
Government Notice

No. R 1453

3 December 1999

Regulation Gazette, No.6689
No. R. 1453

NOTICE RELATING TO SMOKING OF TOBACCO PRODUCTS IN PUBLIC PLACES

The Minister of Health intends, in terms of section 2 of the Tobacco Products Control Act 1993 (Act no 83 of 1993), as amended by the Tobacco Products Control Amendment Act 1999 (Act 12 of 1999), to hereby declare where smoking of tobacco products in public places is permissible and the conditions subject to which such smoking may take place, as set out in the Schedule.

Interested persons are invited to submit any substantial comments or make any representations on the proposed regulations to the Director-General: Health, Private Bag X828, Pretoria, 0001 (for attention of the Director: Health Promotion), within three months of the date of publication of this notice.

SCHEDULE

1 Definitions

In this notice "the Act" means the Tobacco Products Control Act, 1993 (Act No.83 of 1993), as amended by the Tobacco Products Control Amendment Act, 1999, and any expression to which meaning has been assigned to in the Act shall bear such meaning and unless the context otherwise indicates –

"health and safety committee" means a committee established in terms of section 19 of the Occupational Health and Safety Act 1993 (Act No. 85 of 1993);

"health and safety representative" means a person designated in terms of section 17(1) of the Occupational Health and Safety Act 1993 (Act No. 85 of 1993) and;

"restaurant" means a commercial enterprise involved primarily in the provision of food for remuneration and which receives less than 20% of its gross revenue from the sale of alcoholic beverages;

"bar, shebeen, tavern and pub" means an area within a public place which is used mainly for serving alcoholic beverages for consumption by guests on the premises but shall not include that portion of a restaurant where eating is provided for the consumption of food by patrons;

"sportsbar" means any premises or any part of any premises where the principal business is the selling of liquor to the general public for consumption on the premises; and includes broadcasting of sports channels for viewing by the general public;

"casino" means any public room or building which is used mainly for gambling;

"nightclub" means any premises that is open at night and provides entertainment for the general public.

2 Permissible smoking areas

Subject to the conditions provided for in clause 3 of this Notice the smoking of tobacco products may be permitted in the following public places:

Retail tobacco stores that deal exclusively in the sale of tobacco and smoking paraphernalia;
Bars, pubs, shebeens, taverns and casinos

subject to provisions of clause 3(1) [(a) and (d)] hereof;

Restaurants and sportsbars subject to the provisions of clauses 3(1) [(a) and (d)] hereof;

Rooms in hotels, guest houses, bed and breakfast places, game lodges and other places where accommodation is offered for reward;

[subject to the provision of clause 3(1) (d) hereof]

(1) An employer, owner, licensee, lessee or person in control of a public place or a workplace, may designate a room or enclosed area within such public place as a smoking area, subject to the following requirements:

- (i) the designated smoking areas or rooms contemplated in this Notice must contain windows that open to the outside and which are open during any smoking activity and a separate ventilation system that extracts air to the outside.
- (ii) the designated smoking areas or rooms must be separated from the rest of the public place by a concrete wall or solid partition and an entrance door on which the sign "smoking room" is displayed in letters that must be at least 4 centimetres in height and 3 centimetres in breadth, appearing as black and white only.
- (iii) the prescribed health messages and/or warning must also be displayed at the entrance to be designated smoking area or room, in black lettering on a white background that must be at least 4 centimetres in height and 3 centimetres in breadth, as follows: "The smoking of tobacco is harmful to your health. Tobacco smoke is also harmful to non-smokers. If you are pregnant or breastfeeding, tobacco may harm your baby". For help to quit please phone (011) 720 3145.

Employers, must consult in good faith with the health and safety committee or the health and safety representative or, if there is no such committee or representative, with the employees, about the designation of any smoking area or room in the workplace before designating such an area or room.

Notwithstanding subsection (1)[(a) and (b)], smoking shall not be permitted in offices, storerooms, workrooms, utility rooms, conference and meeting rooms, auditoria, rest rooms, toilets, medical facilities, corridors, lifts or in any part of the workplace where food is prepared and to which members of the public normally have access;

The designated smoking area or room must not exceed 25 percent of the total floor area of the public place,

Notices and signs indicating the areas where smoking is and is not permitted must be prominently displayed and must carry a warning that legal penalties will apply if there is any contravention of the notices or signs;

(1) Notwithstanding any provision in this notice which permits smoking in a place of employment, an employer must ensure that -

an employee who does not wish to be exposed to smoke in the workplace must be protected from tobacco smoke in such a workplace;

such employee may object to his or her employer about smoking in his or her workplace without retaliation;

restrictions and prohibitions upon smoking are implemented in a manner which accommodates the preferences and needs of employees who wish not to be exposed to tobacco smoke.

- (a) The operator of any passenger ship that is registered in the Republic may allocate entire cabins as designated smoking areas provided that such areas do not exceed 10% of the total accommodation.

[subject to the provisions of clause 3(1)(a) hereof].

- (b) The operator of any passenger train may allocate entire carriages or compartment as designated smoking areas provided that such areas are allocated at the rear end of the train and are no more than 10% of the total number of carriages.

- (c) A restaurateur may subject to the provisions of clause 3(1)(a) designate a maximum of 25 percent of the seating as a smoking area in a restaurant with more than 35 seats.

An employer, owner, licensee, lessee or person in control of a public place or workplace shall not permit any person to smoke in an area other than a designated smoking area or room.

All employers shall have a written policy on smoking in the workplace and give effect to the policy within 3 months of the commencement of the Act

No persons may smoke in any area designated for persons who do not smoke.

Nothing in this notice shall be construed as derogating in any way from the risk of any employer, owner, licensee, lessee or person in control of any public place or part thereof to totally prohibit or control smoking therein.

ANNEXURE A

Proposed health messages and warnings

DANGER: SMOKING CAN KILL YOU
DANGER: SMOKING CAUSES CANCER
DANGER: SMOKING CAUSES HEART DISEASE
DANGER: SMOKING DAMAGES YOUR LUNGS
WARNING: DON'T SMOKE NEAR CHILDREN, PREGNANT OR
BREASTFEEDING WOMEN AND NON-SMOKERS.
DANGER: TOBACCO IS ADDICTIVE
YOUR SMOKE CAN HARM THOSE AROUND YOU

Proposed message for "smoking room/areas"

SMOKING ROOM
THE SMOKING OF TOBACCO IS HARMFUL TO YOUR HEALTH. TOBACCO SMOKE IS ALSO
HARMFUL TO CHILDREN, PREGNANT OR BREASTFEEDING WOMEN AND NON-SMOKERS.
FOR HELP TO QUIT PHONE 011 720 3145