

Asthma UK Scotland is dedicated to improving the health and well-being of the 390,000 people in Scotland with asthma.

Asthma UK Adviceline
Ask an asthma nurse specialist
08457 01 02 03
asthma.org.uk/adviceline

asthma.org.uk

Asthma UK Scotland
4 Queen Street
Edinburgh EH2 1JE

T 0131 226 2544
F 0131 226 2401



of us
Mr John Glen
Scottish Executive Health Department
Tobacco Control Division
3 F (R)
St Andrew's House
Regent Road
EDINBURGH
EH1 3DG

22 April 2005

Dear Mr Glen

**The Smoking, Health and Social Care (Scotland) 2005 Act
(Prohibition of Smoking in Certain Premises) Regulations 2005: Draft**

Please find enclosed the response of Asthma UK Scotland to the above named regulations.

If you have any queries with regard this submission, please do not hesitate to get in contact with me.

With best wishes,

Yours sincerely,

MYLES FITT
Public Affairs Manager
Asthma UK Scotland

Asthma UK Adviceline
Ask an asthma nurse specialist
08457 01 02 03
asthma.org.uk/adviceline
asthma.org.uk
enquiries@asthma.org.uk

Asthma UK Scotland
4 Queen Street
Edinburgh EH2 1JE
T 0131 226 2544
F 0131 226 2401



The Smoking, Health and Social Care (Scotland) 2005 Act (Prohibition of Smoking in Certain Premises) Regulations 2005: Draft

Response to Consultation from Asthma UK Scotland

INTRODUCTION

On behalf of the 390,000 people in Scotland with asthma, and on wider public health grounds, Asthma UK Scotland would ideally not wish to see any exemptions to the ban on smoking in public places as proposed in the Smoking, Health and Social Care (Scotland) Bill. However, we recognise that there will be exemptions and would strongly urge the Scottish Executive to resist any pressure to add to the list of exempted places as currently proposed in the draft regulations. In considering the draft regulations, Asthma UK Scotland would like to bring your attention to the following research that found¹:

- 4 out of 5 people with asthma say other people's smoke makes their asthma worse
- 55% of parents of children with asthma avoided restaurants and places with smoky atmospheres.
- Second- hand smoke is the second most common trigger in the workplace
- 1 in 5 people with asthma feel excluded from parts of their workplace where people smoke
- 44% of people with severe asthma symptoms report missing out when friends and family go to restaurants or pubs where smoking is allowed
- When we asked people with severe asthma 'If you could get the government to do just one thing to improve your asthma, what would it be?' 21% said 'Ban smoking in public places'.

Asthma UK Scotland has the following to say on the proposed draft regulations:

¹ National Asthma Campaign, National Asthma Panel fieldwork, December 2003

Asthma UK Adviceline
Ask an asthma nurse specialist
08457 01 02 03
asthma.org.uk/adviceline
asthma.org.uk
enquiries@asthma.org.uk

Asthma UK Scotland
4 Queen Street
Edinburgh EH2 1JE
T 0131 226 2544
F 0131 226 2401



REGULATION 3: "No Smoking Premises"

Asthma UK Scotland believes the definition of 'no-smoking premises' should be redefined from 'wholly enclosed' to 'wholly or mainly enclosed' with the definition of 'mainly' being where more than 50% of the space in question is enclosed. This is to cover public places such as railway station platforms and bus shelters that are often 'mainly but not wholly' enclosed but still liable to cause difficulties from someone with asthma from second-hand smoking. This reflects the approach taken in other countries with a similar ban on smoking in public places such as in Ireland.

SCHEDULE 1: No Smoking Premises

Asthma UK Scotland is concerned that the definition of no-smoking premises under Section 4 (4) Clause (b) that states 'which are being used wholly or mainly as a place of work by persons who are employees' does not take into consideration those employees whose place of work is in people's residential homes such as plumbers, joiners, electricians, carpet fitters, or repair persons. For these people, while their organisation's office or headquarters may be located elsewhere and be smoke free, their regular place of work is in an environment where people will be allowed to smoke, creating the clear potential for workers with asthma being exposed to an asthma attack triggered by second-hand smoke.

Asthma UK Scotland recognises that people have a right to smoke in their own homes and that the particular scenario we have outlined would be problematic for the Scottish Executive to legislate in this area. However, Asthma UK Scotland would like to see the Scottish Executive take a lead in encouraging organisations, companies and businesses who have employees, and in particular employers who have asthma, whose place of work is in people's homes, to find a way to ensure that the risks of being exposed to second-hand smoke are minimised. This will allow employees to carry out their work free from the immediate and long-term effects of smoke.

Asthma UK Adviceline
Ask an asthma nurse specialist
08457 01 02 03
asthma.org.uk/adviceline
asthma.org.uk
enquiries@asthma.org.uk

Asthma UK Scotland
4 Queen Street
Edinburgh EH2 1JE
T 0131 226 2544
F 0131 226 2401



SCOTLAND

Asthma UK Scotland supports the Scottish Executive's proposals to ban smoking in work places. However, from the perspective of employees with asthma, the current proposals would still potentially mean that employees carrying out types of work where the main working environment is in people's homes, could still be exposed to second-hand smoke which is the second biggest trigger for causing asthma attacks in the workplace. As such, this potential loophole is inconsistent with the otherwise commendable aims of making the work place smoke free.

SCHEDULE 2: Exemptions

Adult Care Homes

Asthma UK Scotland would like to see adult care homes, while classified as exempt from the legislation under the draft regulations, have a reverse situation whereby smoking is not allowed in the main areas of the care home, but permitted in a designated smoking area, on the grounds of protecting the health of fellow non-smoking residents and staff, particularly those with asthma.

Hotel, Guest House and B&B bedrooms

Asthma UK Scotland is concerned that proprietors of hotels, guest houses and B & B's may use their power to designate all, if not nearly all, their rooms whereby smoking is permitted. Asthma UK Scotland supports the intention behind giving such proprietors this discretion but would like to see the Scottish Executive consider some form of quota so that this discretion is not abused.