



Cullen Bay Hotel

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15/04/05


Dear Sir,

Having carefully studied The Smoking, Health and Social Care (Scotland) Act 2005 (Prohibition of Smoking in Certain Premises) Regulations 2005 Draft, I would like to draw your attention to several points of note.

I am astounded that the Scottish Executive are attempting to rush through such a Bill when clearly and by their own admission the full implications of such a Bill have not been carefully studied or researched. There are few people who would attempt to dispute that smoking and passive smoking has a detrimental impact on the Nation's health. We must however bear in mind that the Tourism sector is the last major economy of Scotland as all other sectors have declined in recent years. I personally believe that it would be more prudent to firstly commission a study into the potential economic impact of such a Bill. Despite HERU being commissioned to carry out their study they have chosen for reasons best known to the authors not to investigate the economic impact properly. This alone demonstrates that the authors are perhaps not as independent as they may suggest at the beginning of their report and that they are lacking the expertise to tackle this important part of the study. The Scottish Executive appears not to have considered as to how they may help sustain the Hospitality Sector should the Bill have a major financial impact on the Sector.

I am convinced that further research must be carried out to recognise all the possible scenarios which may affect Scotland's future with a view to implementing a structured, phased approach to Scotland. The current time frame of March 2006 does not allow this. It does not allow the business people of Scotland time to reflect nor adapt and implement changes so that they may protect the integrity of their businesses. There appears to be no strategy for providing advice and information for foreign tourists to prevent confusion on arrival in Scotland once the Bill is in full effect, nor does there appear to have been any research as to the impact of the Bill on this customer base.

The Scottish Executive appears to be only listening to the advice of the medical profession. The whole concept of democracy is that all people great and small should have representation and be heard.

It is unclear in any of the documents that I have been sent as to how the Scottish Executive intends to police the Bill. Having personally spoken to Environmental Health Officers, it appears they are unsure of their level of involvement. The general consensus would appear that Licensee's will be the soft target and not the smoker. I am curious to identify how I deal with a patron who refuses to extinguish their cigarette. I am not personally aware of any EHO who works after 18.00 hrs. Furthermore there has been

reference that it will be an offence not to provide personal details to an EHO. The Police appear to struggle to identify members of the public during an incident, so I cannot see as to why these same individuals would be any more honest when asked by an EHO. There is a proposed telephone number to report those who flaunt the ban. I can see this number being open to abuse. A disgruntled customer will be able to report a Premises as an act of revenge. There is no provision in the Draft Bill to prevent or control this.

Upon reading through the various definitions of the Bill, I draw your attention to 'premises'. In the definition it states that this includes 'any land'. My Hotel is situated in the middle of the Countryside and stands on a 2 and ¼ acre site. The Draft suggests that my Patrons will be forced to leave the grounds and stand on the grass verge of the A98 (60 mph road limit) so that they may smoke. This is simply ridiculous. It is unwise to encourage anyone, especially when their judgement may be impaired by alcohol to attempt to stand on a four foot grass verge on a busy country road at a corner which has a high rate of traffic accidents so that they may exercise their Human Right to smoke. I had previously been led to believe that the Bill was to prevent smoking inside the premises and not outside, however this definition appears to dispute this. There is no consideration with the Draft Bill with regard to Smoking Shelters. If the Bill is to be implemented in March 2005 it would be ideal if I could start considering now how I may best serve my Patrons who smoke with regard to providing them shelter. Again due to the location of the Hotel a shelter will be necessary to protect my Patrons from the elements. High winds, sleet, hail, snow and rain are all regular visitors.

I personally think that it is unfair to make Patrons have to endure such conditions purely because they have chosen to smoke. To suggest as an argument to this that smokers have a choice would be arrogant. Furthermore such inclement weather conditions and lack of shelter may encourage individuals to attempt to covertly smoke inside the premises. Such activities could encourage individuals to identify cupboards and discreet areas as places to smoke. This may lead to improper disposal of cigarettes creating an increased risk of fire. As part of our current Fire Risk Assessment we do not permit nor tolerate smoking in any accommodation area, however the proposed 'designated hotel bedrooms' has the potential to thwart this. It requires to be clarified that should an establishment have NO designated hotel bedrooms will the Bill protect the owners or will hotel bedrooms simply be exempt.

I look forward to your response.

Yours Sincerely



Simon Tucker