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Mr John Glen
Scottish Executive Health Department
Tobacco Control Division
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Date: 25 May 2005
Your Ref:
Our Ref: CS/JF
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Dear Mr Glen

THE SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005 (PROHIBITION OF SMOKING IN CERTAIN PREMISES) REGULATIONS 2005: DRAFT

Thank you for your letter inviting comments on proposals for regulations under powers contained in the above bill. The following comments are submitted on behalf of NHS Highland.

Regulation 1: Citation, Interpretation and Commencement

Q. Do the definitions of words and phrases ensure clarity of what premises are covered or exempt from the regulations? If not, how might they be improved?

Annex A (Page 1)

Use of the term 'mainly' within the draft definition of 'Bar' could be open to interpretation and provide a possible loophole for some establishments. A clearer definition will be helpful.

Annex A (Page 2)

Under the definition of 'designated hotel bedroom', the manager or person in control of the hotel could designate all bedrooms as 'smoking'. It would be helpful in promoting non-smoking as the norm, to specify a percentage of bedrooms within a hotel which must be designated as 'non-smoking'. We would suggest that at least 70% of bedrooms should be designated 'non-smoking'.

Annex A (Page 3)

Use of the term 'mainly' within the draft definition of 'restaurant' could provide a loophole for premises such as coffee shops where the main use is for drinking non-alcoholic beverages. A tighter definition is required to ensure these types of establishments will be included in the Bill.

Additionally, we would suggest that legislation should cover more than 'wholly enclosed' public places to ensure that facilities such as bus shelters and partially enclosed sports stadiums are included.

Working with you to make Highland the healthy place to be



Headquarters: Assynt House, Beechwood Park, INVERNESS IV2 3HG

Chairman: Garry Coutts

Chief Executive: Dr Roger Gibbins BA MBA PhD

Highland NHS Board is the common name of Highland Health Board

We would like to see adoption of the system in Ireland whereby premises that are more than 50% enclosed are designated 'non-smoking'. We believe this would further promote non-smoking as the norm.

Regulation 2: Display of No Smoking Notices

We welcome the clear information in terms of size of 'no smoking' notices and would recommend that regulations clearly state that notices should be displayed at all times. Additionally we suggest that notices should state who is responsible and guilty of an offence if there is non-compliance.

Regulation 3: 'No Smoking Premises'

We would suggest that a clearer definition of 'not significant' be given in relation to premises that are not wholly enclosed and would recommend that premises that are more than 50% enclosed be designated as 'non-smoking'.

Schedule 2 Exemptions

We recognise the need for some exemptions from the scope of the legislation in situations where premises such as care homes are effectively the homes of their residents as well as a place of work for the staff.

However, we would strongly urge that the Regulations put emphasis on policies which promote smoke-free areas with designated smoking areas, rather than smoking, with designated smoke-free areas.

Thank you for the opportunity to comment on the draft Regulations.

Yours sincerely

DR ERIC BAIJAL
Director of Public Health