



SE & SE CONSULTANCY



50% Open Space Rule for Smoking Area

The Smoke-Free (Premises & Enforcement) Regulations of 2006 require that almost all public areas and workplaces, including work vehicles that are enclosed or substantially enclosed and have more than one employee, be smoke-free as of July 1, 2007.

As a result, businesses started putting up smoking areas for those who visit or work on their premises. Smoking shelters must, however, comply with the 2006 Smoke-free (Premises and Enforcement) Regulations.

Only in areas that are not significantly enclosed and have at least "50% open space" around the perimeter is smoking authorised.

What does "enclosed premises" mean ?

Any premises will be labelled as enclosed if they have a ceiling, roof, doors, windows or any passageway that are completely enclosed, whether on a temporary or a permanent basis. This includes tents and marquees as well as solid structures.

In the regulation "roof" includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including, for example, a canvas awning.

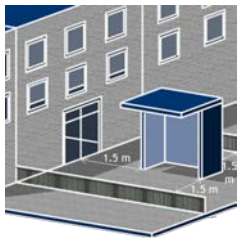
What does "substantially enclosed premises" mean?

When a building has a roof or ceiling but openings in the walls that cover less than half of the perimeter, it is said to be substantially enclosed. More frequently, this is referred to as **the 50 per cent rule**. The enclosed area should include any additional buildings that act as walls or form the boundary of the site with relation to features that may be opened or closed, such as doors, windows or other features. The law specifies that these must also be included when calculating the enclosed area.

What is the 50% Open Space Rule ?

If 50% of the walls or more are missing then it is legal to smoke in the area.

When at least 50% of the perimeter walls are permanently open and unhindered by any surrounding walls or other materials, a smoking area or shelter with a roof may be used for smoking as long as the adjacent walls, buildings, or other objects do not restrict airflow.



How far can a smoking shelter be from any other obstructions?

There are no legal requirements on how far a smoking shelter should be from any other structure. However, **each council may have different limitations**. There may be ventilation issues if it's too close to a building, or you may receive complaints if it is too close to any entranceways or windows. The key issue is whether it prevents proper airflow through the shelter. So all of them should be evaluated in themselves but in most councils, **this limit is 1.5 meters**.

Will residential premises have to go smoke-free?

Common areas including stairwells, hallways, and elevators in residential buildings must be smoke-free.

Only the common areas of the HMO building are covered by the Smoke-Free Legislation. The common areas of an HMO would include any kitchens, baths, or living/dining areas that are used by more than one household, as well as facilities used by residents of more than one home, such as communal kitchens, bathrooms, or laundry rooms in apartment buildings.

The law does not apply to private dwellings. However, if the space is designated for child care or music lessons and is utilised as a workplace, such as a room, it must be smoke-free. Where work is undertaken solely to provide personal care for a person living in the dwelling, to assist with domestic work or to maintain the building, the private dwelling is not considered to be a workplace and is exempt from the smokefree legislation.

Put simply;

If a space doesn't have a roof, smoking is allowed there and no further calculations are required as long as the adjacent walls, buildings, etc. don't obstruct airflow.

It is permitted to smoke in an area if it has a roof and at least 50% of the walls are removed.

Smoking is not permitted in areas with roofs and walls that make up more than 50% of the space.

To ensure compliance with the smoke-free regulations, businesses must determine what portion of their smoking area is open and what portion is enclosed.

We've left some sample calculations for you below, but these will vary for each build and location. Contact us for more detailed information, we will be happy to assist you.



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50% Open Space Rule for Smoking Area

Frequently Asked Questions

Which premises are affected?

Smoke-free legislation applies to premises:

The public has access to it. For example; pubs, shopping centres, restaurants, cafes.

That is a place of work.

Providing education, health or care services.

The term “work” also includes volunteer work, thus if a village hall hosts an event with volunteers working there, it must be smoke-free. It would be both a workplace and a public space if the general public attended.

Are there any exemptions?

Private dwellings are not covered by the legislation. Additionally, some places that double as residences and workplaces—such as prison cells, hospices, and long-term residential care facilities—are exempt. This does not imply, however, that smoking is permitted everywhere on the property.

The rules permit smoking in designated bedrooms in hotels, guest houses, hostels, member’s clubs, and other establishments as long as they meet specific requirements, including being designated in writing by the property manager. **Smoking is never permitted in communal areas like dormitories.**

The following requirements must be met by any bedroom where smoking is permitted:

Are completely enclosed, except for windows/doors, on all sides by solid floor to ceiling

Walls do not have a ventilation system that ventilates into any other smokefree part of the premises

A door must be fitted with a mechanical closing device if it opens onto a smoke-free landing to prevent smoke from drifting.

Is marked as a room in which smoking is permitted.

Do I have to provide a smoking shelter/space?

No. The law does not require you to provide your employees with any type of smoking space. **However, setting up a smoking shelter can be a wise decision.** You don’t know where your customers or employees might smoke. It may lead to issues, such as worries about secondhand smoke.

Smoking shelters will inevitably draw smokers to stop unwanted smoke from contaminating the public areas near your property. The installation of a smoking shelter will concentrate all smoke in one area.

You will have complete control over the smoking shelter’s location as the business owner. For example, this could deflect odours and noise away from busy entranceways.

What is a smoking structure?

A place that is covered by a roof or ceiling is known as a smoking shelter or structure. It need not have walls; it could simply be a space with a canopy.

For a more enclosed feeling, the smoking shelter can have back and sides. However, it legally can not be fully enclosed.

What is the designated smoking room?

Employers may designate a smoking room if the policy prohibits smoking in bedrooms, but it must adhere to the requirements outlined above. The administration will also decide whether guests can smoke in smoking rooms. Staff members are not permitted to use the smoking rooms and they may not be utilised for entertainment.

What about entrances to buildings?

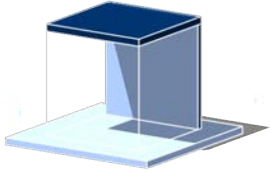
Outside areas are not covered by the legislation. To prevent employees and guests from having to enter the building through a smoke-filled hallway, companies may adopt a policy that smoking is not permitted within a specific distance of exterior entrances.



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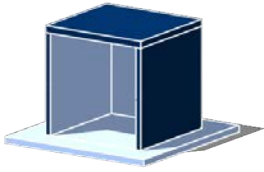


50% Open Space Rule for Smoking Area



Closed: 25%
Open: 75%

ACCEPTABLE



Closed: 75%
Open: 25%

UNACCEPTABLE



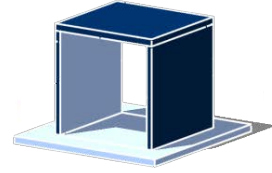
Closed: 50%
Open: 50%

ACCEPTABLE



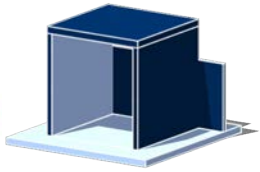
Closed: 62.5%
Open: 37.5%

UNACCEPTABLE



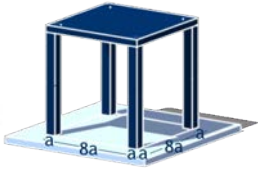
Closed: 50%
Open: 50%

ACCEPTABLE



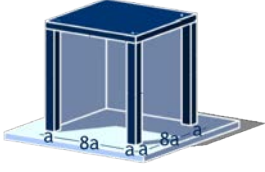
Closed: 50%
Open: 25%
(near a hedge or fence, the open side)

UNACCEPTABLE



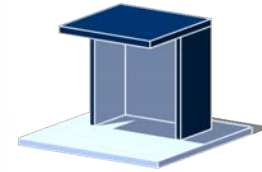
Closed: $8a = 20\%$
Open: $32a = 80\%$
Total: $40a = 100\%$

ACCEPTABLE



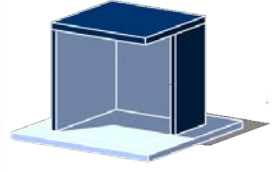
Closed: $24a = 60\%$
Open: $16a = 40\%$
Total: $40a = 100\%$

UNACCEPTABLE



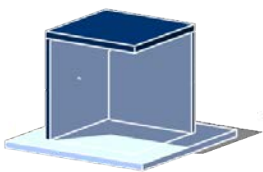
Closed: 50%
Open: 50%

ACCEPTABLE



Closed: 62.5%
Open: 37.5%

UNACCEPTABLE



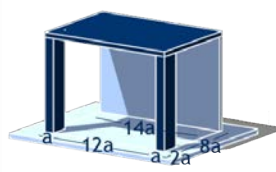
Closed: 50%
Open: 50%

ACCEPTABLE



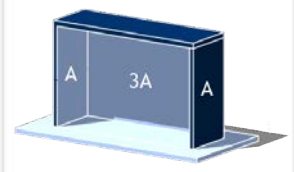
Closed: 62.5%
Open: 37.5%

UNACCEPTABLE



Closed: $20a = 42\%$
Open: $28a = 58\%$
Total: $48a = 100\%$

ACCEPTABLE



Closed: $5A = 62.5\%$
Open: $3A = 37.5\%$
Total: $8A = 100\%$

UNACCEPTABLE



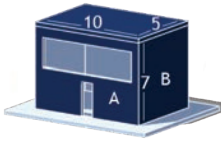
50% Open Space Rule for Smoking Area

Calculation Method 1

Closed:
 $(A+B) \times 2 = (70+35) \times 2$
 Total = 210
 (Window and door openings on facade B are counted as closed since they're not considered permanent openings.)

Total Perimeter:
 $(70 \times 2) + (35 \times 2) = 210$
 $(\text{Enclosed} / \text{Perimeter}) \times 100 = (210 / 210) \times 100 = 100\%$ Enclosed

So in this example, all surfaces will be considered closed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**



Calculation Method 2

Closed:
 $(A+B) \times 2 = (70+35) \times 2$
 Total = 210
 (Window and door openings on facade B are counted as closed since they're not considered permanent openings.)

Total Perimeter: 210
 Total Area - Enclosed Area = Open Space
 $210 - 210 = 0$

So in this example, all surfaces will be considered closed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**

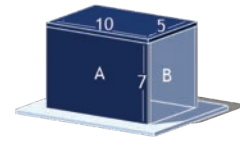
Calculation Method 1

Closed:
 $A+B = 7 \times 10 \times 2 = 140$

Open: $7 \times 5 \times 2 = 70$
 Total Perimeter: 210

$(\text{Enclosed} / \text{Perimeter}) \times 100 = (140 / 210) \times 100 = 66\%$ Enclosed

If your smoking area/shelter is more than 50% enclosed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**



Calculation Method 2

Closed:
 $A+B = 7 \times 10 \times 2 = 140$ (Total Enclosed Area)

Total Perimeter: 210
 Total Area - Enclosed Area = Open Space
 $210 - 140 = 70$

If the open area is less than the enclosed area, the shelter **will not comply with the legislation.** As this open area in the example is less than the enclosed area, the shelter **would not be compliant.**

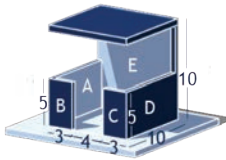
Calculation Method 1

Closed:
 $A+D = 10 \times 5 \times 2 = 100$
 $B+C = 5 \times 3 \times 2 = 30$
 $E = 10 \times 10 = 100$
 Total Enclosed Area = 230

Open: $20 + (50 \times 3) = 170$
 Total Perimeter: 400

$(\text{Enclosed} / \text{Perimeter}) \times 100 = (230 / 400) \times 100 = 57.5\%$ Enclosed

If your smoking area/shelter is more than 50% enclosed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**



Calculation Method 2

Closed:
 $A+D = 10 \times 5 \times 2 = 100$
 $B+C = 5 \times 3 \times 2 = 30$
 $E = 10 \times 10 = 100$
 Total Enclosed Area = 230

Total Perimeter: 400
 Total Area - Enclosed Area = Open Space
 $400 - 230 = 170$

If the open area is less than the enclosed area, the shelter **will not comply with legislation.** As this open area in the example is less than the enclosed area, the shelter **would not be compliant.**

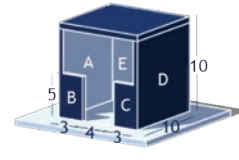
Calculation Method 1

Closed:
 $A+D+E = 10 \times 10 \times 3 = 300$
 $B+C = 5 \times 3 \times 2 = 30$
 Total Enclosed Area = 330

Open: $20 + 50 = 70$
 Total Perimeter = 400

$(\text{Enclosed} / \text{Perimeter}) \times 100 = (330 / 400) \times 100 = 82.5\%$ Enclosed

If your smoking area/shelter is more than 50% enclosed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**



Calculation Method 2

Closed:
 $A+D+E = 10 \times 10 \times 3 = 300$
 $B+C = 5 \times 3 \times 2 = 30$
 Total Enclosed Area = 330

Open: $20 + 50 = 70$
 Total Perimeter = 400
 Total Area - Enclosed Area = Open Space
 $400 - 330 = 70$

If the open area is less than the enclosed area, the shelter **will not comply with the legislation.** As this open area in the example is less than the enclosed area, the shelter **would not be compliant.**

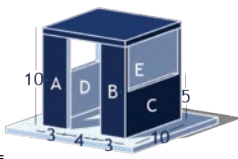
Calculation Method 1

Closed:
 $A+B = 3 \times 10 \times 2 = 60$
 $C+D = 10 \times 5 \times 2 = 100$
 $E = 100$
 Total Enclosed Area = 260

Total Perimeter = 400

$(\text{Enclosed} / \text{Perimeter}) \times 100 = (260 / 400) \times 100 = 65\%$ Enclosed

If your smoking area/shelter is more than 50% enclosed then it does not comply with Smoke Free Legislation and smoking **cannot be permitted.**



Calculation Method 2

Closed:
 $A+B = 3 \times 10 \times 2 = 60$
 $C+D = 10 \times 5 \times 2 = 100$
 $E = 100$
 Total Enclosed Area = 260

Total Perimeter: 400
 Total Area - Enclosed Area = Open Space
 $400 - 260 = 140$

If the open area is less than the enclosed area, the shelter **will not comply with legislation.** As this open area in the example is less than the enclosed area, the shelter **would not be compliant.**

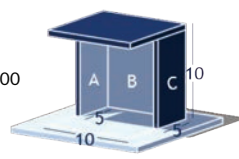
Calculation Method 1

Closed:
 $A+B+C = (5 \times 10 \times 2) + (10 \times 10)$
 Total Enclosed Area = 200

Open: $(5 \times 10 \times 2) + (10 \times 10) = 200$
 Total Perimeter = 400

$(\text{Enclosed} / \text{Perimeter}) \times 100 = (200 / 400) \times 100 = 50\%$ Enclosed

If your smoking area/shelter is less or equal to the 50% enclosed area then it complies with Smoke Free Legislation and smoking **can be permitted.**



Calculation Method 2

Closed:
 $A+B+C = (5 \times 10 \times 2) + (10 \times 10)$
 Total Enclosed Area = 200

Open: $(5 \times 10 \times 2) + (10 \times 10) = 200$
 Total Perimeter = 400

Total Area - Enclosed Area = Open Space
 $400 - 200 = 200$

If the open area is greater or equal to the enclosed area, the shelter **complies with the legislation.** As this open area in the example is equal to the enclosed area, the shelter **would be compliant.**

DISCLAIMER

There are numerous caveats and restrictions. Because of the generality of this update, the information provided herein may not be applicable in all situations. A comprehensive review would be required for certainty. The information contained on this website is for general information purposes only.

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Planning and Architectural Specialists