



**SMOKEFREE
RESPONSE TO CONSULTATION**

Smokefree Legislation Team
Health Improvement Directorate
Department of Health
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Dear Sirs

**Royal Yachting Association: Response to the DH
Consultation on the Smokefree Elements of Health
Improvement and Protection Bill**

The Royal Yachting Association (RYA) is the governing body for all forms of recreational and competitive boating and represents boating interests, both coastal and inland, at a national level. The RYA currently has in the region of 100,000 personal members and approximately 1500 affiliated clubs and organisations representing approximately 400,000 members

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

Question 1

We do not believe that the definition raises any undue concerns, unless it can be shown that non-tobacco cigarettes may cause harm to health.

One point of concern is the ability to enforce the ban on smoking when it is open to non-tobacco smokers to continue smoking in public places – it may be difficult to ascertain whether the article being smoked contains tobacco or is in fact tobacco free. Perhaps including the wider definition, to encompass herbal cigarettes may prove helpful in terms of enforcement.

www.rya.org.uk

Updated: 22 December 2005

Question 2

We believe that the definition of enclosed is too complicated to provide a clear definition. It is ambiguous and likely to cause confusion. We consider that a clearer definition together with some form of visual diagram would lead to a better understanding of the term 'enclosed'.

Question 3

We agree with the proposed regulation making powers to include places which may not fall strictly within the definition of 'enclosed'.

Question 4

The use of the Licensing Act 2003 and the fact that the proposals wish to see the premises licensed under the Act before the legislation comes into effect is a cause for concern. There may be many reasons why a premises license may have lapsed, it may be in the appeal stages, the very fact that the Licensing Act 2003 is a new piece of legislation itself will no doubt mean that there is some time before it is bedded in. There will undoubtedly be cases under the 2003 Act that will have to go to Court for judicial decision on the interpretation of the Act. We know already that Licensing Authorities are struggling to get to grips with the Act and whilst we would hope that by 2008 the matter has settled down, there may still be problems. We would not wish to see any of our clubs penalised under the smoking legislation because of some inadequacy in the Licensing legislation.

Question 5

We favour the proposal to list permitted foods in regulations in order that it may be changed from time to time.

Question 6

We believe that private vessels should also be included in the exemptions to the legislation.

Question 7

We agree with the annual ballot proposal, thus allowing club members to choose the smoking status of their club. We believe that the ballot should be by simple majority. Bearing in mind that most clubs require a $\frac{3}{4}$ or $\frac{2}{3}$ voting majority requirement for a rule change, it would help to avoid any doubt on the matter if the legislation stipulates a "simple majority".

Question 8

Not applicable as our offices are currently non-smoking.

Question 9

We do not believe that there is in fact any need for non-smoking signs. 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 to require businesses to include no-smoking signs will add another cost burden on them.

Rather there should be smoking signs for those public houses which will continue to be permitted to allow smoking. Perhaps this would also change the ethos of the smoking public insofar as the English public may then consider its country to be on the whole non-smoking, with smoking being permitted only in domestic premises and those places where the signage tells us so.

Question 10

No comment.

Question 11

No comment.

Question 12

No comment.

Question 13

We favour the proposal to allow the industry to continue to promote the no smoking at the bar policy without the need for legislation.

Be it industry policy or legislative ban on smoking in the bar area, we would ask whether clubs will be exempted from this proposal.

The consultation paper states that all bar areas should be smoke free. But many small clubs have only one public area. Perhaps where qualifying clubs are concerned there should be an exemption to allow them to stipulate a limited area for smokers provided the ventilation arrangements are suitable.

Question 14.

A December timetable may pose problems, it being the festive time of year when the public tend to socialise more and as a consequence drink and smoke more. It may be more beneficial to have the legislation come into effect from 1st January – this traditionally being the time of year when smokers will attempt to pack up smoking. It may even help to encourage more people to quit smoking.

Question 15

We believe that there is the possibility that many food serving bars will decide to stop serving food thus allowing smoking to continue in the premises. This may well result in the promotion of binge drinking just at a time when the government has introduced the Licensing Act 2003 in an attempt to avoid that very problem. We believe that whilst there is substantial profitability in the serving of food, there may be many licensed premises whose clientele would rather retain its smoking status and lose the pub grub.

Question 16

We believe that there is potential for smoking pubs and clubs to be concentrated in poorer communities resulting in poorer health benefits and exacerbating health inequalities. However, what the Government can do about this is questionable, as this is a social problem that must be tackled separately.

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 on this issue.

Yours faithfully

Mandy E Peters

F.Inst.L.Ex

RYA Legal & Governmental Affairs Department

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