

Smoke-free Regulations Consultation
Health Improvement Directorate
Department of Health
Rm 712 Wellington House
133-155 Waterloo Road
London SE1 8UG

BY POST & EMAIL: smokefreeregulations@dh.gsi.gov.uk

12th September 2006

Dear Sirs

Royal Yachting Association: Response to the Smoke-free Regulations Consultation

I enclose the Royal Yachting Association's (RYA) comments in response to the above consultation.

The RYA is the national governing body for all forms of recreational and competitive boating. It represents boating interests both coastal and inland, dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft.

The RYA is recognised by all government offices as being the negotiating body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1500 RYA affiliated clubs and class associations.

The RYA also sets and maintains a recognised standard for recreational boat training through a network of 2,333 RYA Recognised Training Centres in 20 countries. Over 143,000 people per year complete RYA training courses.

Please do not hesitate to contact me if you have any questions or queries arising from our response. On behalf of the RYA I shall be pleased to be involved in any future consultations or discussions.

Yours sincerely

Mandy E Peters
F.Inst.L.Ex
Legal and Government Affairs

RYA Response

The RYA offers the following detailed comments in response to the consultation document:

Question 1

We believe that the requirement in the regulations for no-smoking signs in smoke-free premises and vehicles is unnecessary and an expensive burden. We suggest that, as the ethos behind the legislation is to change the culture and attitude to smoking within England, the regulations should provide for smoking signs to be used where smoking is still permitted.

Having to comply with no-smoking signs will be costly to stakeholders, especially our interest group, namely voluntary run not-for-profit sports clubs, who already run on a tight budget. As the legislation is to ban smoking in public places and workplaces there does not seem to be any real need to remind the public of this, provided that the legislation carries full and adequate coverage.

Indeed we feel that as far as our interest group is concerned it should be left up to individual clubs to decide whether it is necessary, knowing the environment of the club, to put up no-smoking signs or whether it would be sufficient to refer to the no-smoking rule in the club's rules.

If signs must be used then we would urge the Government to ensure that these are made available to stakeholders, and particularly not-for-profit sports clubs, at a reasonable price.

Question 2

We believe that whilst an operator/driver or any person on the vehicle who is responsible for public order or safety should have some level of duty to prevent smoking in a smoke-free vehicle, the level of duty should be to prevent smoking 'insofar as is possible'. It may be extremely difficult for sports club mini-bus driver, for example, to force a member not to smoke. In extreme

circumstances, this could lead to confrontation and lead to personal risk for the operator/driver.

What support will the system give to those enforcing non-smoking laws? Can a volunteer be guaranteed legal support if they take all necessary measures to refuse entry/expel/ban someone who refuses to abide by non-smoking restrictions?

We would be interested to know what the Government consider will constitute 'reasonable steps' in terms of the defence to the offence of failing to prevent smoking in some-free places.

We would urge the Government to provide Guidance to accompany the legislation, on this 'reasonable steps' issue as well as other issues within the legislation in good time before the legislation comes into force.

An unnecessary expense will be incurred due to enforcement of no-smoking notices. If the regulations instead stipulate that only smoking signs should be provided, this expense would be reduced.

Penalty Notices for failing to display no-smoking signs in accordance with the regulations allow either 29 days or 15 days to pay the penalty. Can you confirm whether these are 29 working days/15 working days respectively or do they include weekends and bank holidays etc?

We believe that the penalty system in the regulations are inherently unfair on the premises/vehicle operator/manager compared to the actual smoker. It places a huge burden on operators/managers. We cannot understand why an operator/manager will be subject to pay a higher penalty than the actual smoker? £200/£150 for an operator/manager and only £50/£30 for the smoker.

Question 3

No comment.

Question 4

We believe that it is appropriate to exempt accommodation for guests and club members. Our concern here relates to the cost to

the voluntary run non-for-profit sports clubs of installing mechanisms to ensure that doors to such rooms mechanically close immediately after use. Has the Government considered how mechanically closing doors fit into the current Disability Discrimination legislation?

Question 5

We believe it is necessary to exempt performers when participating in a performance in order to retain the artistic integrity of the performance. As to whether loopholes will develop, no doubt they will, as they do with every piece of legislation, indeed, the nature of some human beings lends itself to discovering and using loopholes. The penalties will no doubt take care of this section of the public.

Question 6

No comment.

Question 7

No comment

Question 8

We would ask how the ban will work in relation to those work vehicles that are assigned to one employee where that employee may from time to time, because of convenience (and not due to a contractual obligation), carry a work passenger in the vehicle or even lend the vehicle to another colleague?

The RYA is willing to meet and discuss any aspect of the consultation or any points contained in this response, if it would assist you.

**Royal Yachting Association
August 2006**