EXPLANATORY MEMORANDUM TO

THE SMOKE-FREE (SIGNS) REGULATIONS 2012

2012 No. 1536

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Purpose of this instrument

2.1. These Regulations revoke and replace the Smoke-free (Signs) Regulations 2007 ("the 2007 Regulations" (S.I.2007 No 923)). The objective is to relax the smoke-free signs requirements. While it remains a legal duty to display at least one legible no-smoking sign in smoke-free premises and vehicles, the owners and managers will have discretion as to the design and location of no-smoking signs.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. Section 6(1) of the Health Act 2006 ("the Act") provides a duty for no-smoking signs to be displayed in smoke-free premises. The 2007 Regulations specified detailed requirements for the location and design of the no-smoking signs in smoke-free premises. The 2007 Regulations also set out a duty in relation to smoke-free vehicles which is equivalent to that at section 6(1) of the Act and specified detailed requirements in respect of smoke-free signs in smoke-free vehicles in England.

4.2. The Smoke-free (Signs) Regulations 2012 ("the 2012 Regulations") revoke the 2007 Regulations and replace the detailed specifications for no-smoking signs contained in those Regulations with a requirement for at least one legible no-smoking sign to be displayed in smoke free-premises and smoke-free vehicles.

5. Territorial Extent and Application

5.1. This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- ***What is being done and why***

7.1. Tobacco smoking is the leading cause of preventable morbidity and premature death, accounting for over 80,000 deaths in England in 2009. In England, deaths from smoking are more numerous than the next six most

common causes of preventable death combined, that is drug use, road accidents, other accidents and falls, preventable diabetes, suicide and alcohol abuse. Smoking is also the single biggest cause of inequalities in death rates between the richest and the poorest in our communities.

- ***Consolidation***

7.2. The 2007 Regulations were one part of a package of primary and secondary legislation (including five sets of regulations) which meant that from 1 July 2007, all enclosed, or substantially enclosed, public places and workplaces became smoke-free, including all pubs, clubs, cafes, restaurants, shopping centres, offices and all public and work transport.

7.3. The policy intention of the 2007 Regulations was to reinforce the smoke-free requirements and support effective implementation by making sure that members of the public using smoke-free premises and vehicles were fully informed of which areas had become smoke-free. The 2007 regulations set minimum standards and ensured a standardised approach.

7.4. Smoke-free legislation will have been in effect for over 5 years by the time the 2012 Regulations take effect. There is clear evidence that the smoke-free legislation is achieving its objectives and is having beneficial effects on health. Public support for the smoke-free law is high.

8. Consultation Outcome

8.1. This instrument arose as an outcome of public consultation conducted under the Government's Red Tape Challenge exercise.

8.2. The Red Tape Challenge is a programme led jointly by a Cabinet Office/Better Regulation Executive team to simplify, improve or abolish regulatory obstacles that hold back businesses.

8.3. The no-smoking sign requirements (as detailed in the 2007 Regulations) were included in the Hospitality, Food and Drink theme of the Red Tape Challenge. Representations were received from people responsible for no-smoking signs in places such as historic buildings and Bed and Breakfast establishments, who felt that the aesthetic quality of such premises were compromised by the requirements of the 2007 Regulations, and who questioned whether the need for them remained. Many respondents argued that the smoke-free legislation is now well established and owners of such public places should be free to decide how best to place no-smoking signs. Respondents argued that outdoor signs were unduly burdensome to maintain (e.g. outdoor signs fade and weather), and that as Bed and Breakfast accommodations is often provided in private residences, no-smoking signs detract from the ambience.

9. Guidance

9.1. The 'Implementation of smoke-free legislation in England' guidance for council regulatory officers will be updated. Smoke-free premises and vehicles that are already compliant with the 2007 Regulations, need make no change. They will, however, be able to move, change or reduce the number of signs they display if they choose to, either immediately or as premises are refurbished over time, as long as they continue to display at

least one no-smoking sign in smoke-free places and vehicles. New businesses will also have the discretion to decide how and where to display no-smoking signs subject to the above.

10. Impact

10.1. An Impact Assessment was carried out to assess the savings to business resulting from the changes to relaxing the smoke-free signage requirements and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk

11. Regulating small business

11.1. This measure is not defined as a "significant" cost in respect of the micro moratorium and therefore does not require an express waiver

12. Monitoring & review

12.1. The impact of the overall legislation governing smoke-free signs will be kept under review by the Department of Health.

13. Contact

Fran Mente at the Department of Health can answer any queries about this instrument: e-mail Fran.Mente@dh.gsi.gov.uk or tel 020 7972 4872.