
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 152

PUBLIC HEALTH

The Prohibition of Smoking Outside Hospital Buildings (Scotland) Regulations 2022

Made - - - - *27th April 2022*

Coming into force - - *5th September 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 4C(4), 4D(2), (4) and (5) and 40(1)(b) and paragraphs 4(1) and 5(2) of schedule 1 of the Smoking, Health and Social Care (Scotland) Act 2005⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 40(3)(a) of that Act⁽²⁾, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement, expiry and interpretation

1.—(1) These Regulations may be cited as the Prohibition of Smoking Outside Hospital Buildings (Scotland) Regulations 2022 and come into force on 5 September 2022.

(2) In these Regulations—

“the Act” means the Smoking, Health and Social Care (Scotland) Act 2005,

“distance” means as measured in a straight line on a horizontal plane,

“in clear font” means using a typeface which does not incorporate italics, scrolls or swirls.

(3) Regulation 7 expires at the end of 5 September 2023.

No-smoking notices – hospital grounds: manner of display, form and content

2.—(1) Subject to paragraph (3), this regulation applies to a no-smoking notice which, by virtue of section 4C(1) of the Act (display of warning notices in hospital buildings and on hospital grounds), the Health Board for the area in which a hospital is situated must conspicuously display at every entrance to the hospital grounds.

(2) The notice must—

(a) be a minimum size of 1 metre by 1 metre,

(1) 2005 asp 13. Sections 4A to 4D were inserted, and schedule 1 was amended, by section 20 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14) (“the 2016 Act”).

(2) Section 40(3)(a) was amended by section 20 of the 2016 Act.

- (b) display the international “no smoking” symbol consisting of a graphic description of a burning cigarette enclosed in a red circle with a red bar across it, at least 200 millimetres in diameter,
 - (c) in clear font no smaller than 254 millimetres state—
 - “It is an offence to smoke or knowingly permit smoking in the no-smoking area outside a hospital building.
 - No-smoking areas extend up to 15 metres around affected buildings and include all areas under canopies or other overhangs on those buildings.”,
 - (d) in clear font no smaller than 200 millimetres state—
 - “If you observe someone smoking in the no-smoking area a complaint may be made to a member of hospital staff.”,
 - (e) be displayed by the Health Board in such a manner that it is protected so far as reasonably practicable from tampering, damage, removal or concealment.
- (3) This regulation does not apply to land considered to be “hospital grounds” by virtue of regulation 5.

No-smoking notices – hospital buildings: manner of display, form and content

3.—(1) This regulation applies to a no-smoking notice which, by virtue of section 4C(2) of the Act, the person having the management and control of a hospital building must conspicuously display at every entrance to the building.

- (2) The notice must—
 - (a) be a minimum size of 297 millimetres by 420 millimetres,
 - (b) display the international “no smoking” symbol consisting of a graphic description of a burning cigarette enclosed in a red circle with a red bar across it, at least 75 millimetres in diameter,
 - (c) in clear font no smaller than 200 millimetres state—
 - “It is an offence to smoke or knowingly permit smoking in the no-smoking area outside a hospital building.
 - The no-smoking area extends up to 15 metres around this building and includes all areas under any canopy or other overhang.”,
 - (d) in clear font no smaller than 150 millimetres state—
 - “If you observe someone smoking in the no-smoking area a complaint may be made to a member of hospital staff”,
 - (e) be displayed by the person having management or control of the building in such a manner that it is protected so far as reasonably practicable from tampering, damage, removal or concealment.

No-smoking area outside a hospital building: distance of perimeter

4.—(1) The specified distance from a hospital building for the purpose of section 4D(1)(b) of the Act (meaning of “no-smoking area outside a hospital building” and related expressions) is 15 metres.

(2) The distance specified in paragraph (1) is measured from the point where the external surface of the hospital building meets the ground and on the assumption that any door, window, or other means of ingress or egress to the building or vent is closed.

(3) Where the hospital building has any awning, canopy, porch or other overhanging structure attached to it, the perimeter includes all of the land lying directly beneath that awning, canopy, porch