

# A GUIDE TO SMOKE-FREE AREAS IN TASMANIA












From 1 January 2006

Smoke-free areas in Tasmania are established under the *Public Health Act 1997*. The object of the legislation is to prevent workers and the public from being exposed to the harmful effects of environmental tobacco smoke. There are penalties for people who smoke in smoke-free areas and for occupiers who allow people to smoke in smoke-free areas. The purpose of this guide is to explain the areas that are required to be smoke-free and what happens if someone smokes in a smoke-free area.

## NO SMOKING AREAS

The following areas must be smoke-free:

-  All **indoor (enclosed) public places and workplaces**. This includes offices, shopping centres, factories, hospitals, bars, gaming areas, restaurants, corridors, toilets, function rooms and movie theatres.
-  **Entrances and exits to buildings** - an area within 3 metres of an entrance or exit from a non-domestic building. Exceptions to the 3 metre rule are made in respect to some *Outdoor Smoking Areas* and *Outdoor Dining Areas* (see below).
-  **Air intake for ventilation equipment** – an area within 10 metres to a non-domestic building.
-  **Outdoor areas on licensed premises** such as bars, clubs and nightclubs – except in *Outdoor Smoking Areas*. For further information on the requirements of *Outdoor Smoking Areas* refer to the *Guide for Smoke-Free Areas for Licensed Premises*.
-  **Outdoor Dining Areas** - at least 50% of tables and/or seating grouped together in one part of that dining area. An *Outdoor Dining Area* is an area that is not enclosed and contains tables or seating provided by the occupier of licensed premises, a restaurant, a café, a snack bar or a takeaway food shop, for the use of its customers. The smoke-free area must not be of inferior amenity to any area in which smoking is permitted. When food is consumed in an *Outdoor Dining Area* at tables provided by the occupier on a street or public place, the smoke-free requirement within 3 metres of an entrance or exit of a building does not apply.
-  **Outdoor sporting or cultural venues** – any area containing reserved seating.
-  **Work Vehicles** while being used in the course of employment if another person is present in the vehicle.
-  **Private Vehicles** while a child, being a person under 18 years of age, is present (commences 1 January 2008).
-  **Designated smoke-free areas** - occupiers of premises may further designate any part of those premises to be a smoke-free area, provided it is not within private premises.

## AREAS IN WHICH SMOKING IS PERMITTED

- **Personal living areas** – places providing accommodation for a fee, residential care facilities or prisons may permit smoking in personal living areas.
- **Outdoor areas** - smoking is generally permitted in outdoor areas (note however the requirements in respect to building entrances, reserved seating, *Outdoor Dining Areas* and *Outdoor Smoking Areas*).

## WHAT HAPPENS IF SOMEONE SMOKES IN A SMOKE-FREE AREA?

Under the Act, both the SMOKER and the OCCUPIER (owner or manager) may be committing an offence if someone smokes in a smoke-free area.

It is a defence under the Act if an OCCUPIER did not do anything to facilitate smoking in a smoke-free area; eg ashtrays were not provided; AND

- did not know, or could not reasonably be expected to have known, that the person was smoking in the smoke-free area; OR
- asked the smoker to stop smoking, told them it was an offence and if the person continued to smoke, asked them to leave the smoke-free area.

The Act provides a defence for a SMOKER who:

- did not know, and could not reasonably be expected to have known, that the area was a smoke-free area; OR
- stopped smoking as soon as requested to do so.

The Department will respond to all enquiries about compliance with the smoke-free areas legislation. Offenders risk on-the-spot fines or prosecution if smoking occurs in a smoke-free area.

The Department recommends prominent signage be displayed to ensure patrons are aware of where they can and cannot smoke. Signage is available from commercial suppliers.

## FOR MORE INFORMATION

Please telephone a Tobacco Control Officer on 1800 671 738.

This guide and more information on smoke-free areas is available at the Department of Health and Human Services website at [www.dhhs.tas.gov.au](http://www.dhhs.tas.gov.au)

The *Public Health Act 1997* is available at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

**DISCLAIMER:** This information is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the *Public Health Act 1997*, and any relevant Guidelines issued by the Director of Public Health. Owners, licensees and occupiers should also consult their relevant industry associations for advice and assistance and may wish to seek legal advice. The Crown in the right of the State of Tasmania, its employees and agents, will not be responsible for any loss, however arising, from the use of, or reliance on, this information.