

The Smoking Ban in Scotland



From 6am on Sunday 26th March, 2006,
Scotland introduced a new law which
bans smoking in public places.



The Principals of the Legislation

What is the aim of the new law?

The law aims to protect the general public from the harmful effects of passive smoking.

What does the law do?

The new law bans smoking in "no-smoking premises", by:

- creating an offence of permitting others to smoke in no-smoking premises;
- creating an offence of smoking in no-smoking premises;
- creating an offence of failing to display warning notices in no-smoking premises;
- setting out the powers of enforcement officers to enter no-smoking premises; and
- creating an offence of failing without reasonable cause to give one's name and address on request by an enforcement officer.

What do you mean by 'no-smoking premises'?

They include premises like restaurants, bars, shops, cinemas, offices, hospitals, work vehicles and sports centres. Those premises will then be no-smoking premises if they are wholly or substantially enclosed. What that list of no-smoking premises has in common is that they all fall into one of the following four broad categories of premises, namely those:

- to which the public or a section of the public has access;
- which are being used wholly or mainly as a place of work by persons who are employees;
- which are being used by and for the purposes of a club or other unincorporated association; or
- which are being used wholly or mainly for the provision of education, health or care services.

Additional Legislation

What is the change in the law?

From 1st October 2007 it became illegal to sell tobacco products to anyone under the age of 18 (previously 16) in Scotland.

Who does the law apply to?

The law applies to any person or trader who sells tobacco products. Both the actual sales person and the business owner could be prosecuted for any illegal sales. It does not matter if it was believed that the purchase was being made on behalf of an adult or if the person looked like they were over 18.

Tobacco & Primary Medical Services (Scotland) Act March 2010

Key measures contained in the act:

- An end to the promotional display of tobacco brands in retail outlets, expected for larger retailers in 2011 and for smaller retailers in 2013.
- An end to the sale of cigarettes through vending machines, likely to be implemented in 2011.
- A requirement for those selling tobacco to be on a central register with the offence of selling tobacco without being registered having a penalty of a fine of up to £20,000 or 6 months in jail, or both.
- There will be a requirement for local authorities to carry out annual programmes of enforcement on tobacco sales law.
- The offence of proxy purchase of tobacco by adults for those under 18 is created with penalty of a fine up to £5000.
- The offence of under 18s attempting to buy cigarettes is created.
- Police have the power to confiscate tobacco from under 18s in a public place.
- Enforcement officers have new powers to issue fixed penalty fines for breaches of the law.
- Enforcement officers can seek a banning order (for a maximum of 24 months) from a sheriff if more than three enforcement actions have been issued.