

ATOC

Association of Train Operating Companies

ATOC Good Practice Guide – Control of Smoking

Synopsis

This Guide provides advice on meeting the requirements of the English and Welsh Smoke Free legislation effective from July and April 2007 respectively and adoption of a common Railway Undertaking approach to smoking more generally.

ATOC Good Practice Guide

Control of Smoking

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TOSG/GPG015

Date March 2007

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Part A

Issue Record

This Good Practice Guide is intended as a one off stand alone document. It is not the intention that it will be reviewed, or that any amendments will be issued, on any systematic basis. As such it will not be subject to version control.

Responsibilities

This Good Practice Guide is made available to all companies represented on the ATOC Commercial Board, the ATOC HR Directors Forum or the ATOC Train Operators Safety Group. Recipients should ensure that copies are made available as required to those within their own organisations for whom its content is relevant.

Explanatory Note

This Guide is intended to reflect good practice and is advisory only. The extent to which a receiving organisation chooses to comply with any or all of its contents is entirely at its own discretion.

Supply

This is not a Controlled document. Copies (both printed and electronic) may be obtained from the secretary to the ATOC Commercial Board or the secretary to the ATOC Train Operations Safety Group.

Part B

1. Purpose

This document is intended to assist Railway Undertakings in understanding and meeting the requirements placed on them in respect of controlling public and workforce exposure to passive smoking by forthcoming English and Welsh legislation. Beyond this, it sets out a common policy for control of smoking more generally where this has been identified as both practical and desirable, recognising that inconsistency of approach within the rail industry will be confusing for passengers and unhelpful from a public relations viewpoint.

2. Scope

This guide is produced for the benefit of all member organisations of the ATOC Commercial Board, the ATOC HR Directors Forum and the ATOC Train Operators Safety Group.

3. Introduction

The Smoking, Health and Social Care (Scotland) Act 2005 came into force on 26 March 2006. This effectively banned public smoking in all enclosed and partially enclosed public spaces.

Broadly similar legislation is being introduced during 2007 in both England and Wales. Specifically, in Wales smoking will be banned in all enclosed and partially enclosed public places from 2 April 2007. In England, the Health Bill has received royal assent and is now the Health Act 2006. The ban will come into force in England on 1 July 2007.

A series of regulations will support this legislation. These include the Smoke-free (Premises and Enforcement) Regulations 2006, which give clarity on the definition of 'enclosed' and 'partially enclosed', and details of enforcement agencies. Other regulations are:

- Smoke-free (Signs) regulations
- General Provisions regulations
- Exemptions and Vehicles Regulations
- Penalties and Discounted Amounts Regulations

Upon the Scottish legislation coming into force, First ScotRail chose to impose more onerous restrictions on smoking than were required by the legislation, thus at most stations the smoking ban has been extended to include platforms and station footbridges entirely, even where these are uncovered.

Experience over the last 12 months has been that the Scottish public have broadly accepted this ban and there have been no significant difficulties encountered in enforcing it. Given this, ATOC's members have agreed to extend the ban to all platforms and station footbridges within England and Wales, this change either coinciding with or anticipating the coming into force of the legislation.

4. Scope of the Legislation

Though there are some difference in scope between the Scottish, Welsh and English legislation, they may be regarded as identical for all practical purposes as far as the rail industry is concerned. As already noted, the Scottish legislation has been in place since March 2006 while that in Wales becomes effective from 2 April 2007 and that in England from 1 July 2007.

The legislation bans smoking in publicly accessible enclosed and partially enclosed premises. This affects trains, stations and work places. Extending this ban to open areas - such as platforms and station footbridges - falls within the scope of existing byelaws which state (in section 3 - Smoking) :

'No person shall smoke or carry a lighted pipe, cigar, cigarette, match, lighter or other lighted item on any part of the railway on or near which there is a notice indicating that smoking is not allowed.'

5. Signage

The legislation requires that legally compliant signing must be affixed at the entrance all areas for which it prescribes a smoking ban and be clearly visible. This applies equally to work places and enclosed and partially enclosed public areas and hence includes buildings (both public and work places) and trains. Such signs can be ordered from the Department of Health.

Thus

- Passenger rolling stock will need to be labelled as 'no-smoking' in a compliant manner at vestibule entrances with signs positioned so as to be prominently visible to a person entering the vehicle. (It should be noted that with trains having been generally recognised as non-smoking by the public at large for some years, many do not carry physical signage to this effect)
- Existing signage on trains will be acceptable if it clearly indicates that smoking is banned in each vehicle; otherwise new signage will be required (though see below concerning references on signage to penalties)
- Driving cabs will need to be labelled as 'no-smoking'
- Company road vehicles, unless provided exclusively for work use by a single individual, will need to be similarly labelled.

Technically, signage in areas where smoking is been banned by railway byelaws rather than the legislation itself should exhibit a different sign (which makes this differentiation clear).

It is recommended that no reference be made on non-smoking signage to the possible penalties (noting that these will be dependent on whether smoking was technically in contravention of the national legislation or railway byelaws and that financial penalties will in any event change through time).

6. Staff Accommodation

Indoor smoking rooms will no longer be allowed. Anyone wishing to smoke will have to go outside (to an open area).

7. Assistance to Staff Wishing to Stop Smoking

In addition to briefing all staff on the changes and reasons for them, it is recommended that Railway Undertakings consider providing assistance to those among their workforce who wish to try to give up smoking, for example through referring them to websites or local or national support groups.

The National Institute for Health and Clinical Excellence has published draft guidance on workplace interventions to help employees stop smoking. Further details are available at: www.nice.org.uk/page.aspx?o=350204.

8. Enforcement and Penalties

The legislation sets out various penalties liable to be incurred by those failing to comply, including fines and prosecution, for the following offences :

- Smoking in a smoke free place or vehicle
- Failing to display a no smoking sign
- Allowing smoking in a smoke free place or vehicle

9. Mutual Recognition of Signage between England, Scotland and Wales

No-smoking signage on road and rail vehicles which is compliant with the requirements of any of the English, Scottish or Welsh legislation will automatically be deemed compliant with that applicable in the other two countries.

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10. Communications to Passengers and Staff

It will be important to communicate the no smoking message to passengers and staff. To supplement government publicity and general media coverage, Railway Undertakings should provide strong visual statements of non-smoking at stations. ATOC is likely to issue a press release on the smoking ban and how it affects the railways nearer the date on which the ban comes into force in England.

Further details of ATOC's approach to communications and what/how Railway Undertakings can do to communicate with media and staff are contained in documents that are being sent out to individual company PR teams by ATOC's Director of Communications.

11. Further Information

During the run up to the implementation of the new legislation, latest government information will be available from www.smokefreeengland.co.uk/stayinformed.