



# STAGE MANAGEMENT ASSOCIATION

*supporting, representing and promoting stage management*

## Smoking on Stage – the legal lowdown

Since 1<sup>st</sup> July 2007 it has been illegal to smoke in 'enclosed' or 'substantially enclosed' public spaces and work places in the United Kingdom – this includes theatres and other entertainment places.

### Exemption for theatre in England

There is an exemption, in England only – Wales, Scotland and Northern Ireland have a complete smoking ban. The exemption reads –

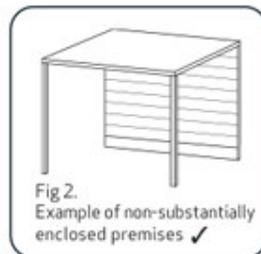
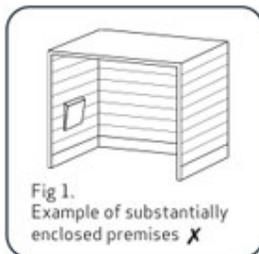
#### 'PERFORMERS

Where the artistic integrity of a performance makes it appropriate for a person who is taking part in that performance to smoke, the part of the premises in which that person performs will not be required to be smoke free for the performer only during the performance. This exemption does not apply to rehearsals.'

You will notice it says the exemption does not apply to rehearsals. This means you have to rehearse any smoking business in an open space, you cannot rehearse it in show conditions on stage, for instance during the technical rehearsals or dress rehearsals UNLESS the dress rehearsal includes an 'audience', i.e. people who are not part of the team or staff working on the show or in the building. So performers can smoke on stage during an open dress, but not if it's a closed dress which only staff members of the theatre company or team can attend.

### Definition of 'enclosed' and 'substantially enclosed' premises

From [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) :-



Premises are considered '**enclosed**' if they have a ceiling or roof and (except for doors, windows or passageways) are wholly enclosed either on a permanent or temporary basis.

Premises are considered '**substantially enclosed**' if they have a ceiling or roof, but have an opening in the walls, which is less than half the total area of the walls. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.

Businesses and organisations should contact their local council if they require further guidance on whether their premises are 'enclosed' or 'substantially enclosed'.

### Not just buildings

'Work vehicles used by more than one person must be smoke free at all times.' So don't think you can have a fag when you go out in the company van to collect props...

## Signage

There are strict rules about what signs you need to put up where for a workplace, check all the requirements on [www.smokefreeengland.co.uk/resources/guidance-and-signage](http://www.smokefreeengland.co.uk/resources/guidance-and-signage) to ensure you comply.

## Compliance

'Managers of smoke free premises and vehicles have legal responsibilities to prevent people from smoking.'

And with regard to performers and their exemption: -

'The performer and any person that controls or manages the premises are liable for meeting the requirements of the new law. If the law is not met both parties could run the risk of being fined or prosecuted depending on the offence. For more advice, we suggest you discuss your proposals in advance with your local council.'

## Further guidance – read this

A very misleading article appeared in *The Stage* on 6<sup>th</sup> September (2007) which suggested that a licence or permission is required from the environmental health officers of the relevant local authority in order for smoking to take place on stage without contravening the law. Whilst this could be seen as an interpretation of the rule quoted in the previous paragraph, **this is categorically not the case.**

Louise Norman, secretary to the Theatre Safety Committee, wrote to *The Stage* to correct this erroneous suggestion (27<sup>th</sup> September):

'The legislation which applies to England contains an exemption allowing a performer to smoke where the artistic integrity of the performance makes it appropriate.

The exemption is, in effect, the permission. There is no requirement for any further permission or licence to be obtained. Relying on the exemption incorrectly could result in prosecution, but whether it has been properly applied is ultimately a matter for the courts – not a local authority environmental health officer – to decide. A theatre or producer may wish to inform the relevant local authority that there is to be smoking in a production as a matter of good relations, but there is no legal obligation to do this.

The exemption for smoking on stage has been fought for long and hard – a number of industry bodies, particularly the Society of London Theatre, the Theatrical Management Association, Equity and the National Operatic and Dramatic Association, have spent considerable amounts of time and money campaigning for it.

It would be extremely unfortunate if, due to a misconception spread by the industry's press, an extra layer of bureaucracy were to creep in, thereby eroding the benefit of the exemption.'

I hope that makes that clear! Louise Norman is also the Legal Officer for SOLT/TMA and most certainly knows what she's talking about!

Some members of the TSC have started putting FOH signs up as you would for strobe lighting if there is smoking in the production – that might be a good practice worth spreading.

The main thing to bear in mind is that if you tell the Local Authority (which SOLT/TMA are suggesting their members should do out of politeness), you are telling them, not asking for permission. Local Authorities can only take action if someone complains to them because they feel the law has been contravened.

**For further details on all of this, see [www.smokefreeengland.co.uk](http://www.smokefreeengland.co.uk) .**

*Legal disclaimer: the advice given in this leaflet is accurate as far as the SMA can ascertain at time of printing (December 2009). No legal liability can be accepted for consequences arising from any action taken following advice contained in this leaflet.*

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