

# YOUR SMOKE-FREE WORKPLACE



- ***Understanding South Australia's smoke-free workplace legislation***
- ***Developing a smoke-free policy that works***
- ***Where to get help and resources***

# Where can I get further information?

For further information, advice about the legislation and to obtain free smoke-free signage, contact:

**Tobacco Control Unit**  
**Department of Health**

Phone: **1300 363 703** (9am to 5pm, Monday to Friday).

Website: [www.tobaccolaws.sa.gov.au](http://www.tobaccolaws.sa.gov.au)

For help with development and implementation of your smoke-free policy, contact:

**Quit SA**

Phone: **8291 4282**

Website: <http://www.quitsa.org.au/>

For information about Occupational Health, Safety and Welfare, contact:

**Workplace Services**

Phone: **1300 365 255**

Website: <http://www.eric.sa.gov.au/>

**Workcover**

Phone: **13 18 55**

Website: <http://www.workcover.com.au/>

# Smoke-free Workplaces

From the **6th December 2004** smoking is banned in all enclosed South Australian workplaces, except in licensed hospitality venues such as hotels, clubs and the Skycity Casino, where bans will be phased in by **31st October 2007**.

This is part of an initiative by the State Government to protect workers from exposure to second-hand smoke and the adverse health effects of passive smoking.

Workplace exposure to passive smoking is a significant occupational health and safety hazard. Passive smoking exposure causes cancer, heart disease and exacerbates asthma. Section 19 (1) of the Occupational Health, Safety and Welfare Act 1986, imposes on all employers a duty to ensure, so far as is reasonably practical, that their workers are safe from injury and risks to health while at work.

The National Occupational Health and Safety Commission (NOHSC) have also produced the Guidance Note on the Elimination of Environmental Tobacco Smoke in the Workplace (3019/2003). This states:

*The NOHSC has agreed that, given the health risks of environmental tobacco smoke, all Australian workplaces should be made completely smoke-free as soon as possible, i.e. environmental tobacco smoke should be excluded.*

By making all enclosed workplaces smoke-free we are making a positive step towards a healthier future for all South Australians.

# Restrictions on Smoking

Amendments to the *Tobacco Products Regulation Act, 1997* were introduced in 2004. The following information is provided for guidance only and should be read in conjunction with the relevant legislation.

Section 46 subsection (1) states that smoking is banned in an enclosed public place, workplace or shared area.

If smoking occurs in an enclosed workplace in contravention of subsection (1)

- the employer with responsibility for the workplace is guilty of an offence
- the maximum penalty for this offence is \$1,250 and the expiation fee is \$160.

If a person smokes in contravention of subsection (1), the person is guilty of an offence. The maximum penalty is \$200 and the expiation fee is \$75.

Under the Act, a “workplace” has the same meaning as under the Occupational Health, Safety and Welfare Act 1986:

*any place (including any aircraft, ship or vehicle) where an employee or self-employed person works and includes any place where such a person goes while at work.*

However, it does not include:

- (a) a place occupied as a residential premises; or
- (b) a place (other than a vehicle) where only a single self-employed person is working; or
- (c) a vehicle that is used for work purposes by only one person; or
- (d) any other place of a kind prescribed by regulation.

# Interpreting the legislation

## **What is meant by 'enclosed'?**

An area without a ceiling of any type (including umbrellas or sails), is considered to be unenclosed. If there is a ceiling, the area is considered enclosed if the ceiling and wall space is at least 70% enclosed.

## **Does the ban include areas in workplaces such as staff rooms?**

Yes, staff rooms are part of a workplace and therefore must be non-smoking areas.

## **Does the legislation cover workers who visit people who smoke in their homes?**

The legislation does not apply to a residential area. However, employers often request clients not to smoke in the worker's presence to protect them when they are conducting home visits. Such policies comply with employers' Duty of Care obligations.

## **What about places like hostels or nursing homes – can people still smoke inside?**

The legislation does not restrict smoking in residents' own rooms and in their individual living areas. Smoking is not allowed in shared areas such as foyers, corridors and communal lounges.

However, some places may have their own smoke-free policies that further restrict smoking.

## **Are workplaces that use volunteers required to be non-smoking?**

Yes - a volunteer is deemed to be an employee for the purposes of the Occupational Health, Safety & Welfare Act 1986.

## **Can I smoke inside if I am self-employed and work alone?**

Smoking is permitted only if you never have customers or employees in your premises.

## **Will smoking be banned from around the entrances to workplaces?**

No, businesses can however implement their own smoke-free policies near entrances if these areas are on their property.

## **What about work vehicles?**

Smoking is not allowed in work vehicles that are ever used by more than one employee.

## **How will the legislation be enforced?**

Enforcement of the legislation will be provided by a team of Government Tobacco Control Inspection Officers and supported by Occupational Health and Safety Inspectors at Workplace Services. Employers or employees can telephone **1300 363 703** (Monday to Friday 9am – 5pm) if they are having problems enforcing the laws or would like further information.

## **What are the penalties?**

If smoking occurs in an enclosed workplace in contravention of the Act, the employer with responsibility for the workplace is guilty of an offence. The maximum penalty for this offence is \$1,250 and the expiation fee is \$160.

Individuals contravening the Act are also subject to a penalty of a maximum fine of \$200 or expiation fee of \$75.

## **How will the penalties be applied?**

Expiation fees (on-the spot-fines) will most commonly be issued to offenders who are found to breach the legislation on a single occasion. Inspectors will however be able to proceed with the option to prosecute, which will mean an appearance in court, if it is appropriate.

## **What if a worker keeps on smoking despite the employers efforts to stop them?**

If an employer can prove:

- he or she didn't provide anything designed to facilitate smoking such as ashtrays, and
- he or she was not aware and could not reasonably be expected to be aware that smoking was taking place; or
- he or she requested the person to stop smoking and informed the person that they were committing an offence.

It is unlikely the employer would be penalised.

# Going smoke-free: making a policy that works

## **The aim of a smoke-free policy is not to get smokers to quit smoking**

The policy is about setting out where people can smoke, so that passive smoking in your workplace is minimised.

## **Why does our workplace need a policy?**

The previous pages describe what is required by the legislation now in place. This is a minimum requirement. It does not describe how your workplace should implement the legislation. Experience with many workplaces that have chosen to go smoke-free shows that giving proper consideration to the needs and concerns of all workers – both smokers and non-smokers – ensures a smooth transition.

## **Making a smoke-free workplace work for you**

There are many benefits in becoming a smoke-free workplace. However, some smokers may find the transition difficult. Their concerns can be minimised by giving careful consideration to the following:

- Keeping people informed
- Providing designated smoking areas on workplace grounds
- Having designated smoking times
- Putting up clear signage

## **Keeping people informed**

People need to be informed about what is happening and why at the earliest opportunity. Information could be provided to all staff about:

- The new legislation and its requirements
- How people can provide feedback

## **Be clear about non-smoking and smoking areas**

Clear signage eliminates confusion about where people cannot smoke. Designated smoking areas should also be clearly indicated.

Consult with staff about where and when people are able to smoke and develop your own policy. The policy should include decisions about smoking around doorways, on balconies and any other areas where people are used to smoking. While the legislation may not be specific about some of these areas, it is a good idea to give clear guidelines in your policy, and only allow smoking in designated smoking areas.

If everyone knows where smoking is and isn't allowed, uncertainty about which areas are included under the non-smoking rule should be minimised.

Signs will be needed

- Inside buildings, including stairwells, toilets etc
- In sheds and on factory floors
- Around doorways
- Inside vehicles

## Supporting and promoting the policy

- Communicate clearly with all staff about every aspect of the smoke-free policy, for example, at staff meetings, on noticeboards, in newsletters, on payslips.
- Make physical changes like putting up signs as soon as possible.
- Provide each employee with a copy of the policy.
- Nominate a person responsible for dealing with questions and issues that may arise.
- All new staff should be informed of the smoke-free policy, and conditions of employment should stipulate that the policy must be adhered to.
- Monitor adherence to the policy – are people clear about when and where they can and cannot smoke?

## Choosing a designated smoking area at your workplace

It is strongly recommended that you provide a place where people are asked/required to go to smoke.

- The area must be outside, and not enclosed (see definition on page 3).
- The area should not be near doorways and windows, or air-conditioning intakes.
- If possible, the area should be protected from sun and rain, and have some seating.
- The area should provide sand-filled receptacles for butts (to reduce litter).

Make it clear that smoking is not allowed elsewhere, and provide appropriate signage.

## Designated smoking times

Having designated times makes it clear to everyone when smoking breaks are allowed.

- The usual scheduled breaks for all employees such as morning tea and lunch are suitable scheduled smoking breaks. This allows smokers to have the same break times as non-smokers, and eliminates any extra loss of work time.
- Most smokers, even those heavily addicted, can smoke within these guidelines. There are now many other places where smoking is restricted (movies, sports arenas, airplanes) and smokers have learned to manage their smoking.

## Workplaces that do not have scheduled breaks

Where breaks are not provided every few hours, using Nicotine Replacement Therapy (like nicotine gum or lozenges) will enable people who smoke to remain comfortable while unable to smoke. These are available from pharmacies without prescription.

# Example of a SMOKE-FREE POLICY

for

**Name of Company**

## Why?

Under the Occupational Health, Safety and Welfare Act, 1986 the company has a legal commitment to provide a safe and healthy workplace for all employees, visitors and customers.

Under the Tobacco Products Regulation Act, 1997 smoking has been banned in all enclosed workplaces.

## Aim

To minimise the exposure of employees, visitors and customers to the hazards of tobacco smoke.

**Smoking is ONLY permitted during scheduled regular breaks (e.g. lunch)**  
**Smoking is ONLY permitted in the following designated areas**

- List areas

## Who is required to follow the policy?

All people at the site of the business are expected to comply with the policy. This includes all employees, contractors, visitors and customers.

**Starting Date: 6 December 2004**

## Implementation

All staff applying for positions at the company will be informed of the policy on smoking. Appropriate signs will be displayed in both non-smoking and smoking areas.

## Enquiries

Any enquiries regarding the policy on smoking should be directed to:

*e.g. the Occupational Health & Safety Officer*

## Non-Compliance

For health and safety reasons, all personnel are required to abide by the conditions of this policy.

In the event that these conditions are not adhered to, appropriate disciplinary action will be taken.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Position: \_\_\_\_\_

# Getting help for people who want to quit smoking

Some people may decide that the introduction of a smoke-free workplace is a good time to try and stop smoking. Supporting staff to quit smoking can be good for business too. Researchers have found that former smokers have increased productivity and reduced absenteeism compared with smokers.

Employers can help by:

- Referring people to the Quitline 131 848 for individual help with quitting
- Providing quit courses in the workplace
- Subsidising nicotine replacement therapy (patches etc) for staff who wish to quit
- Training staff to help people quit smoking

## **Quit SA provides quit smoking courses and training to workplaces.**

Offering staff assistance to quit can be helpful, particularly if they are provided in work-time. They can be tailored to the particular needs of your workplace. There is a charge for these courses.

One hour motivational talk:

- Designed to motivate smokers to quit
- Provides comprehensive information about how to quit
- Groups of 8-15 are ideal for the interactive sessions

Quit SA course:

- Runs as 2 x 2 hour sessions, usually held a week apart
- Provides more detailed information for quitters, including:
  - Quitting techniques
  - Overcoming difficulties
  - Preventing relapse

The **Quitline 131 848** telephone advisory service offers a program of regular support to quitters over a 12 week period. (Quitline 12 week program). People attending the Quit SA course will be linked to this program for additional personal assistance.

## **Quit SA resources**

Quit SA has a wide range of free resources to support quitting and for display. Call 821 4282 and ask for an order form.



