

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

SEA Pre-screening

March 2022

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Responsible Authority: Scottish Government

Title of the plan: The Prohibition of Smoking Outside Hospital Buildings (Scotland)

What prompted the plan:

In April 2015, all NHS Health Boards in Scotland implemented smoke free policies across their grounds. This built on existing Scottish Government guidance to Health Boards on the development and implementation of smoke-free policies and the creation of health-promoting hospitals

There have been significant issues around compliance. Health Boards reported difficulties in enforcing the ban as there is no sanction that can be applied if someone refuses to comply with the policy, other than asking the person to leave the grounds. However, this may not be desirable should a person be a patient. It is also difficult to enforce on large hospital grounds where a person could easily re-enter undetected.

To address compliance issues, section 20 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 ("the 2016 Act") inserted new sections 4A to 4D into the Smoking, Health and Social Care (Scotland) Act 2005 ("the 2005 Act"), creating new offences of permitting others to smoke in the no-smoking area outside hospital buildings and smoking in the no-smoking area outside hospital buildings. The no-smoking area outside a hospital building is the area lying immediately outside the hospital building and bounded by a perimeter a specified distance from the building, so far as the area forms part of hospital grounds. The distance from the building is specified in these Regulations as 15 metres. Section 20 of the 2016 Act will be commenced for the purposes of laying then making this instrument ("the Regulations") and will come fully into force when these Regulations come into force. This approach will effectively extend the indoor smoking ban under the 2005 Act to include an outside area.

Plan subject: Public Health Protection

Brief summary of the plan:

The regulations will introduce a 15 metre smoke-free perimeter around hospital buildings. Also being introduced are fines and penalties for permitting others to smoke within this perimeter, for smoking in the no-smoking area and for failing to erect signs warning people that they should not smoke there.

The 15 metre area will extend outwards from NHS Hospital buildings and include footpaths and cycle ways up until that area meets a public road. For hospitals that do not have their own grounds, the area will extend from the building out as far as it meets a public road.

This plan will support NHS Scotland's existing smoke-free policy.

Brief summary of the likely environmental consequences:

While the regulations will improve the air quality close to hospital buildings, particularly near entrances and windows, this will be as a result of displacement rather than removal. As such, any air quality improvement will be localised with negligible overall effects.

As highlighted in the policy memorandum for the 2016 Act⁽¹⁾, there is evidence from studies of second-hand smoke in outdoor environments which suggest that smoke-drift from outside can lead to levels of second-hand smoke inside building entrances and windows which may be high enough to warrant concern for people inside a building. The highest risk from smoke-drift is dependent on the environment but a perimeter of 15 metres reduces the risk significantly. While this may lead to health effects for individuals, in terms of a national strategy overall environmental effects are regarded as minimal.

Brief summary of how environmental principles have been considered:

While the guiding principles have been considered in its preparation, they are not relevant to this plan due to the minor overall effects on the environment it is likely to have.

(1) [Policy Memorandum \(parliament.scot\)](https://www.parliament.scot/Policy-Memorandum)



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