Highway Code 2007 advises against smoking and driving because it can cause a distraction.<sup>6</sup>

### SMOKING IN PRIVATE CARS: THE CHILDREN AND FAMILIES ACT 2014

The Health Act 2006 was amended by the Children and Families Act 2014 granting the Government power to introduce regulations to make private vehicles smokefree when carrying children under the age of 18.<sup>7</sup>

The regulations took effect on 1 October 2015, with the law applying to England and Wales. A similar law in Scotland was implemented on 5 December 2016.<sup>8</sup> The Northern Ireland Assembly also enacted a ban on smoking in cars when children are present in 2016.<sup>9</sup>

## Background to the law

In 1998, the Government's White Paper, "Smoking Kills" proposed an Approved Code of Practice (ACOP) to supplement the Health and Safety and Work Act 1974 (HASAW) to protect workers from secondhand smoke, with an opt-out for the hospitality trade, which became known as the Public Places Charter. This voluntary scheme was designed to encourage places such as restaurants and pubs to increase provision for non-smokers and improve overall air quality. Despite extensive publicity to promote the Public Places Charter, awareness of and compliance with the initiative were low. A progress report published in April 2003 revealed that 46% of restaurants and pubs surveyed still allowed smoking throughout, with only 22% having separate smoking and non-smoking areas. Less than 1% banned smoking entirely.<sup>10</sup>

In November 2004, the Government published a White Paper on public health, which proposed to end smoking in the majority of workplaces and public places except for private clubs and for pubs which did not serve food.<sup>11</sup> Despite a public consultation which revealed overwhelming support for a comprehensive smoking ban, the Government retained the proposed exemptions for pubs and clubs when it published the Health Bill in late 2005. However, on 14 February 2006, MPs voted by a large majority to remove the exemptions for pubs and clubs. The bill also received majority support in the House of Lords and became law in July 2006. The law was implemented on 1st July 2007.

## The need for smokefree laws

The evidence that exposure to other people's smoke is dangerous to health is well established. Comprehensive reviews of the effects of passive smoking include reports by:

- the US Surgeon General<sup>12 13</sup>
- National Health and Medical Research Council of Australia<sup>14</sup>
- US National Research Council<sup>15</sup>
- World Health Organization (WHO)<sup>16 17</sup>
- California Environmental Protection Agency (EPA)<sup>18</sup>
- International Agency for Research on Cancer (IARC)<sup>19</sup>

Prior to the implementation of the smokefree law, it was estimated that exposure to secondhand smoke in the workplace caused around 617 premature deaths in the UK each year.<sup>20</sup> By comparison, the total number of deaths in the UK from all other industrial accidents was reported to be 235 in 2003/4.<sup>21</sup> The degree of risk depends on the extent and duration of exposure. Particularly at risk were bar staff, casino workers and other employees in workplaces where smoking was routine. It was estimated that secondhand smoke caused one premature death a week among workers in the hospitality industries.<sup>20</sup>

For more information about the health impacts of general secondhand smoke, see [ASH Fact Sheet: Secondhand Smoke](#).

## Smoking in motor vehicles

Smoking in motor vehicles causes harm in several ways:

1. It harms the smoker when inhaling tobacco smoke.
2. It harms other occupants of the vehicle when inhaling secondhand smoke.
3. It normalises smoking behaviour for children.
4. There is potential harm to the driver, passengers, and other road users from the driver's temporary lapse in attention to driving when lighting or extinguishing a cigarette.

A US study examined 100 different air change rate measurements in four vehicles. Results showed that under all ventilation circumstances, even with windows open and the fan on high, secondhand smoke concentrations in a vehicle were greater than in any other small enclosed place.<sup>22</sup> A Canadian study found that when the driver's window is open and the cigarette is held at the opening when the driver is not puffing, the level of secondhand smoke produced by a single cigarette is about two-thirds of the level of an average smoky bar.<sup>23</sup>

Although opening a window or using air-conditioning reduces the level of secondhand smoke, exposure for occupants in a vehicle remains significant. A systematic review revealed that exposure to secondhand smoke in cars can lead to extremely high concentrations of atmospheric markers of exposure even with air-conditioning or open windows.<sup>24</sup>

A review of studies on smoking and driver distraction found that smokers have an increased risk of involvement in motor crashes and "actual distraction caused by the act of smoking is a likely factor."<sup>25</sup> The review concludes that "it is clear that smoking while driving is a hazard."<sup>26</sup> A Taiwanese study examining the risk of injury for drivers who smoke found that smoking almost doubled car death risk. Smoking was associated with at least one in five male injury deaths.<sup>27</sup>

## Public support

Opinion polls show that public support for smokefree legislation is strong and has continued to rise since the law came into effect in 2007.

**Table 1: Support for smokefree legislation (2004 - 2014)**

Year of survey	Support for smokefree legislation among adults in England (%)
May 2004 (MORI)	51
Dec 2005 (YouGov)	66
May 2007 (YouGov)	72
Feb 2008 (YouGov)	76
Mar 2010 (YouGov)	80
Mar 2014 (YouGov)	82

The Smoking-Related Behaviour and Attitudes Survey for 2008/09 found the following high level of support for smoking restrictions among adults in Great Britain:<sup>28</sup>

- 85% agreed with restrictions on smoking at work
- 93% in restaurants
- 91% in indoor shopping centres
- 94% in indoor sports and leisure centres
- 85% in indoor areas at railway and bus stations
- 94% in other public places such as banks and post offices
- 75% in pubs

ASH-commissioned surveys have found both growing compliance with and support for smokefree policies that go even further. YouGov data shows that:<sup>29 30</sup>

- As of 2020, 90% of children report that people are never allowed to smoke in their home.
- 86% of children report they are never inside a car where someone is smoking.
- 82% of children and 66% of adults believe that smoking should be banned inside all cars, whether or not children are present.

## Economic impact

According to the Department of Health's report "Smokefree England - One Year On":<sup>31</sup>

- 81% of businesses agreed that smokefree legislation is 'a good idea'
- 40% of businesses reported a positive impact on the company, compared with 3% reporting a negative impact
- 38% of licensed premises reported a positive impact on the company, outnumbering those reporting a negative impact by three to one (12% reported a negative impact)
- 59% of businesses and 62% of licensed premises reported that staff reactions to the law were positive (4% and 15% respectively reported negative reactions)

Studies in the USA have shown that banning smoking in restaurants has either had a beneficial or neutral economic effect and may increase tourist business.<sup>32 33</sup> A review of studies examining the economic effects of smokefree policies found that those studies claiming a negative economic impact were backed by the tobacco industry and that most were subjective and of poor quality.<sup>34</sup>

## Health impact

Evidence of the harm from exposure to secondhand smoke (also known as passive or involuntary smoking) is well established and because of its carcinogenic content there is no safe level of exposure.<sup>35</sup> Breathing in other people's tobacco smoke is known to cause a range of health issues. These include immediate effects such as eye and throat irritation, headache, cough, dizziness, and nausea.

Adults with asthma can experience a decline in lung function while new cases of asthma may be induced in children.<sup>13 26</sup> For adults already suffering from cardiovascular diseases (CVD), acute exposure to secondhand smoke can trigger heart attacks while cessation of exposure reduces the risk. Other research has shown that

there is a strong dose-dependent association between passive smoking and risk of stroke, even at low levels of exposure.<sup>37</sup> [For further information on health consequences, see ASH Fact Sheet: Secondhand Smoke.](#)

In addition to the physical risks faced by children exposed to secondhand smoke in cars, there are wider social issues to consider. Observational studies examining the prevalence of smoking in cars by socioeconomic area suggests that children in lower socioeconomic groups are likely to be more frequently exposed to secondhand smoke than other children, compounding the already unacceptable health inequalities faced by these children.<sup>38</sup> Furthermore, children who are exposed to smoke in cars more likely to report smoking themselves.<sup>39</sup> Researchers, academics and health experts agree that it is ethically justifiable to ban smoking in cars carrying children because children are not fully autonomous and are therefore unable to act to protect their own health, wellbeing and interests.<sup>40</sup>

The smokefree legislation in England resulted in 1200 fewer emergency admissions to hospital for heart attacks (a reduction of 2.4%) in the 12 months following implementation of the 2007 law.<sup>41</sup> Other jurisdictions have shown reductions in hospital admissions for heart attacks ranging from 8% to 40%. Other health benefits associated with smokefree legislation include reduced incidence of childhood asthma and an increase in the number of people cutting down or quitting smoking.<sup>42 43</sup>

## The law in practice

### LEGAL REQUIREMENTS FOR SMOKEFREE PUBLIC PLACES, WORKPLACES AND WORK VEHICLES

The persons in control of premises and work vehicles (the owners, occupiers or managers) are required to uphold the law by ensuring that no one smokes where it is against the law to do so. They must also display at least one legible no-smoking sign in smokefree the premises or vehicle.

Note: The Smoke-free (Signs) Regulations 2012, relaxed the requirement for signs to be displayed at every entrance to smokefree premises. The requirement is now for at least one legible no-smoking sign to be displayed in all smokefree premises and commercial vehicles. The person in control can decide the size, design, and location of the signs.

### ENSURING COMPLIANCE

The persons in control should also take reasonable steps to maintain compliance for example:

- Ensuring that staff, customers, visitors, and members of the public are aware that premises and vehicles are legally required to be smokefree.
- Identifying areas inside their premises where smoking might be taking place and displaying additional no smoking signs or installing smoke detectors and alarms.
- Including their smokefree requirements in their personnel procedures and being prepared to use their disciplinary procedures if necessary.

### EXEMPTIONS

There are very few exemptions to the law and where they do exist, they do not apply to the entirety of the premises but to “designated rooms”. In practice, many of these exemptions are still covered by voluntary smokefree policies. Exemptions to the law include:

- Guest bedrooms in hotels and guest houses and certain rooms in care homes, hospices, and prisons.<sup>44</sup>
- Private homes.<sup>45</sup> However, if part of a home is used as a workplace, for example a room set aside for childminding or music lessons, that room must be smokefree. Where work is undertaken solely to

provide personal care for a person living in the dwelling, to assist with domestic work or to maintain the building, the private dwelling is not considered to be a workplace and is exempt from the smokefree legislation.

- Places which are open-air, such as sports stadia,<sup>46</sup> are exempt. However, the owners of such premises may choose to implement a smokefree policy.
- Bus stops and other shelters may be exempt if the structure is not “substantially enclosed”.
- In England, smoking by actors may be permitted if appropriate for the artistic integrity of the performance. This exemption does not apply to other countries of the United Kingdom.
- Offshore installations, such as oil rigs, may designate a room for smoking.
- Specialist tobacco shops. Exemptions are allowed only for the sampling of cigars or pipe tobacco and are subject to stringent conditions. Full details can be downloaded [here](#).

## ENFORCEMENT

Local authorities enforce the smokefree laws in workplaces, public places and work vehicles, however voluntary compliance with the law has been high and there has been little need for enforcement measures.

Offences for which individuals can be fined or prosecuted occur when the law is not complied with in the following ways:<sup>47</sup>

- Failure to display no smoking signs.
- Smoking in a smokefree workplace, public place, or vehicle.
- Failure to prevent smoking in a workplace, public place, or vehicle.

Fixed penalty notices can be issued for the offences of smoking in a smokefree place and for failing to display the required smokefree signs. Failure to pay the fixed penalty, and serious and repeat offenders, can be prosecuted in the magistrates’ court, as well as persons in control of smokefree premises and vehicles who fail to prevent smoking taking place.

## COMPLIANCE

Compliance with the 2007 smokefree law has been consistently high since it was introduced. During the first 18 months of the legislation, local authorities in England inspected almost 600,000 premises and vehicles and found that:<sup>48</sup>

- 98.2% were smokefree
- 89.3% were displaying the correct no smoking signage

## OFFENCES FOR SMOKING IN PRIVATE MOTOR VEHICLES WHEN A CHILD IS PRESENT.

Police and local authorities can authorise officers to enforce the law against smoking in a private vehicle with someone under 18 present. A fixed penalty notice can be given to anyone who smokes, or to the driver for failing to prevent someone smoking, if a child is present. Since implementation of the law in England and Wales there have been very few reported breaches and most of these have been dealt with by the police issuing verbal warnings.<sup>49</sup> There is little need for enforcement with fixed penalty fines, as overall compliance with the law is already high. A report by the Chartered Institute of Environmental Health found no contraventions of the law in any of the 255 vehicles tested in two locations in England.<sup>50</sup> By comparison, efforts to require the use of seatbelts in cars were most successful when legislation was introduced. Seatbelt wearing increased in the UK from 25% to 91% after the law was introduced.<sup>51</sup>

According to ASH’s Smokefree 2020 survey, 97% of respondents do not allow smoking in their car if children are present.<sup>29</sup>

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