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# GOVERNMENT NOTICE

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## DEPARTMENT OF HEALTH

No. R. 264

30 March 2012

### TOBACCO PRODUCTS CONTROL ACT, 1993 (ACT NO. 83 OF 1993)

#### REGULATIONS RELATING TO SMOKING IN PUBLIC PLACES AND CERTAIN OUTDOOR PUBLIC PLACES

The Minister of Health, intends to, in terms of section 2 and (4) of the Tobacco Products Control Act, 1993 (Act No. 83 of 1993), as amended, to make the regulations as set out in the Schedule.

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

#### SCHEDULE

##### Definitions:

1. In these regulations, 'the Act' means the Tobacco Products Control Act, 1993 (Act No. 83 of 1993), as amended, and any expression to which a meaning has been assigned in the Act shall bear such meaning and unless inconsistent with the context-

**"entrance"** means the point of access to a public place and includes any adjoining covered surrounding area. ;

**"outdoor eating or drinking area"** means any outdoor area, including , but not limited to streets and sidewalks, which is available to or customarily used by the public or an employee, and which is designed, established, or regularly used for consuming food and / or beverages;

**"outdoor event"** means an organised public gathering attended by people in an outdoor public place for purposes of musical, dance, theatre, drama, entertainment, education, sport, performance or a community fair, parade, market or event;

**"playground"** means any part of a public area for use by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities.;

**“reasonable distance”** means a distance that ensures that any person present in an area in which smoking is prohibited is not exposed to smoke created by any person smoking outside the area. This distance shall be a minimum of five (5) metres;

**“service area”** means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction whether or not such service includes the exchange of money including, but not limited to ATMs, telephone kiosks, ticket lines, bus stops, railway platforms and taxi ranks.;

**“service line”** means an outdoor queue in which one or more persons are waiting for or receiving service of any kind;

**“ventilation inlet”** means the part of a mechanical ventilation system designed to allow air into the building.;

**“window”** means an operable window.

### **Prohibitions**

2. (1) No person may smoke any tobacco product in any public place.

(2) No person may smoke any tobacco product in the following outdoor public places:

- (a) stadiums, arenas, sports facilities, playgrounds, zoos;
- (b) premises of schools, or child care facilities;
- (c) health facilities;
- (d) outdoor eating or drinking areas;
- (e) venues when outdoor events take place
- (f) covered walkways and covered parking areas;
- (g) service areas and service lines; and
- (h) beaches where public bathing is permitted, not less than 50 metres away from the closest person near the demarcated swimming area.

(3) Notwithstanding the provisions of sub-regulation (2) a person in control of an outdoor public place may designate outdoor smoking areas subject to the provisions of regulation 4.

(4) (a) No person shall smoke any tobacco product within a 10 metre distance from a window of, ventilation inlet of, doorway to or entrance into a public place.

(b) This prohibition does not apply to any person who is temporarily within the area while actively passing through such area.

3. (1) The owner of or person in control of a public place, or employer in respect of a workplace shall ensure that no person smokes in violation of the provisions of these regulations.
- (2) The owner of or person in control of a public place, or employer in respect of a workplace shall ensure no ashtrays are placed within any area where smoking is prohibited.
- (3) The owner of or person in control of a public place, or employer in respect of a workplace shall conspicuously display a "No Smoking" sign at each entrance and in appropriate locations and in sufficient numbers to ensure that employees and the public are aware that smoking is not permitted in the area or place.
- (4) The sign referred to in sub regulation (3) shall:
  - (a) have a white background and a graphic of a no smoking symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it and shall be at least 14 cm in diameter; and
  - (b) carry the warning: "ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED AND MAY BE LIABLE TO A FINE." Written in black letters, at least 2 cm in height and 1.5 cm in breadth, on a white background.

#### **Designated outdoor smoking areas**

4. (1) The owner or person in control of a public place or employer in respect of a workplace may designate part of an outdoor area of the premises as an area in which smoking is permitted.
- (2) Smoking shall be permitted in that area only and in no other part of the public place.
- (3) The owner or person in control of a place or employer in respect of a workplace shall display a notice at the area stating that—
  - (a) the area is a designated outdoor smoking area; and
  - (b) no person under 18 years old may be present in the area; and
- (4) More than one designated outdoor smoking area may be permitted at the premises.
- (5) The parts of an outdoor area of the premises that may be designated outdoor smoking areas shall be clearly demarcated

- (6) A designated outdoor smoking area shall—
- (a) not be adjacent to an entrance to the premises; and
  - (b) be in a position that minimises smoke from the area entering any area where smoking is prohibited; and
  - (c) be set aside exclusively as a smoking area; and
  - (d) not be adjacent to walkways and other areas where persons generally congregate or walk.

#### **Requirements for a designated outdoor smoking area**

5. The owner or person in control of a public place or employer in respect of a workplace of premises at which there is a designated outdoor smoking area shall ensure that, in the designated outdoor smoking area—
- (a) no person under the age of 18 years is present;
  - (b) no food or refreshment is served;
  - (c) no entertainment is provided;
  - (d) ashtrays are installed and the area regularly cleaned; and
  - (e) smokers are discouraged from remaining in the area longer than is necessary to smoke a cigarette.

#### **Smoke-free public place or workplace**

6. The owner or person in control of a public place or employer in respect of a workplace may totally prohibit smoking on the premises of that public place

#### **Repeal**

7. The Notice relating to smoking of Tobacco Products in Public Places, No. R. 975 as published in Government Gazette No. 21610 of 29 September 2000, is hereby repealed.

(original signed by:)

DR A MOTSOLEDI, MP

MINISTER OF HEALTH

DATE: 1/3/2012