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Date 05 May 2005
Your Ref
Our Ref Rod House
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Dear Sir

**The Smoking, Health and Social Care (Scotland) Act, 2005
(Prohibition of smoking in certain premises) Regulations 2005**

Thank you for providing us with the opportunity to comment on the above consultation document. We have given consideration to the document and our answers are detailed in the accompanying document.

We hope that the information is of use to you and if you require any further information please do not hesitate to contact the centre.

Yours faithfully,

R.D. House

Consultant in Environmental Health

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Chairman David Campbell CBE
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*NHS National Services Scotland is the common name of the
Common Services Agency for the Scottish Health Service*



INVESTORS IN PEOPLE

**The Smoking, Health and Social Care (Scotland) Act 2005
(Prohibition of smoking in certain premises) Regulations 2005**

In response to those specific questions raised within the consultation, we would make the following comments:

Q1 Do the definitions of words and phrases ensure clarity of what premises are covered or exempted from the regulations?

Agreed

Q2 Display of no smoking notices, views on this approach.

Agreed

Q3 'No smoking' Premises. Comments?

Our comment would be that under Schedule 2 oil rigs gain exemption from these regulations. This exemption requires further clarification to ensure that employees employed on the rigs are not exposed to environmental tobacco smoke passively.

Q4 Views are invited on the level of fixed penalties and time limits for payment

Clearly, the success of such a system is reliant on sufficient and competent enforcement officers being available. We have made a general comment at the end of this paper relating to resource implications for enforcement staff.

Q5 Application by councils of fixed penalties and account keeping. Views?

The stated need for local authorities to fund the enforcement role by monies obtained via the fixed penalty notice scheme would perhaps be viewed by some parties as possibly encouraging over enforcement by officers in an attempt to defray costs incurred by their authorities.

Q6 No smoking premises? Comments

As stated previously our comment would be that under Schedule 2 oil rigs gain exemption from these regulations. This exemption requires further clarification to ensure that employees employed on the rigs are not exposed to environmental tobacco smoke passively.

Q7 Exemptions-Adult care homes

The clear consideration must be to the health and welfare of non-smoking staff. Any decisions taken must ensure the protection of such staff.

Q8 Exemptions- Psychiatric hospitals

As stated above in order to ensure the spirit of the Bill is adhered to the over riding consideration must be to the health and welfare of non-smoking staff. Any decisions taken must ensure the protection of such staff.

Q9 Exemptions- Hotel, guesthouse and B and B bedrooms

The exemption would seem reasonable provided that non-smoking staff are not put at risk.

Q10 Omissions from Schedule 2?

None.

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General comment

In order to ensure success of the Bill and Regulations a competent and adequately resourced enforcement workforce require to be in place. We have concerns that the apparent requirement for local authorities to resource this area within existing budgets is unrealistic and the statement in the regulatory impact assessment that the enforcement costs would diminish after 2 years may be optimistic.