

Dear Mr Glen

I am responding after consulting *THE SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005 (PROHIBITION OF SMOKING IN CERTAIN PREMISES) REGULATIONS 2005: DRAFT*. According to Regulation 3(2) 'residential premises' will be exempt from this prohibition. However, in Annex A I find the following [my italics]:

"residential premises" means so much of any premises as is for the time being occupied or used by any person for residential purposes or otherwise as living accommodation, (including hotel accommodation that is occupied or used as a person's principal place of residence), *but not including a reference to so much of any premises as constitutes any common area to which the person has or is allowed access in connection with the person's use or occupation of any accommodation*, nor including a reference to an adult care home, an adult hospice, a psychiatric hospital, a psychiatric unit or a secure accommodation service;

It is not clear to me whether this formulation, though leaving people free to smoke while in their own flats, will indeed have the effect of forbidding smoking in the common areas of the close, nor, if it does, whether this prohibition will include allowing their smoke to escape from a private flat into the common staircase area.

Please advise me whether, as I hope, it will. If it will not, please press for a suitable alteration to the