



John Glen  
Scottish Executive Health Department  
Tobacco Control Division  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

16 May 2005

Dear Mr Glen

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

I am writing to you in response to the above consultation on measures to prohibit smoking in certain wholly enclosed public places in Scotland and the detailed provisions, including exceptions, to be prescribed through regulations.

As you may be aware Equity is a trade union representing around 37,000 actors, singers, dancers, other performers and creative contributors working in the UK. Many of our members work in the type of premises that are identified specifically as no smoking establishments under Schedule 1 of the regulations – including pubs, clubs, concert halls, theatres, other premises for the entertainment of members of the public and broadcasting studios and film studios

The letter does not attempt to address each individual question relating to every aspect of the regulations, but identifies key areas of concern in the light of our specific experience and expertise.

Firstly, I should state that Equity recognises the public health benefits of reducing passive smoking. We have campaigned for a number of years to ensure mandatory smoke extraction in venues where our members work and where smoking is (or will continue to be) permitted in the UK. We therefore understand the logic behind the introduction of these measures and the move to designate many of the stated premises as no-smoking areas (encompassing specific areas where our members work such as dressing rooms, rehearsal rooms, backstage areas and green rooms) on the grounds that they are “wholly enclosed” places of work.

However we would like to raise a specific concern regarding the all-embracing manner in which some of these premises are referred to in Schedule 1. We are particularly concerned that a complete ban on smoking could be taken to include smoking that takes place as part of a performance and is integral to the action. For example, a number of plays do involve characters that are required to smoke, but the regulations as drafted could be interpreted to prevent this. Similarly, television or films studios are often used to make programmes or films where performers are required to smoke (e.g. when portraying a character as part of a dramatic performance).

In order to prevent these regulations from curbing artistic integrity of such performances Equity would suggest an additional exception under Schedule 2, which specifies smoking can be permitted as part of a dramatic performance. We understand that the recent Private Bill on the prevention of smoking that is being promoted at Westminster by the Association of London Government is to be amended in order to account for these instances. Therefore we would suggest that the Scottish Executive examine this approach in order to avoid such an unintended consequence.

I recognise that these comments offer a very specific understanding of the implications of the regulations, however I hope that you find this helpful in developing the final enabling provisions for this measure. If you require further information please contact Matt Payton, Equity Research & Parliamentary Officer on 020 76700260 or at [mpayton@equity.org.uk](mailto:mpayton@equity.org.uk).

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'IAN McGARRY', written over a large, stylized circular scribble.

**IAN McGARRY**  
**GENERAL SECRETARY**

Cc: Ian Tasker, Assistant Secretary, Scottish TUC