



ISLAND OF ALDERNEY

ORDINANCE OF THE STATES

**II
2010**

Made *13 January 2010*

Coming into force *1 June 2010 at 4am*

**The Smoking (Prohibition in Public Places and
Workplaces) (Exemptions and Notices) (Alderney)
Ordinance, 2010**

THE STATES OF ALDERNEY in exercise of the powers conferred on them by section 2 of the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008^a and of all other powers enabling them in that behalf, hereby order: -

Premises exempt from the provisions of the Law.

1. (1) The following premises, or classes or descriptions of premises, are exempt from the provisions of the Law –

- (a) hotel bedrooms designated by the hotel manager as bedrooms where smoking is permitted,

^a Order in Council No. XXIII of 2009

(b) enclosed workplaces on vessels which are fishing vessels and which -

(i) are operated, and

(ii) may be operated lawfully,

solely by one master or captain, provided that that master or captain takes appropriate measures to minimise unnecessary exposure of other persons to tobacco smoke,

(c) enclosed workplaces (other than those referred to in paragraph (b)) -

(i) which are used as a place of work by a single individual,

(ii) which are not enclosed public places, and

(iii) which are not located on a vessel,

provided that that individual takes appropriate measures to minimise unnecessary exposure of other persons to tobacco smoke,

(d) any area -

(i) which is located within -

- (A) any ward which caters for persons in need of long-term care in a hospital maintained in whole or in part by the States or the States of Guernsey,
 - (B) any residential home or nursing home maintained by or on behalf of the States or the States of Guernsey,
 - (C) any residential home other than one referred to in item (B), or
 - (D) any nursing home other than one referred to in item (B),
- (ii) which is not an enclosed public place, and
- (iii) which is designated as a place where smoking is permitted –
- (A) in the case of a ward referred to in subparagraph (i)(A) or a residential home or nursing home referred to in subparagraph (i)(B), by the Department,
 - (B) in the case of a residential home or nursing home referred to in subparagraph (i)(C) or (D) respectively, the person registered in respect of the home under section 1 or section 6 of the

Nursing and Residential Homes
(Registration and Occupation)
(Alderney) Law, 1987^b.

(2) No responsible person may designate an area for the purposes of subsection (1)(d)(iii) unless satisfied that -

- (a) appropriate measures have been taken to minimise unnecessary exposure of persons to tobacco smoke in the area, and
- (b) the area is not an enclosed public place.

(3) Where a responsible person has designated an area for the purposes of subsection (1)(d)(iii), and it has become aware that -

- (a) measures with which it was satisfied under subsection (2) -
 - (i) are no longer appropriate for, or
 - (ii) are not being observed, or enforced, in respect of,the area concerned, or

^b Ordres en Conseil Vol. XXX, p. 371; as amended by Vol. XXXI, p. 306; Orders in Council No. XII of 2003 and No. XX of 2003; Ordinances No. II of 1997 No. XXXIII of 2003. See also Ordres en Conseil Vol. XVII, p. 384.

- (b) the area concerned has become an enclosed public place,

it may revoke, suspend or vary the designation made in respect of that area as it thinks fit.

(4) In this section, "**responsible person**" means the Department or the person authorized under subsection (1)(d)(iii) to designate an area as a place where smoking is permitted.

Requirement to display notices.

2. (1) The licensee of any licensed premises to which section 1 of the Law applies shall at all times ensure the display of a notice that complies with the requirements of the Schedule and of subsection (3) in each relevant part of the premises.

(2) Each of these is a relevant part of the premises -

- (a) any public entrance,
- (b) any bar counter,
- (c) any toilet facilities, and
- (d) any staff room.

(3) Each notice must be displayed in a manner that ensures it can be easily read by the public.

Contravention of section 2 to be an offence.

3. (1) A licensee who contravenes section 2 is guilty of an offence and liable, on summary conviction -

(a) for a first offence, to a fine not exceeding level 1 on the uniform scale, and

(b) for a second or subsequent offence, to a fine not exceeding level 3 on the uniform scale.

(2) Where an offence under subsection (1) is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Power of Committee to amend Schedule by order.

4. (1) The Committee may by order made under this section amend the Schedule to this Ordinance.

(2) Any order made under subsection (1) -

(a) may be amended or revoked by a subsequent order so made, and

(b) may include incidental, consequential, supplementary and transitional provisions.

(3) Any order made under subsection (1) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul the order, cease to have effect, but without prejudice to anything done under the order or to the making of a new order.

Interpretation.

5. (1) In this Ordinance unless the context requires otherwise -

"**bar counter**" means any counter, hatch or other place whatsoever at or from which intoxicating liquor is sold, supplied or dispensed,

"**the Committee**" means the Alderney Policy and Finance Committee,

"**the Department**" means the States of Guernsey Health and Social Services Department,

"**designated**" means designated in writing,

"**hotel**" –

- (a) means premises where sleeping accommodation for reward is provided under an accommodation permit granted under the Tourism (Alderney) Law, 1956^c, but
- (b) excludes any such premises if the accommodation permit for those premises is granted for a self-catering unit,

"hotel manager" means the manager of the hotel, or his authorised representative,

"the Law" means the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2008^d,

"licensed premises" has the meaning given by section 1(1) of the Alderney Liquor Licensing Ordinance, 1994^e,

"licensee", in respect of any licensed premises, means the person in whose favour a liquor licence has been granted in respect of those premises under the Alderney Liquor Licensing Ordinance, 1994^f,

^c Ordres en Conseil Vol. XVII, p. 29; as amended by Vol. XXII, p.6; Vol. XXVI, p. 251; Order in Council No. XI of 2005.

^d Order in Council No. __ of 2009.

^e Alderney Ordinance No. IV of 1994; as amended by Alderney Ordinances No. II of 1997; No. III of 1999; No. XIII of 1999; No. XI of 2000.

^f Alderney Ordinance No. IV of 1994; as amended by Alderney Ordinances No. II of 1997; No. III of 1999; No. XIII of 1999; No. XI of 2000.

"**nursing home**" has the meaning given by section 21(1) of the Nursing and Residential Homes (Registration and Occupation) (Alderney) Law, 1987^g,

"**person in need of long-term care**", subject to regulations made under section 9(2) of the Long-term Care Insurance (Guernsey) Law, 2002^h (as if those regulations have force in Alderney), means a person who –

- (a) by reason of bodily or mental disability, or a combination of bodily and mental disability, is so disabled that he may suffer harm whilst undertaking the normal activities of daily life without substantial assistance or attention from another person, or
- (b) is not so disabled, but in respect of whom there is good reason to believe that he would suffer such harm without such assistance or attention,

"**residential home**" has the meaning given by section 21(1) of the Nursing and Residential Homes (Registration and Occupation) (Alderney) Law, 1987ⁱ,

^g Ordres en Conseil Vol. XXX, p. 371; as amended by Vol. XXXI, p. 306; Orders in Council No. XII of 2003 and No. XX of 2003; Ordinances No. II of 1997 No. XXXIII of 2003. See also Ordres en Conseil Vol. XVII, p. 384.

^h Order in Council No. XXIII of 2002.

ⁱ Ordres en Conseil Vol. XXX, p. 371; as amended by Vol. XXXI, p. 306; Orders in Council No. XII of 2003 and No. XX of 2003; Ordinances No. II of 1997 No. XXXIII of 2003. See also Ordres en Conseil Vol. XVII, p. 384.

"**uniform scale**" means the Alderney uniform scale as from time to time specified under the Uniform Scale of Fines (Alderney) Law, 1989^j,

and other expressions have the same meanings as in the Law.

(2) The Interpretation (Guernsey) Law, 1948^k applies to the interpretation of this Ordinance.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Extent.

6. This Ordinance has effect in the Island of Alderney and extends to its territorial limits.

Citation.

7. This Ordinance may be cited as the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Alderney) Ordinance, 2010.

^j Ordres en Conseil Vol. XXXI, p. 306; as amended by Order in Council No. XII of 2003; Alderney Ordinances No. II of 2001 and No. III of 2007.

^k Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE
REQUIREMENTS OF THE NOTICE

Section 2(1)

Content, form and lay-out of notice.

1. The notice must comprise the sign and words below, in the form and lay-out set out below -

Sign



Words

NO SMOKING

**Under the Smoking (Prohibition in Public
Places and Workplaces)
(Alderney) Law, 2008
it is illegal to smoke in these premises**

**Maximum Fine Level 3 (£2,000)
Please notify complaints to**

Minimum diameter of sign and size of notice.

2. (1) The sign must be at least 85 millimetres in diameter.
- (2) The notice (sign and words combined) must be at least 230 millimetres by 160 millimetres in size.

Lettering.

3. The letters comprising the words of the notice must be –
 - (a) clear and legible black letters on a white background, and
 - (b) at least 5 millimetres in height.

S. E. KELLY
Greffier
£2.20

Copies may be purchased from
The States Office
Island Hall