Tobacco in Australia | Facts & Issues
A comprehensive online resource
List of chapters available at tobaccoinaustralia.org.au

Introduction

Chapter 1  Trends in the prevalence of smoking
Chapter 2  Trends in tobacco consumption
Chapter 3  The health effects of active smoking
Chapter 4  The health effects of secondhand smoke
Chapter 5  Factors influencing the uptake and prevention of smoking
Chapter 6  Addiction
Chapter 7  Smoking cessation
Chapter 8  Tobacco use among Aboriginal peoples and Torres Strait Islanders
Chapter 9  Smoking and social disadvantage
Chapter 10  The tobacco industry in Australian society
Chapter 11  Tobacco advertising and promotion
Chapter 12  The construction and labelling of Australian cigarettes
Chapter 13  The pricing and taxation of tobacco products in Australia
Chapter 14  Social marketing and public education campaigns
Chapter 15  Smokefree environments
Chapter 16  Tobacco litigation in Australia
Chapter 17  The economics of tobacco control
Chapter 18  The WHO Framework Convention on Tobacco Control

Appendix 1  Useful weblinks to tobacco resources
Chapter 15
Smokefree environments
Chapter 15
Smokefree environments

Table of contents

15.0 Introduction.............................................................................................................. 1

15.1 Why implement smokefree environments? .......................................................... 3

15.2 Public opinion about smokefree environments.................................................. 5
  15.2.1 Community attitudes to indoor bans ............................................................... 5
  15.2.1.1 National studies of attitudes to smoking bans .......................................... 5
  15.2.1.2 State surveys of support for indoor smoking bans .................................... 5
  15.2.2 Community attitudes to outdoor bans .......................................................... 6
  15.2.2.1 Support for restrictions on smoking in places children gather: playgrounds and other areas .......................................................... 6
  15.2.2.2 Support for smoking restrictions in other outdoor areas.......................... 7

15.3 Opposition to and weakening of smokefree environment legislation .................. 10
  15.3.1 The ventilation debate ..................................................................................... 10
  15.3.2 The economic impact of smokefree policies ............................................... 10
  15.3.3 The ‘enclosed spaces’ loophole ....................................................................... 11

15.4 Smoking bans in key public areas and environments .......................................... 13
  15.4.1 Hospitality venues ......................................................................................... 13
  15.4.1.1 Sleeping accommodation .......................................................................... 13
  15.4.1.2 Cafés, restaurants .................................................................................... 14
  15.4.1.3 Al fresco dining areas ................................................................................. 14
  15.4.1.4 Pubs and clubs .......................................................................................... 15
  15.4.1.5 Casinos and poker machine venues ......................................................... 15
  15.4.2 Parliaments and government buildings .......................................................... 15
  15.4.3 Hospitals and health facilities ......................................................................... 16
15.4.4 Institutions ................................................................. 16
15.4.4.1 Mental health facilities ......................................... 16
15.4.4.2 Prisons ................................................................. 17
15.4.4.3 Immigration detention centres .............................. 18
15.4.4.4 Nursing homes .................................................... 18

15.5 Smoking bans in outdoor areas ........................................ 21
15.5.1 Legislation and policies banning smoking outdoors ........ 21
15.5.1.1 Beaches .............................................................. 22
15.5.1.2 Children's playgrounds ......................................... 22
15.5.1.3 Educational campuses ......................................... 22
15.5.1.4 Sporting spectator venues .................................... 23
15.5.1.5 Recreational venues ............................................ 23
15.5.1.6 Transit areas ....................................................... 23
15.5.1.7 Parks, state forest and national parks ......................... 24
15.5.1.8 Other outdoor areas ............................................. 24

15.6 Smoking bans in domestic environments .......................... 26
15.6.1 Prevalence of exposure to secondhand smoke in domestic environments ........................................ 26
15.6.1.1 National data on smoking at home .......................... 26
15.6.1.2 State data on smoking at home ............................... 26
15.6.2 Factors affecting adoption of smokefree homes .............. 27
15.6.2.1 Policies .............................................................. 27
15.6.2.2 Education campaigns ........................................... 27
15.6.3 Benefits of smokefree homes ...................................... 27
15.6.4 Cars ........................................................................ 28
15.6.4.1 Rationale for restricting smoking in cars .................. 28
15.6.4.2 Legislation banning smoking in cars .......................... 29
15.6.4.3 Restrictions on smoking in cars in countries outside Australia ......................................................... 30
15.6.5 Multi-unit dwellings .................................................. 31
15.6.6 Domiciliary services .................................................. 31

15.7 Legislation to ban smoking in public spaces ......................... 35
15.7.1 Commonwealth legislation .................................. 35
15.7.2 Australian Capital Territory legislation ...................... 35
15.7.2.1 Enclosed public places .......................................... 36
15.7.2.2 Outdoor eating and drinking places ........................ 36
15.7.2.3 Smoking in cars .................................................. 37
15.7.3 New South Wales legislation .................................. 37
15.7.3.1 Smokefree areas ................................................ 37
15.7.3.2 Licensed premises ............................................. 38
15.7.3.3 Smoking in cars .................................................. 38
15.7.3.4 Local government .............................................. 39
## Chapter 15: Smokefree environments

**15.7.4** Northern Territory legislation
- **15.7.4.1** Smokefree areas as of 31 May 2003 ........................................ 39
- **15.7.4.2** Smokefree areas as of 2 January 2011 .................................. 40
- **15.7.4.3** Smoking in cars .......................................................... 41

**15.7.5** Queensland
- **15.7.5.1** Exempt areas ........................................................................ 41
- **15.7.5.2** Outdoor areas where smoking is restricted ...................... 42
- **15.7.5.3** Definition of an enclosed and outdoor area ...................... 42
- **15.7.5.4** Guidelines for ‘designated outdoor smoking areas’ ............. 42
- **15.7.5.5** Smoking management plans ........................................... 43
- **15.7.5.6** Local government ......................................................... 43
- **15.7.5.7** Smoking in cars .......................................................... 43

**15.7.6** South Australian legislation
- **15.7.6.1** Enclosed areas ............................................................ 44
- **15.7.6.2** Smoking in cars .......................................................... 44
- **15.7.6.3** Legislative reform ......................................................... 45

**15.7.7** Tasmanian legislation
- **15.7.7.1** Outdoor areas of licensed premises ................................. 46
- **15.7.7.2** Smoking in cars .......................................................... 46
- **15.7.7.3** Local government ......................................................... 46
- **15.7.7.4** Other outdoor areas ..................................................... 47

**15.7.8** Victorian legislation
- **15.7.8.1** Exemptions to the workplace smoking ban .................... 47
- **15.7.8.2** Enclosed and outdoor areas .......................................... 48
- **15.7.8.3** Smoking in cars .......................................................... 48
- **15.7.8.4** Local government ......................................................... 48

**15.7.9** Western Australian legislation
- **15.7.9.1** Definition of an enclosed public place ............................. 49
- **15.7.9.2** Duty to prevent smoke entering enclosed public places ....... 50
- **15.7.9.3** Outdoor eating areas .................................................... 50
- **15.7.9.4** Smoking in cars .......................................................... 50

**15.7.10** Summary of smokefree legislation across Australian states and territories ......................................................... 50

---

### 15.8 Immediate impact of smokefree legislation in improving air quality

**15.8.1** Support for legislation ............................................................... 61

**15.8.2** Compliance with smokefree legislation ..................................... 61

**15.8.3** Improvements in air quality resulting from smokefree legislation
- **15.8.3.1** Partial restrictions are ineffective ..................................... 62
- **15.8.3.2** Comprehensive bans are effective ................................... 63
- **15.8.3.3** Smoke drift must be minimised .................................... 63
15.9 Effectiveness of smokefree legislation in reducing exposure to tobacco toxins and changing smoking behaviours ........................................ 65
  15.9.1 Effects on employees in affected industries ........................................ 65
  15.9.2 Effects on population exposure to secondhand smoke .............................. 66
    15.9.2.1 Effects on children’s exposure to secondhand smoke .............................. 66
  15.9.3 Effectiveness in prompting cessation .............................................. 67
  15.9.4 Effectiveness in reducing youth smoking .............................................. 68
  15.9.5 Effects on low socio-economic status and Indigenous groups .............................. 68

15.10 Effects of smokefree legislation on health outcomes ............................ 72
  15.10.1 Cardiovascular disease ................................................................. 72
  15.10.2 Effects on exacerbations of asthma ...................................................... 73
Tables and figures

- **Table 15.2.1** Support for measures to ban smoking in selected venues, by smoking status, Australia 2001, 2004 and 2007
- **Figure 15.2.1** Support for banning smoking in pubs/clubs: population aged 14 years or older, state and territories, 1998, 2001, 2004 and 2007 (per cent)
- **Table 15.2.2** Attitudes about smoking in outdoor areas where children are present, Victoria 2007
- **Table 15.2.3** Attitudes about smoking on primary and secondary school grounds, Victoria 2007
- **Figure 15.2.2** Support for smoking restrictions in outdoor public spaces, South Australia, 2007
- **Table 15.2.4** Support for making all playgrounds smokefree by law, New South Wales adults
- **Table 15.6.1** Proportion of Victorian smokers who smoke inside or outside the home, 1998–2008
- **Table 15.6.2** Summary of legislation concerning smoking in cars with minors—as at March 2011
- **Figure 15.7.1** Smokefree car education campaign from South Australia
- **Table 15.7.1** Implementation dates of smoke-free legislation Australian states and territories
  Last updated 11/11/2011
- **Table 15.9.1** Evaluation of the weight of evidence for the effectiveness of smokefree legislation
15.0

Introduction

This chapter is about smokefree areas and environments in Australia. It describes locations and environments where the population has either been exposed or continues to be exposed to secondhand tobacco smoke. A detailed overview of existing smokefree legislation is provided. Results of surveys indicating support for and opposition to smokefree environments are also outlined. Information about the health effects of tobacco smoke, the legal history and the influence of the tobacco industry can be found in other chapters.

As described in Chapter 4, tobacco smoke adversely affects both smokers and non-smokers in indoor environments and in some outdoor environments. The most common terms used to describe exposure to tobacco smoke in non-smokers are passive smoking, environmental tobacco smoke (ETS), secondhand smoke and tobacco smoke pollution. The term secondhand smoke (SHS) is used throughout this chapter, except where citing particular authors who have used other terms.

Smoking bans have been marked by incremental steps involving advances in scientific evidence and growing public acceptance and political resolve, which have converged to make legislative change possible. Another significant factor driving legislative change was concern about employer liability under occupational health and safety laws. As the scientific evidence continued to mount, exposure to SHS was recognised as both a risk to public health and a significant occupational health and safety risk. By the mid-1990s, smokefree policies had been introduced extensively in both the public and private sectors. All government offices (Commonwealth, state and territory) had become smokefree and restrictions had also been introduced in many shopping centres, hospitals, schools, childcare settings and entertainment venues. By 2001, smokefree public places legislation had been enacted in New South Wales, Victoria, the Australian Capital Territory, Western Australia and South Australia (public dining areas only).

Countries with comprehensive laws banning smoking in most indoor public spaces include Bhutan, Canada, Djibouti, Guatemala, Iran, Ireland, New Zealand, Spain, Turkey, Uruguay and Zambia. Bans are less comprehensive in countries such as Italy, France, Norway and Sweden, where smoking is permitted in designated smoking rooms. In October 2010, Finland extended its national smokefree law to places used by children and young people, public venues of residential areas, outdoor public places and hotel rooms, with a view to phasing out smoking by 2040.

A number of US states have enacted wide-ranging smokefree laws, including California and New York, however only 41% of the US population is estimated to be covered by such laws. Comprehensive smokefree laws have also been passed in a number of large cities, including Hong Kong, Mexico City, Rio de Janeiro and Singapore.
References


15.1 Why implement smokefree environments?

While the earliest smoking bans in cinemas and public transport were driven primarily by concerns about fire risk, the growing recognition of the health effects of secondhand smoke (SHS) together with growing public dislike of cigarette smoke and concern about legal liability—particularly under occupational health and safety laws—have been the factors facilitating the adoption of smokefree policies and legislation in more recent times.

Scientific research is unequivocal about the serious health effects of exposure to SHS.\textsuperscript{1-3} Certainly one of the most compelling arguments for banning smoking in workplaces has been the protection of employees from the hazards of chronic exposure.\textsuperscript{4-5} The threat of litigation arising from knowledge of these health risks and employers’ duty of care to staff and customers and patrons has been a significant factor influencing the introduction of smokefree policies in organisations across both the public and private sectors (see Chapter 16, Section 16.3).

Protecting the health of the public, particularly children,\textsuperscript{6-7} has also been a significant factor driving the introduction of smoking bans in a variety of public places such as shopping centres and restaurants. Children are at particular risk from exposure to SHS due to their immature respiratory systems.\textsuperscript{6,9}

As knowledge of the health risks associated with SHS has increased over time, the public has become increasingly concerned about being exposed to SHS and support for smokefree legislation has grown. Prior to the widespread introduction of smokefree policies in public places, many Australians were frequently exposed to tobacco smoke in the course of their everyday lives. A South Australian survey in 2004 for instance reported that most people in that state (74%) were concerned about personal exposures to SHS. The highest rates of exposure to SHS in enclosed or restricted places occurred in hotels and bars (36%). Many people reported being exposed to SHS while dining\textit{ al fresco} (13%), and in private homes or cars (33%). Thirty-seven per cent were also exposed to SHS in the street or at outdoor entertainment venues.\textsuperscript{10}

Evidence of the benefits for introducing comprehensive smokefree legislation that covers all indoor public places and workplaces is now overwhelming.\textsuperscript{11} As spelled out in detail in Chapter 15, Section 15.8, bans have been well accepted in the community, compliance has been high, and substantial improvements in air quality have been documented. Chapter 15, Section 15.9 outlines some of the major benefits of such policies in terms of reduced exposure to secondhand smoke, declines in amounts smoked and numbers of people smoking. The benefits in terms of reduced disease and deaths are described in Chapter 15, Section 15.10.

Smokefree laws have fast become a global priority for public health as governments around the world move to implement the WHO Framework Convention on Tobacco Control.\textsuperscript{12}


7. Sweda E, Gottlieb M and Porfin R. Protecting children from exposure to environmental tobacco smoke: Tobacco Control 1995;7:1–2. Available from: http://tobaccocontrol.bmj.com/cgi/content/full/7/1/1


Public opinion about smokefree environments

Public concerns about secondhand smoke (SHS) have increased over the years from the late-1980s and public support for restrictions on smoking has increased in parallel. A 2003 systematic review of Australian studies (published from 1992 to 2002) found a 20% increase in support for bars and gaming venues to be entirely smokefree. The researchers predicted that support would reach 80% or more within 6 months, should a ban be introduced (p321). Subsequent research has indeed shown continuing increases in support.

15.2.1 Community attitudes to indoor bans

15.2.1.1 National studies of attitudes to smoking bans

The National Drug Strategy Household Survey of 1998, 2001, 2004 and 2007 included questions to gauge community support for measures to reduce problems associated with tobacco use. Of all the venues asked about in 2007, support was highest for smoking bans in workplaces, with 82% of all respondents in support. There were substantial increases in support for smoking bans in pubs and clubs, with the biggest increase in support among smokers (from 20.5% in 2001 to 41.3% in 2007) (Table 15.2.1). In 2004, 73.1% of respondents supported smoking bans in pubs and clubs. With the successful implementation of smoking bans in bars and pubs in various states and territories from 2004, this figure increased to 77% in 2007.

Levels of support have increased over time in every jurisdiction, with the largest increases in support tending to follow the introduction of smoking bans (Figure 15.2.1).

15.2.1.2 State surveys of support for indoor smoking bans

Many surveys have documented increasing levels of public support for restrictions on smoking in indoor workplaces and other venues in Victoria, South Australia, Queensland and New South Wales, 2003 systematic review of Australian studies (published from 1992 to 2002) found a 20% increase in support for bars and gaming venues to be entirely smokefree. The researchers predicted that support would reach 80% or more within 6 months, should a ban be introduced (p321). Subsequent research has indeed shown continuing increases in support.

Table 15.2.1
Support for measures to ban smoking in selected venues, by smoking status, Australia 2001, 2004 and 2007

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurants</td>
<td>60.0</td>
<td>77.3</td>
<td>–</td>
<td>88.5</td>
<td>89.1</td>
<td>–</td>
<td>92.8</td>
<td>90.4</td>
<td>–</td>
<td>89.1</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Workplace</td>
<td>55.3</td>
<td>55.2</td>
<td>53.5</td>
<td>85.6</td>
<td>87.1</td>
<td>87.0</td>
<td>91.0</td>
<td>91.0</td>
<td>89.9</td>
<td>87.1</td>
<td>82.0</td>
<td>–</td>
</tr>
<tr>
<td>Pubs/clubs</td>
<td>20.5</td>
<td>28.4</td>
<td>41.3</td>
<td>67.9</td>
<td>73.1</td>
<td>83.0</td>
<td>76.1</td>
<td>81.8</td>
<td>87.0</td>
<td>73.1</td>
<td>77.0</td>
<td>–</td>
</tr>
<tr>
<td>Shopping centres</td>
<td>66.9</td>
<td>47.0</td>
<td>–</td>
<td>88.2</td>
<td>72.3</td>
<td>–</td>
<td>92.5</td>
<td>78.8</td>
<td>–</td>
<td>72.3</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>


Figure 15.2.1
Support for banning smoking in pubs/clubs: population aged 14 years or older, state and territories, 1998, 2001, 2004 and 2007 (per cent)

When adults were asked whether smoking bans would make them more or less likely to visit licensed premises, the vast majority responded that smoking bans would make them either more likely to visit or would make no difference.\(^26,27\) In New South Wales in 2008, almost 40% of adults reported that they would be more likely, and only 4% would be less likely, to frequent hotels and licensed premises as a result of the total ban on smoking indoors. For more than half of adults (56%), the total ban on smoking indoors in hotels and licensed premises would make no difference.\(^26\) Between 2003 and 2008 in New South Wales there was a significant increase in the proportion of adults who would be more likely to frequent hotels and licensed premises as a result of the total ban on smoking indoors (rising from 24.2% in 2003 to 36.9% in 2007 and 39.5% in 2008).\(^26\) At the same time, there has been a decline in the proportion of adults who would be less likely to frequent hotels and licensed premises as a result of the total ban on smoking indoors (falling from 9.8% in 2003 to 5.8% in 2007 to 4.3% in 2008).

15.2.2

Community attitudes to outdoor bans

15.2.2.1

Support for restrictions on smoking in places children gather: playgrounds and other areas

In 2007, two-thirds of Victorians and half of Victorian smokers agreed that smoking should not be allowed in outdoor areas where children are present (Table 15.2.2).

The survey found almost universal support for banning smoking in the grounds of primary and secondary schools, among smokers, former smokers and those who had never smoked (95.5%, 95.7% and 97.6% respectively) (Table 15.2.3).\(^28\)

A number of studies have also found very strong support for restrictions on smoking in playgrounds.\(^25,28\)–\(^32\)

Surveys of adults conducted in New South Wales in 2006, 2007 and 2009 found overwhelming support for restricting smoking in playgrounds.\(^25,30\) While support for smokefree restrictions was higher among non-smokers, there was majority support even among smokers. In 2006, support for making playgrounds smokefree by law was 93% among non-smokers and 83% among smokers.\(^10\) By 2009 support for making all playgrounds smokefree by law had increased, particularly among smokers (89%), and was 94% among non-smokers.\(^25\)

Results from the South Australian Health Omnibus Survey also demonstrated very high support for smokefree playgrounds: 85% supported a total ban on smoking at children’s playgrounds, 11% supported smokefree areas and only 4% supported no restrictions (Figure 15.2.2).\(^22\)

Table 15.2.2

<table>
<thead>
<tr>
<th>Response</th>
<th>All (%) (n=3001)</th>
<th>Smokers (%)</th>
<th>Former smokers (%)</th>
<th>Never smokers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, not allowed</td>
<td>65.8</td>
<td>51.2</td>
<td>65.0</td>
<td>71.5</td>
</tr>
<tr>
<td>Yes, allowed</td>
<td>18.6</td>
<td>32.0</td>
<td>19.2</td>
<td>13.5</td>
</tr>
<tr>
<td>Maybe allowed/ Don't know/ Can't say</td>
<td>15.6</td>
<td>16.8</td>
<td>15.8</td>
<td>15.0</td>
</tr>
</tbody>
</table>

*Note: Respondents were asked: Do you 'think smoking should be allowed in … outdoor places where children are present?*

Source: McCarthy 2008\(^24\)

Table 15.2.3

<table>
<thead>
<tr>
<th>Response</th>
<th>All (%) (n=3001)</th>
<th>Smokers (%)</th>
<th>Former smokers (%)</th>
<th>Never smokers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, not allowed</td>
<td>96.6</td>
<td>95.5</td>
<td>95.7</td>
<td>97.6</td>
</tr>
<tr>
<td>Yes, allowed</td>
<td>1.5</td>
<td>2.6</td>
<td>1.9</td>
<td>0.9</td>
</tr>
<tr>
<td>Maybe allowed/ Don't know/ Can't say</td>
<td>1.9</td>
<td>2.0</td>
<td>2.4</td>
<td>1.6</td>
</tr>
</tbody>
</table>

Source: McCarthy 2008\(^24\)
Section 15.2.2.2

Support for smoking restrictions in other outdoor areas

Support has been growing for restrictions on smoking in other outdoor areas where people may be exposed to fairly high concentrations of tobacco smoke.

Smokefree areas for fixed seating in sporting venues has been popular for some time. Over three-quarters (76.6%) of New South Wales adults surveyed in 2004 supported a ban on smoking in sporting stadiums, and over half of adults surveyed (55.5%) supported a ban on smoking at beaches.

The South Australian Health Omnibus Survey found that more than 80% of South Australians would support either a total ban on smoking or the inclusion of smokefree areas in outdoor dining areas, entertainment venues and sporting grounds (Figure 15.2.2). Support was lower, but still given by the majority, for a total ban or smokefree areas in outdoor areas at pubs and at beaches.

The New South Wales Health Survey revealed that in 2008, 40.6% of adults would be more likely to frequent outdoor dining areas if there was a total ban on smoking. More than half of New South Wales adults (54%) said a total ban on smoking in outdoor dining areas would make no difference to their patronage of these areas, while 45.4% would be less likely to frequent outdoor dining areas if there was a total ban on smoking.

In New South Wales between 2006 and 2008, the proportion of adults who would be more likely to frequent outdoor dining areas if there was a total ban on smoking increased from 38.2% to 40.6%. The increase was significant in females and for urban health areas. There was no significant change in the proportion of adults who would be less likely to frequent outdoor dining areas if there was a total ban on smoking.

A survey of public opinion conducted by the Cancer Institute NSW in 2009 revealed strong support for making beaches smokefree (74%): an increase from 70% in 2006. There was even stronger support for smokefree sports stadiums (86%).

The Cancer Council Victoria survey of Victorian adults in 2009 found that 71% of respondents supported smoking bans at outdoor restaurant dining areas, 84% supported bans within hospital grounds and 63% supported bans at beaches.
References


15.3

Opposition to and weakening of smokefree environment legislation

15.3.1

The ventilation debate

Technology cannot control tobacco smoke to minimal levels for workers or customers without a 'tornado-like level of ventilation' (p5). The tobacco industry strongly pursued the 'ventilation option' for many years, through various forums and in arguments to governments about appropriate management of secondhand smoke (SHS).

In Australia, Philip Morris used Healthy Buildings International to advocate ventilation solutions to SHS exposure in workplaces. Healthy Buildings International publicly denied its association with the tobacco industry. Healthy Buildings International breached Standards Australia protocols in providing Philip Morris with confidential public submissions made to a review of the Australian standard on ventilation and acted as an undeclared cipher into the review for Philip Morris's concerns, leading to the eventual dismissal of the Healthy Buildings International representative from the standards sub-committee.

15.3.2

The economic impact of smokefree policies

The tobacco industry has claimed on many different occasions throughout the world that banning smoking in dining and licensed premises measures would lead to a 30% or greater decline in sales. During the lead-up to the introduction of legislation mandating smokefree licensed premises in New South Wales, the Australian Hotels Association made 'wildly exaggerated economic predictions' about the likely effect of a smoking ban (p679).

Documents released as part of settlements of legal action between state attorneys general and tobacco companies in the US suggest that the tobacco industry has attempted to influence the debate on smokefree policies by enlisting the aid of the hospitality sector on numerous occasions in other jurisdictions internationally.

'The tobacco industry has effectively turned the hospitality industry into its de facto lobbying arm on clean indoor air. Public health advocates need to understand that, with rare exceptions, when they talk to organised restaurant associations they are effectively talking to the tobacco industry and must act accordingly' (p94).

Objective indicators of economic impact include sales tax receipts and revenues, employment, and the number of restaurant and bar licenses issued by state health departments and liquor authorities. Studies analysing these sorts of indicators have generally found no evidence of negative economic impacts.

A 2003 review examined the discrepancies between tobacco industry and non-industry funded research on the economic effects of smokefree policies. It found that more than 90% of studies supported by the tobacco industry concluded there was a negative economic impact, while studies not supported by the industry found no such impact. No peer-reviewed study found an adverse economic impact of smokefree laws on restaurants and bars. Of the studies that used objective indicators and controlled appropriately for underlying economic trends, none detected a negative economic impact. The reviewers concluded that 'policymakers can act to protect workers and patrons from the toxins in secondhand smoke confident in rejecting industry claims that there will be an adverse economic impact' (p13).

Subsequent to the 2003 review, two of the authors continued to compile findings of studies examining the economic impact of smokefree policies in the hospitality industry. The pattern of results has been maintained.
In 2009 a scientific panel of the International Agency for Research on Cancer systematically examined the evidence concerning the economic effects of smokefree policies on the hospitality industry and concluded the evidence is sufficient that such bans have no negative impact.

15.3.3 The ‘enclosed spaces’ loophole

Because smoking was initially mostly banned within enclosed areas of dining and licensed premises, there emerged a need to precisely define the term ‘enclosed’. There is a great deal of variability across states. In the Australian Capital Territory, the Northern Territory and New South Wales the definition of ‘enclosed’ means a structure that has an overhead covering or a roof and is 75% enclosed. In South Australia, the threshold is 70%. In Western Australia, a structure that has a roof and is 50% enclosed around its sides is considered to be enclosed. In Queensland, Tasmania and Victoria the term ‘substantially enclosed’ has been used and no specific percentage has been specified. In Victoria, smoking is only permitted in a roofed outdoor dining or drinking area if the walls are less than 75% enclosed.

In practice this meant that attractive and sheltered areas were built by clubs, pubs, bars, cafes and restaurants in order to accommodate smokers when legislative changes occurred. Given that researchers have shown that SHScan reach dangerous levels in these sorts of crowded areas, hospitality workers in most states were not fully protected by ‘enclosed’ smoking bans.

During the debate to enact smokefree legislation in New South Wales, the Hon. Dr Arthur Chesterfield Evans MP expressed his frustration with the ‘enclosed’ loophole: ‘the regulation definition to allow areas almost 75% enclosed to be defined as not enclosed—which will allow smoking to continue—will fail to protect workers or patrons, including gamblers, from the well-known, seriously harmful effects of second-hand smoke … No-smoking indoors should mean no smoking indoors’ (p21501).

Smoking is now restricted in outdoor dining or drinking areas in the Australian Capital Territory, the Northern Territory, Queensland, Tasmania and Western Australia. In remaining jurisdictions (New South Wales, South Australia and Victoria) the ‘enclosed spaces’ loophole remains a problem.
References


Chapter 15: Smokefree environments

15.4

Smoking bans in key public areas and environments

Most Australian states and territories have adopted legislation banning smoking in workplaces (with a number of exceptions and variations as laid out in the state and territory summaries; see Chapter 15, Section 15.7). Smoking bans were adopted in most indoor workplaces throughout Australia many years before such legislation was introduced, primarily based on acceptance by employers that secondhand smoke (SHS) exposure presented an occupational health and safety risk to employees.

Section 16 (1) of the Occupational Health and Safety Act 1991 imposes on all employers a duty to ensure, so far as is reasonably practical, that their workers are safe from injury and risks to their health while at work. In 2003, the National Occupational Health and Safety Commission (NOHSC) recommended that exposure to environmental tobacco smoke should be eliminated in all Australian workplaces. The Guidance Note on the Elimination of Environmental Tobacco Smoke in the Workplace (3019/2003) states: “The NOHSC has agreed that, given the health risks of environmental tobacco smoke, all Australian workplaces should be made completely smokefree as soon as possible, i.e. environmental tobacco smoke should be excluded’ (p1).

Implementing smokefree policies and legislation in some workplaces has proved more controversial and challenging than in others. A detailed description of the legislation applicable in each state and territory is set out in Chapter 15, Section 15.7. The material below provides an overview of the unique hurdles faced in gaining support for or implementing policies to protect against SHS in a number of venues and environments. Issues relevant to restriction of smoking in outdoor areas that do not constitute workplaces are covered in Section 15.5. Data about the acceptability of various sorts of policies is covered in Section 15.2. Evidence about the feasibility of, and compliance with, smoking bans is covered in Section 15.8. The final sections of this chapter describe evidence that such bans have been associated with changes in exposure to environmental tobacco smoke, smokers’ behaviour (Section 15.9) and declines in illness and deaths from asthma and heart disease (Section 15.10).

15.4.1

Hospitality venues

Success in Canada, New Zealand, Norway, Ireland and California in eliminating smoking in pubs and clubs, and subsequently in reducing respiratory problems for staff, encouraged the push for smokefree hospitality venues in Australia. Smoking bans in cafés and restaurants came into force in Australia prior to bans in pubs and clubs in every state and territory. Public support for bans in dining areas was higher than support for bans in pubs and clubs at the time smokefree dining legislation was introduced, and the tobacco and hotel industries vigorously opposed bans in licensed premises. In the 1993 parliamentary debates for the introduction of smokefree dining legislation in the Australian Capital Territory (the first jurisdiction in Australia to introduce such legislation), the Minister for Health indicated that the proposed legislation did not apply to pubs and clubs due to the challenges for owners and managers in introducing smoking bans in these areas where smoking ‘traditionally occurred’; the Minister stated the government preferred to transition to smoking bans in licensed premises over time (p4693).

15.4.1.1

Sleeping accommodation

Unlike the US, where more than 28 states and hundreds of local cities and counties have legislated to require a minimum proportion of smokefree rooms in hotels, in Australia, all states and territories retain exemptions from smoking bans for private rooms in sleeping accommodation, including hotels and motels. Several international
hotel chains have announced that they will no longer allow smoking even in private rooms and have elected to be entirely smokefree. In January 2006, Westin became the first hotel chain to ban smoking at all 77 locations in the US, Canada and the Caribbean. Its smokefree policy has been since extended to include all hotels in Scotland, Australia and Fiji. In October 2006, Marriott implemented a 100% smokefree policy in all 2300 hotels in the US and Canada. This policy affects more than 400,000 guest rooms.\[9\]

15.4.1.2

Cafés, restaurants

In the 1990s the restaurant trade supported a 'self regulation' approach to implementing smokefree areas in restaurants.\[10\] A 1993 study examined whether non-smoking policies had been implemented in accordance with the restaurateurs’ perceived need for such policies. The research highlighted a large discrepancy between owner-perceived need and actual implementation: only one-third of owners who thought they should provide smokefree areas actually provided such areas. The researchers concluded that: ‘self-regulation has not worked, as judged by the restaurant industry’s own criterion of provision according to owners’ perception of need’ (p1287).\[11\]

In 1994, the Australian Capital Territory became the first Australian government to ban smoking in restaurants. The successful\[12\] and popular ban became ‘a reference point to dispel industry scare mongering that the hospitality industry would face ruin because of smokers’ reduced dining’ (p283).\[13\] The Australian Capital Territory ban set a precedent: within six years of its introduction six out of eight states and territories moved to ban smoking in restaurants. By 2003 all states and territories had implemented smokefree indoor dining, with bans commencing in Queensland in 2002 and in the Northern Territory in 2003.

A 2002 evaluation of South Australia’s smokefree dining laws found that the legislation had ‘been adhered to by both the majority of restaurateurs and customers, and was inexpensive for restaurateurs to implement. Smokefree dining legislation can be implemented with confidence’ (p44).\[14\] Further evidence on the feasibility of, and compliance with, such legislation is described in Chapter 15, Section 15.8.

15.4.1.3

Al fresco dining areas

Jurisdictions with smoking bans in outdoor dining areas include the Australian Capital Territory, the Northern Territory, Queensland, Tasmania and Western Australia. The South Australian Government announced in March 2011 that it plans to phase in smokefree al fresco dining by 2016.\[15\] Tasmania was the first state to implement a smoking ban in al fresco dining areas with a ban applying to 50% of outdoor dining areas commencing in 2005. In March 2011 the Tasmanian Government announced that it intends to introduce legislation to make outdoor dining areas 100% smokefree.\[16\] Queensland was the first state to implement a smoking ban that covered 100% of al fresco dining areas, with effect from July 2006. The hospitality industry has continued to oppose smokefree al fresco dining legislation.\[17,18\] Following ongoing calls for smokefree dining from tobacco control advocates, the New South Wales and Victorian governments have both indicated that they are willing to consider enacting bans.\[19–21\]

In the absence of, or prior to, the enactment of state legislation, a growing number of local governments across Australia have implemented smoking bans in al fresco dining areas under their control. These include Fremantle, the Vincent and Joondalup councils in Western Australia, and a number of councils in New South Wales. As of 31 July 2010, 22 New South Wales councils had adopted or voted to adopt smokefree al fresco dining policies. This includes regional councils (such as Bega Valley, Newcastle and Wagga Wagga) and metropolitan councils (including Leichhardt, Mosman, Newcastle, Parramatta, Pittwater, Ryde, Willoughby and Waverley).\[22\]
15.4.1.4

Pubs and clubs

Licensed premises were among the last indoor environments and workplaces for smoking to be banned. (The reasons for this delay are detailed in Chapter 15, Section 15.3.) Licensed premises were also the environment where people and particularly workers were the most likely to be exposed to SHS in Australia. Licensed premises were also the environment where people and particularly workers were the most likely to be exposed to SHS in Australia. The first state or territory to ban smoking in pubs and clubs was the Australian Capital Territory in 1998. The Northern Territory was the last jurisdiction to act, bringing in a ban on smoking in enclosed areas of licensed premises from 2 January 2010.

The Australian Hotels Association was the most vocal opponent of banning smoking in licensed premises. A 2005 study examining the media themes (1996–2003) of bar smoking bans found that the Australian Hotels Association largely kept away from the health agenda and sought to reframe a ban as being economically devastating, impractical, and ‘un-Australian’. The health effects of SHS were virtually uncontested in the media. The researchers concluded that, ‘either explicitly or by implication, the health perspective remained the core, unavoidable starting point of every media report about ETS’ (p683).

15.4.1.5

Casinos and poker machine venues

Several states and territories have written exemptions into their smokefree legislation for high-roller rooms in casinos. However, Tasmania, the Australian Capital Territory and South Australia do not provide exemptions in their respective acts and all enclosed areas of casinos must be smokefree. Casinos in New Zealand are also smokefree. Western Australia allows smoking in high-roller rooms provided the area meets ventilation requirements.

Smokers contribute more to gambling revenues than non-smokers and, according to a gambling industry report, ‘smoking is a powerful reinforcement for the trance-inducing rituals associated with gambling’ (p231). Smokefree policies in Victorian gambling venues were found to lead to an abrupt, long-term decrease in electronic gaming machine losses, suggesting that policies have an impact on slowing gambling losses. Public health advocates have reframed this argument as reduced time on poker machines being beneficial to smokers who may also have a gambling problem.

In New South Wales, licensed premises that provide poker machines have moved the machines to outdoor areas to enable smokers to play the machines while smoking. Outdoor gambling areas have also been set up in the Australian Capital Territory, South Australia, Tasmania and Western Australia. In March 2011 the South Australian Government’s Office of the Liquor and Gambling Commission directed Adelaide Casino to shut down poker machines that the casino had moved to an outdoor courtyard to allow smokers to continue gambling outside.

15.4.2

Parliaments and government buildings

The Commonwealth Department of Health adopted a smokefree workplace policy with effect from 1 December 1986. A smokefree policy in enclosed areas was adopted in November 1986, providing for all Commonwealth government departments to become smokefree by March 1988.

Australia’s Parliament House was declared smokefree by the then Presiding Officers, Senator the Hon. Kerry Sibraa and the Hon. Leo McLeay MP in May 1991.

Enclosed areas of the New South Wales parliamentary precincts became smokefree in January 1994; this was the last public service department and the last parliament in Australia to ban smoking in enclosed areas.

By the mid-1990s, all state and Commonwealth government offices were smokefree.
15.4.3

Hospitals and health facilities

While smoking within enclosed areas of hospitals and health facilities is no longer permissible in any Australian jurisdiction, the debate continues about smoking on the grounds and in outdoor areas of hospitals and health facilities.

The World Health Organization has recommended that all health care premises and their immediate surrounds be smokefree, and that healthcare staff be provided with assistance to quit smoking where appropriate. Some Australian states and territories, such as South Australia and Western Australia, have adopted total smoking bans within the grounds of public health facilities. In other states and territories, smoking is permitted in designated outdoor areas of public hospitals and health facilities.

A totally smokefree policy for Western Australia Department of Health premises and grounds came into effect in 2008, and a similar policy for South Australia Health facilities commenced in May 2010. Both policies apply to staff, patients and visitors, and apply throughout the hospital or health service grounds including car parks. Persons wishing to smoke must leave the grounds to do so.

The 1999 New South Wales Health Smoke Free Workplace Policy provided for all of its facilities to work towards becoming totally smokefree over a number of years. Under the final phase of policy implementation, smoking would be banned throughout health facility buildings, vehicles and property. In January 2005, New South Wales Health issued a mandatory policy directive that health facilities should continue to work towards becoming totally smokefree in accordance with the 1999 policy, after meeting criteria relating to public awareness, staff consultation and provision of smoking cessation support for staff.

Smoking was banned in all Queensland state hospital grounds, other than in outdoor nominated smoking places, in 2006. A similar policy has applied to the Northern Territory Department of Health and Families premises since 2009, with hospitals being permitted to identify up to two designated outdoor smoking areas. The smokefree policy for the Australian Capital Territory Health facilities also provides for smoking in designated outdoor smoking areas.

15.4.4

Institutions

Generally, Australian legislation banning smoking in enclosed workplaces provides exemptions for workplaces that are also individuals’ homes or dwelling places, such as prisons, mental health institutions and nursing homes.

15.4.4.1

Mental health facilities

Smoking prevalence is high among people with a mental illness. While smoking rates in the general population have fallen to under 20%, smokers are almost twice as likely as non-smokers to report suffering high rates of psychological distress in the previous year. Rates of smoking are higher still among those who live with serious mental illness (see Chapter 9, Section 9.6.4). Many policies and practices within mental health treatment services in the past have acted to reinforce smoking behaviour and discourage cessation attempts. While staff have been concerned about the feasibility of introducing smokefree policies, two major reviews of the effects of smokefree policies in psychiatric institutions found that patients generally adapted more quickly than staff, staff concerns about difficult or aggressive reactions from patients were generally unfounded, and total bans were more successful than partial bans (p69).

Consistent with smokefree policies adopted within other sectors of health care services, mental health care services should also be reinforcing smokefree messages, supporting smokers to quit and managing nicotine dependence during hospital admissions.
In more recent years, South Australia, Western Australia and New South Wales have acted to ensure that policies and practices in mental health facilities are not reinforcing smoking behaviour, as has occurred in previous decades. These policies require smokefree mental health services and include a focus on staff training, supporting smokers to quit and the appropriate management of nicotine dependence and withdrawal symptoms during hospital admissions and outpatient programs.

In 2009, the New South Wales Department of Health developed guidelines to facilitate the adoption of its Smoke Free Workplace Policy in mental health facilities. This followed a trial, which concluded that a smokefree policy was entirely feasible for mental health units. The biggest barriers encountered were ‘staff resistance, habit and the leaden hand of administrative procedure’ (p1).

West Australian Department of Health premises, including mental health facilities, became smokefree from 1 January 2008. The state’s Council of Official Visitors called for a review of the policy in its 2010 annual report, following reports of mental health patients poking electricity sockets with paper clips to obtain a spark to light a cigarette. The Mental Health Minister responded that no hospitals would be exempt from the smokefree policy.

The South Australian Department of Health introduced a totally smokefree policy for mental health institutions from November 2010, six months after the smoking ban commenced in other public health facilities.

In Victoria, Melbourne Health voluntarily adopted a totally smokefree policy for its mental health facilities in the city’s north and west in April 2009.

**15.4.4.2 Prisons**

High smoking prevalence rates are reported among prisoners. The threat of SHS exposure in prisons where smoking is permitted in enclosed spaces is high. Incarceration can also lead to non-smokers taking up smoking and smokers increasing their cigarette consumption. The New South Wales Department of Corrective Services reported in 2007 that ‘there have been a small number of workers’ compensation claims that have attempted to link environmental tobacco smoke (ETS) exposure to illness. One of these claims related to alleged sensitivity developed by an ex-smoker and cancer sufferer to passive ETS’ (p1).

Many Australian prisons and other corrective services facilities still permit smoking indoors, sometimes with restrictions, but this is not consistent across the country. It may be that corrective services staff believe that prisoners would be more recalcitrant if smoking were not permitted, or it may be that tobacco control advocates have found it difficult to galvanise public opinion to support efforts to protect marginalised or stigmatised groups. Chapman has noted that these groups often are not counted in smoking statistics, ‘some subpopulations with high smoking rates are never included in estimates of national smoking. These include prisoners, the homeless, illegal immigrants, people in mental health institutions, people who do not speak the language of the country in which surveys are being conducted and poor people living in remote areas with no telephone’ (p145).

In a New South Wales study of prison smoking, it was found that ‘in most correctional facilities in Australia, there is the additional issue of indifference in social concern, and reluctance by correctional authorities to allocate resources and address tobacco use in prisons, an issue that is sometimes perceived as capable of disrupting the peace in correctional environments, through protests and riots by inmates’ (p85).

The West Australian Department of Corrective Services introduced a trial smoking ban in enclosed areas of Greenough regional prison in 2008. Prisoners were provided with nicotine patches, lozenges and support programs to help them quit or reduce smoking. The department subsequently issued a policy banning smoking in enclosed areas of prisons across Western Australia, with effect from 30 June 2009. Under the policy, prisoners are only permitted to smoke in designated outdoor areas and may not smoke inside cells or units.

In 1997, a total smoking ban was introduced in Queensland’s Woodford prison. However the policy was abandoned after 120 inmates rioted following the policy’s implementation. This is the only instance of an attempted total smoking ban in an Australian prison to date. In Queensland prisons, smoking is not permitted in prison cells, air-conditioned buildings, food preparation areas or dining rooms, play or residential areas in mothers and babies units, vehicles, within 4 m of building entrances or in outdoor eating or drinking places. Smoking is permitted in nominated smoking places.
Canada’s Commissioner of Correctional Service issued a directive that federal prisons must be totally smokefree from April 2008, including outdoor areas. Prisoners successfully challenged the legality of the policy in the Canadian Federal Court in October 2009. However the Federal Court’s decision was overturned and the smokefree policy was reinstated in 2010. The Federal Court of Appeal ruled that the Commissioner of the Correctional Service had authority to issue the smokefree directive in accordance with laws governing penitentiaries.

In England and Wales, indoor areas of prisons, except for cells occupied only by smokers aged 18 and over, have been required to be smokefree since 2007. Indoor areas of facilities holding persons under 18 years of age must be entirely smokefree. The Prison Service has stated that it intends to work towards 100% smokefree prisons in the future, and that prisoners will be provided with assistance in smoking cessation as far as possible. The Isle of Man became the UK’s first completely smokefree prison in 2008.

In June 2010 the New Zealand Government announced that smoking would be prohibited in prisons from July 2011, in order to reduce health risks associated with SHS exposure and risk of injury caused by cigarette lighters.

In the US the Federal Bureau of Prisons made all facilities under its control 100% smokefree in July 2004. Correctional facility inmates, employees and visitors must all observe the policy. The American Jail Association, the American Correctional Association, and the National Commission on Correctional Health have all adopted smokefree resolutions that promote smokefree policies in jails and prisons. According to the American non-smokers rights group, in the US as at 1 April 2011, correctional facilities are 100% smokefree indoors and outdoors on all grounds in Arkansas, Florida (effective 9/2011), Georgia, Iowa, Louisiana, Maine, Michigan, Minnesota, Nebraska, North Carolina, Puerto Rico, Ohio, Rhode Island, North Carolina, Virginia and Wyoming. Facilities are smokefree in California (employee housing exempt), Colorado, Delaware, Hawaii, Illinois, Kentucky (except Eddyville State Penitentiary), Massachusetts, Montana, New Hampshire, New York, Oklahoma, Texas, Utah, Vermont and Washington.

### 15.4.4.3

**Immigration detention centres**

The operational procedures of the detention services provider (Serco) outline the measures that are in place regarding smoking in Australian immigration detention centres. All staff, visitors and detainees are advised that Commonwealth law specifically prohibits smoking in an ‘enclosed area of Commonwealth property’ and states that smoking is forbidden in enclosed areas within immigration detention centres. Smoking is permitted in outside courtyards and exercise areas, covered areas such as walkways, and other external areas as specified by signage.

### 15.4.4.4

**Nursing homes**

Exemptions from legislative bans on smoking in enclosed workplaces exist for residential care facilities in most Australian states and territories, in recognition of these being the personal living spaces of residents. Under the Smoke-free Environment Act 2000 (NSW), common areas of nursing homes such as living rooms, hallways and foyers are considered to be enclosed public places, but smoking is permitted inside single rooms that are considered to be the occupant’s home. Under the Tobacco Act 1987 (Vic.), the ban on smoking in an enclosed workplace does not apply to a personal sleeping or living area of a residential care facility.

Many nursing homes have implemented restrictions on smoking in recognition of the health risks of SHS and risk of fire, such as requiring residents to be supervised or to wear a smoke retardant apron while smoking. Cigarette-related fires are thought to have caused a number of accidental deaths in nursing homes. After a death in South Australia, the Commonwealth Department of Health and Ageing distributed a recommendation of the South Australian Deputy State Coroner to all aged care providers, to the effect that the practice of allowing residents disabled by dementia and/or with reduced manual dexterity to smoke unsupervised was intrinsically unsafe, and that such residents may require close supervision by either family members or staff.
References


22. Lami T, Chung S, Tam E, Y H and Hedley A. Public Opinion on Smoke-free restaurants. Hong Kong: Department of Community Medicine, The University of Hong Kong, 1995.


References

Chapter 15: Smokefree environments

Date of last update: 6 Dec 2011
References

Tobacco in Australia: Facts and Issues


Smoking bans in outdoor areas

Following the successful adoption of indoor smoking bans, some tobacco control organisations and communities have focused their efforts on seeking bans on smoking in outdoor public areas, including beaches, parks, footpaths and car parks. Outdoor smoking bans have also been embraced on grounds of educational facilities and hospitals. As restrictions on smoking in enclosed public places have become more common, smokers are increasingly required to smoke outdoors. Problems arise when smokers cluster around entrances and exits, and near air-conditioning intake vents. People who enter and exit the building are exposed to environmental tobacco smoke (ETS) and there may be problems with smoke drift into indoor smokefree areas. Several states and territories have introduced legislation to create a smokefree buffer zone around entrances to buildings and air-conditioning intakes.

There is persuasive scientific evidence that smoking in crowded outdoor areas such as restaurant patios can lead to harmful levels of chronic secondhand smoke (SHS) exposure. Policies banning smoking near children’s playground equipment recognise that adult role modelling of smoking can increase youth smoking uptake. Playground smoking bans can also reduce discarded cigarette butts, which can cause nicotine poisoning if swallowed by small children. Given that smoking bans reduce smoking prevalence and consumption, it is argued that outdoor bans will further aid in reducing smoking rates. Concerns about cigarette butt litter, particularly in natural environments such as beaches, have also influenced the debate. The risk of grassfires has provided another rationale for bans in natural parklands in California.

The extension of smoking bans to outdoor areas has not been without some controversy and disagreement within the public health and tobacco control community. There is less exposure to SHS in outdoor settings and some experts consider that this undermines public health arguments for smokefree areas outdoors. As smoking rates fall, non-smokers have become less tolerant of smoking, and arguments for preventing smoking in some areas may be chiefly about nuisance rather than major public health risk.

Cancer Council New South Wales recommends that smoking bans be adopted in the following outdoor areas:

- al fresco dining venues
- sporting stadiums and grounds
- children’s playgrounds
- outdoor entertainment areas and venues
- within 7 m of building entrances
- crowded beach locations
- transport waiting areas (e.g. taxi stands, railway platforms, bus stops)
- outdoor market areas.

Legislation and policies banning smoking outdoors

A number of Australian states and territories have legislated to prohibit smoking in one or more outdoor areas, including al fresco dining areas, children’s playgrounds and beaches. In the absence of state bans, many local governments across the country have implemented smoking restrictions in a range of council controlled outdoor areas.

In 2004, Sydney’s Mosman Municipal Council banned smoking in beaches, outdoor dining areas, children’s playgrounds, council events, playing fields, within 10 m of all council properties, bushland, and foreshore reserves. In March 2007, the ban was extended to every council controlled public space, including parks, public squares, bus shelters and council car parks. The only public outdoor places Mosman smokers may light up are some footpaths and roads.
15.5.1.1

Beaches

A mixture of local government and state action has led to restrictions on smoking at a number of Australian beaches. States that have legislated to make smoking illegal on beaches include Queensland (in 2005) and Western Australia (in 2010). The Queensland ban prohibits smoking between the flags on patrolled beaches and anywhere on an artificial beach between sunrise and sunset. The West Australian ban applies between the flags in patrolled swimming areas.

In May 2004 Sydney’s Manly Council became the first jurisdiction in Australia, and only the second in the world following Los Angeles, to legislate a smoking ban on a public beach. The primary reason the council voted for the ban was to reduce cigarette butt litter so as to prevent the environmental damage caused by butts and improve the amenity of beaches. Sydney’s Waverley Council immediately followed Manly’s example, implementing a ban on smoking on its beaches including Sydney’s famous tourist beach Bondi in December 2004. As at 31 July 2010, 14 New South Wales councils had adopted beach smoking bans.

Victoria’s Surf Coast Shire enacted a local law banning smoking on beaches along the Great Ocean Road in 2008. Reasons given for the ban included to provide leadership on community health and wellbeing, minimise cigarette butt pollution, improve amenity, improve the health of members of the community and raise awareness of smoking issues. Port Phillip Council implemented Victoria’s second beach smoking ban in 2010 covering the popular beaches of St Kilda, Elwood and Port Melbourne.

The City of Joondalup and City of Cockburn in Western Australia have also implemented beach smoking bans.

In the US as of 1 April 2011, smoking was banned on beaches in the Commonwealth of Puerto Rico, and the State of Maine prohibits smoking on beaches in its state parks. Smoking is banned on all areas of beaches in 105 municipalities throughout the country and many more ban smoking in particular areas of beaches.

15.5.1.2

Children’s playgrounds

Evidence suggests that decreasing the visibility of smoking to children may lessen the likelihood of them viewing smoking as a socially acceptable behaviour, and thereby reduce the chance of them beginning to smoke. Smokefree playgrounds have strong public support (see Chapter 15, Section 15.2.2). In Queensland and Western Australia, smoking within 10 m of outdoor children’s playground equipment is outlawed under state legislation. In March 2011 the Tasmanian and South Australian governments announced the introduction of equivalent prohibitions in those states.

Local councils are being encouraged to enact smoking bans in children’s playgrounds for the health and safety of their communities. In May 2003, Launceston City Council became the first local government in Australia to ban smoking at children’s playgrounds. As at 31 July 2010, 75 New South Wales councils had playground smoking bans in place. Other local governments that have restricted smoking in playgrounds include the Town of Vincent and City of Cockburn (Western Australia) and Monash and Moonee Valley councils (Victoria).

15.5.1.3

Educational campuses

A number of Australian universities have adopted smokefree campus policies under university regulations. Smoking will be completely banned in Curtin University’s West Australian campuses from January 2012, with breaches being punishable by a fine. Notre Dame University has had a strict non-smoking policy since 2002, and other West Australian universities including Edith Cowan University, the University of Western Australia and Murdoch University are also considering campus-wide smoking bans.
Macquarie University in New South Wales restricted smoking to designated outdoor zones in 2010 and aims to go totally smokefree by 2015. The reasons given by the university for adopting the smokefree policy include to protect staff and students from the health risks of passive smoking, reduce litter, protect the environment from chemicals contained in cigarette butt litter, and to reflect broader community attitudes towards smoking. Other universities in Australia that either have or are in the process of going totally smokefree include the Australian Catholic University, Adelaide University and Deakin University.

Educational institutions across the world are increasingly moving towards totally smokefree campuses. As of 1 April 2011, more than 500 US colleges and universities have implemented smokefree campus policies, as have universities in New Zealand, Canada, Europe, Hong Kong, Vietnam, South Korea and Singapore.

15.5.1.4

**Sporting spectator venues**

In Queensland smoking is banned in stadiums managed by the Major Sports Facilities Authority including Suncorp Stadium and the Gabba. Outdoor public venues in the Northern Territory that have an on-site food service must be smokefree. Venues that do not have an on-site food service may allocate designated smoking areas. The Tasmanian Government has indicated that it intends to make it illegal to smoke in and within 20 m of the competition and seating area at all outdoor sporting venues. A total of 61 councils in New South Wales have implemented smoking bans at sports fields as at July 2010. Victoria’s Monash Council has agreed to introduce a local law to ban smoking adjacent to designated buildings at sporting reserves from 1 October 2011.

Several sporting facilities have voluntarily adopted smokefree policies, including the Melbourne Cricket Ground and Etihad Stadium in Melbourne, NIB Stadium in Perth and AAMI Stadium in Adelaide. Major smokefree sporting events have included the 2010 FIFA World Cup South Africa and Sydney 2000 Olympic Games.

15.5.1.5

**Recreational venues**

In Australia only a few outdoor recreational venues are covered by state or territory level legislative smoking bans. In Victoria, smoking is banned at underage music or dance events under the Tobacco Act 1987 (Vic.). Other examples include the Northern Territory’s ban on smoking in outdoor public venues, which commenced in 2011, and Tasmania’s impending introduction of smokefree areas at swimming pools. Local smokefree laws cover many recreational venues and events held on council controlled land. Several recreational venues both within Australia and internationally have voluntarily adopted smokefree policies, including zoos, concert venues and outdoor markets.

In the US, smoking is banned in zoos in at least 50 municipalities and throughout the state of Oklahoma.

15.5.1.6

**Transit areas**

State or territory level statutory smoking bans apply in some outdoor transit areas, and in others smoking is banned under a local law. In the Northern Territory a ban on smoking in public transport areas has been in effect since 2003. In Victoria smoking was banned in covered areas of train station platforms, trams stops and bus stops from 1 March 2006. Since January 2010, local governments in Queensland have been empowered under the Tobacco and Other Smoking Products Act 1998 to regulate smoking at public transport waiting stops. In March 2011, the Tasmanian Government announced plans to implement smoking bans in bus malls and within 3 m of covered bus shelters and the South Australian Government announced that it will extend smokefree areas to include under covered transport waiting areas. Hobart City Council has banned smoking in Hobart Bus Mall.
In the United States as at 1 April 2011, smoking is prohibited in public transit areas in at least 210 municipalities.19 The States of Iowa and Wisconsin, the Territory of Guam and the US Virgin Islands prohibit smoking in outdoor public transit waiting areas.19

15.5.1.7

Parks, state forest and national parks

As of 1 April 2011, smoking was banned in parks in more than 500 individual US municipalities and in all parks in the Commonwealth of Puerto Rico.20 In Australia at least 11 New South Wales councils have banned smoking in council controlled reserves or parks under local laws, including Gosford, Hornsby, Kogarah, Lachlan, Lane Cove, Mosman, Newcastle, Port Stephens, Ryde, Willoughby and Wyong councils, and the town of Vincent in Western Australia has banned smoking in reserves.

15.5.1.8

Other outdoor areas

Smokefree legislation in the Australian Capital Territory, New South Wales and Western Australia requires occupiers to take reasonable steps to prevent cigarette smoke drifting from areas where smoking is permitted into smokefree areas.

Restrictions on smoking near building entrances at the state or territory level apply in the Northern Territory, Queensland and Tasmania. In the Northern Territory, smoking is banned in entrance areas and air conditioning inlets areas. In Queensland, the prohibition applies anywhere within 4 m of an entrance to a non-residential building. In Tasmania, smoking is banned within 3 m of any entrance to or exit from a building, and within 10 m of any building ventilation equipment.

In 2011, the Tasmanian Government stated that it intends to ban smoking in pedestrian malls. From January 2010, Queensland local governments can choose to regulate smoking in pedestrian malls and other public outdoor areas in accordance with a power under the Tobacco and Other Smoking Products Act 1998 (Qld). A similar power exists in the Northern Territory. The owner-occupier of any public venue (such as a shopping centre, sports facility, business or workshop) can declare any public outdoor area a smokefree area under Northern Territory tobacco control legislation. Brisbane City Council used the Queensland power to introduce a smoking ban in Queen Street Mall. Other local government level bans on smoking in pedestrian malls include Hobart City Council’s ban on smoking in Elizabeth Street Mall and Frankston Council’s smokefree zone within designated streets of its central activity district.

Complete smoking bans in outdoor drinking areas have not yet been implemented in any Australian jurisdiction. Restrictions on smoking in outdoor drinking areas apply in the Australian Capital Territory, Northern Territory, Queensland, Tasmania and Western Australia. Smoking is permitted in designated outdoor smoking areas of licensed premises in each of these jurisdictions only. Generally, the designated outdoor smoking zone must make up no more than 50% of the outdoor licensed area, and measures must be taken to protect staff and other patrons from exposure to secondhand smoke.

For up-to-date information about smokefree policies in outdoor areas in the US, see regularly updated lists at http://www.no-smoke.org/goingsmokefree.php?id=519#outdoor.
References

15.6

Smoking bans in domestic environments

15.6.1

Prevalence of exposure to secondhand smoke in domestic environments

Exposure of children to tobacco smoke in domestic environments, especially homes and cars, is a particular concern given the health risks of secondhand smoke (SHS) for children (see Chapter 4, Section 4.9) and the long hours that most children spend each day in these environments.

15.6.1.1

National data on smoking at home

Data from National Drug Strategy Household Surveys found that only 8% of households with dependent children had at least one person who smoked inside the home in 2007, a decrease from almost one-third in 1995. Consistent with this trend has been an increase in the proportion of households where someone smoked only outside the home (from 17% to 29%). However exposure to SHS remains high particularly for children in low socio-economic status (SES) households. In 2007, children in households in the most disadvantaged areas in Australia were more than three times as likely to be exposed to tobacco smoke in the home as those living in the most advantaged areas (14% compared with 4%). They were also twice as likely to have a regular smoker at home (who smokes outside) than households with children in the highest SES areas (38% compared with 17%).

Nationally in 2008, 63% of Aboriginal and Torres Strait Islander children aged 0–14 years lived in a household with members who were daily smokers (72% in remote and 61% in non-remote areas). While there was little change since 2004–05 in the proportion of children living in households with smokers, more children in 2004–05 were living in households where people smoked outside. The proportion of Aboriginal and Torres Strait Islander children aged 0–14 years living in a household where members usually smoked inside the house decreased from 29% in 2004–05 to 21% in 2008. However, Aboriginal and Torres Strait Islander children are still about three times more likely to be exposed to tobacco smoke in the home than other Australian children (21% compared with 7%), consistent with higher rates of adult smoking.

15.6.1.2

State data on smoking at home

In New South Wales in 2008 just under 9 out of 10 adults (90%) lived in smokefree homes, an increase since 1997 (70%). About 5% (5.7%) lived in homes where people occasionally smoked, and a further 5% lived in homes where people frequently smoked. Adults in the fifth or most disadvantaged quintile were less likely to live in a smokefree home (83.8%), compared with the overall adult population or more advantaged groups. There was no significant difference between rural and urban areas.

In South Australia in 2008, 86% of the population lived in a smokefree home (a home that has either a ban or where no one at home is a smoker).

The proportion of Victorian smokers who usually smoked outdoors increased steadily between 1998 and 2008 with a corresponding decline in those who smoked indoors.
15.6.2  
Factors affecting adoption of smokefree homes

15.6.2.1  
Policies

Increasing prevalence of smokefree public places and workplaces has been associated in English-speaking countries with increasing numbers of smokefree homes. A Cochrane Collaboration review of the evidence, however, concluded that there is little evidence of such a trend internationally. Contrary to anecdotes promoted by the hospitality sector that smoking bans in pubs and clubs would lead to more children being exposed to smoking at home, an Irish study found that 1 in 5 smokers were smoking less at home since the introduction of the comprehensive smoking ban in that country in 2004.

15.6.2.2  
Education campaigns

Education campaigns about smoking at home have become a regular part of tobacco control programs. Common themes include raising awareness of the health effects of SHS on children and encouraging parents to either quit or smoke outside for the health and safety of their children. These campaigns have been moderately helpful in increasing the number of people who make their homes smokefree. While there have been some successful interventions, evidence about the effectiveness of programs and efforts by health professionals to encourage parents of children admitted to medical facilities to adopt smokefree homes is somewhat equivocal. An alternative approach is to encourage pre-teen and young teenage children to remove themselves temporarily from environments where adults are smoking.

15.6.3  
Benefits of smokefree homes

Higher prevalence of household smoking has been linked with a significantly higher level of asthma at a population level. Adoption of smokefree policies at home appears to promote anti-smoking attitudes among youths, and reduce progression to smoking experimentation among youths who live with non-smokers. The policies appear to reduce consumption of tobacco products and increase the success of quitting among adult smokers and reduce relapse. In its systematic review of all the relevant studies published on this topic to date, the International Agency for Research on Cancer concluded that the evidence from such studies was strong with regard to youth smoking and sufficient for reductions in adult smoking.
15.6.4.1

Rationale for restricting smoking in cars

Australians spend a considerable amount of time in their cars. In 1992, the latest year that data is available, Australians using cars did so for an average of 1 hour 27 minutes per day. People aged 35–54 spent the most time per day using cars: 1 hour 36 minutes per day on average. The longer time spent in cars by this age demographic is associated with their greater transport-related commitments, such as work and family. At these ages, many people may have children who need to be driven to and from childcare, school, and social and sporting activities.

The indoor environment of the family car has been a source of significant SHS exposure for the most vulnerable members of society: children. A 2001 study of infant cotinine levels—an indicator of SHS exposure—in the Hunter Region New South Wales found that almost half of infants in the study had cotinine in their urine. The researchers concluded that additional policy and education interventions were needed to protect infants from SHS, including a ban on smoking in cars when children are present. A 2006 New Zealand study measured the levels of fine particulates in a car while in the presence of a smoker. The researchers found that the air quality in the car with the window partially or wholly down was similar to that found in a typical smoky pub, whereas when smoking occurred with the window closed it was at least twice as bad as even the smokiest pub. The low air change rates of motor vehicles—designed to shelter occupants from air pollutants entering from outside a vehicle—also work to concentrate pollution from any sources inside the passenger compartment. In a study of 100 air change rate measurements on four motor vehicles under moving and stationary conditions, researchers found that the 24-hour average personal exposure to particulate matter (PM) could exceed 35 mcg/m(-3) for just two cigarettes smoked inside the vehicle. Another study investigated the effects of smoking a single cigarette under moderate ventilation conditions (air conditioning or having the smoking driver hold the cigarette next to a half-open window). Researchers found that the average levels of PM(2.5) were reduced but still at significantly high levels (air conditioning = 844 mcg/m(3); holding cigarette next to a half-open window = 223 mcg/m(3)), demonstrating that tobacco smoke pollution in cars reaches unhealthy levels, even under realistic ventilation conditions. Other studies have demonstrated similarly high levels of exposure after the smoking of just a single cigarette.

Research in 2007 among a Perth-based birth cohort of 14-year-old adolescents confirms the exceptional consequences of SHS exposure in the family vehicle. The study found that children exposed to SHS in the family vehicle were more likely to develop a persistent wheeze than those exposed to SHS in the home only.

Exposure to SHS may not be the only risk for children and others in cars where someone is smoking. Drivers who smoke also appear to be more prone to having a motor vehicle accident (see Chapter 3, Section 3.19.1).

A study published in 2008 showed an increase in symptoms of nicotine dependence in children who had never smoked but who were exposed to tobacco smoke in cars. If such findings were replicated they would raise further concerns about the dangers of early exposure.

Until recently private cars have been regarded as the domain of the domestic environment, and therefore beyond the reach of regulation. Public acceptance of smokefree policies in the hospitality industry, concern about the health and rights of children as well as increasing regulation of the behaviour of motorists—including prohibition of the use of mobile phones—appear to have been some of the factors that have made the public and governments more amenable to the idea of prohibiting smoking where children are present in cars.

In October 1995, a world-first study was published that measured support for regulation of smoking in cars carrying children. A total of 1461 New South Wales adult residents were asked, 'Do you think it should be illegal
to smoke in cars when travelling with children? A substantial majority of respondents agreed (72%), 27% disagreed and 1% were undecided. The majority of smokers (63%), also agreed with a ban.\textsuperscript{45}

In November 1995, a working party on the effects of passive smoking of the National Health Advisory Committee released a draft report, The Health Effects of Passive Smoking. In addition to including an extensive review of the scientific evidence that exposure to SHS is harmful, the report also contained several policy recommendations to reduce exposure to SHS. The working party recommended that the ‘legal prohibition of smoking in private motor vehicles during periods when minors are passengers should be considered by State and Territory governments’ (p214).\textsuperscript{46}

Results from a large-scale population health survey in New South Wales reveal that by 2008, the vast majority of adults (88.2%) reported that smoking was not allowed in their car, a significant increase over levels in 2003 (81.2%). A significantly lower proportion of people in the lowest socio-economic group (84.8%) and young adults aged 16–24 years (82.1%) reported smoking was not allowed in their car compared with the overall adult population.

15.6.4.2

Legislation banning smoking in cars

In June 2006, more than a decade after the issue of smoking in cars was first discussed in Australia, the Tasmanian Government released a discussion paper that included a proposal to ban smoking in cars carrying children.\textsuperscript{47} In March 2007 legislation banning smoking in cars carrying children under 18 was announced.\textsuperscript{48} A Bill to amend s.67H(2) of the Public Health Act 1997 (Tas.) was passed and came into force on 19 December 2007.\textsuperscript{ii}

In February 2006, the South Australian Democrats proposed legislation to ban smoking in cars carrying children aged under 12,\textsuperscript{49} softening their previous position from a total smoking ban in cars. In August 2006 the South Australian Government announced plans to ban smoking in cars carrying children under the age of 16 with penalties of up to $200 applying. The Bill was passed in March 2007 and implemented on 31 May 2007, World No Tobacco Day, making South Australia the first state in Australia to ban smoking in cars with children. The first reports of fines appeared in July 2007.\textsuperscript{50}

In November 2006, the Parliamentary Secretary to the Commonwealth Minister for Health and Ageing issued a media release urging the states and territories to enact legislation banning smoking in cars.\textsuperscript{51} The possibility of national coordinated action for a ban was raised, but failed to be adopted at the December 2006 meeting of the Ministerial Council Drug Strategy.\textsuperscript{iii}

In New South Wales smoking in cars when children are present was banned under the Public Health (Tobacco) Act 2008 (NSW) from July 2009.

In 2009 the Tobacco Products Control Amendment Act 2009 was introduced into Western Australia’s State Parliament by Dr Janet Woollard as a Private Member’s Bill. The new law was passed and smoking in cars when children under the age of 17 years are present was banned in Western Australia from 22 September 2009.

By January 2011 six jurisdictions (all except the Australian Capital Territory and the Northern Territory) had introduced legislation to prohibit smoking in cars when children are present. The Australian Capital Territory Government has expressed concern about the issue and released a discussion paper in 2009.\textsuperscript{52}

\textsuperscript{i} This section on smoking in cars is extracted from Freeman B, Chapman S and Storey P. Banning smoking in cars carrying children: an analytical history of a public health advocacy campaign.\textsuperscript{42}

\textsuperscript{ii} See s.4 Public Health Amendment Act 2007 (Tas.) http://www.austlii.edu.au/au/legis/tas/consol_act/phaa1997126/

\textsuperscript{iii} For more information on the council see: http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/(Content/mdcs-lp
15.6.4.3
Restrictions on smoking in cars in countries outside Australia

Canada is another country that has been at the forefront of efforts to protect children from exposure to tobacco in cars, with all but two provinces having legislation in place as at April 2011. At least four US states—Arkansas, California, Louisiana and Maine and also Puerto Rico—have banned smoking in cars when children are present, and many more have drafted legislation or are considering it. Similar restrictions apply in Cyprus, South Africa and the United Arab Emirates, and many other countries are now moving towards bans.

Table 15.6.2
Summary of legislation concerning smoking in cars with minors—as at March 2011

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Applicable age</th>
<th>Date law in force</th>
<th>Date law adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Canadian provinces/territories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>19</td>
<td>1 April 2008</td>
<td>13 Dec. 2007</td>
</tr>
<tr>
<td>Yukon Territory</td>
<td>18</td>
<td>15 May 2008</td>
<td>22 Apr. 2008</td>
</tr>
<tr>
<td>British Columbia</td>
<td>16</td>
<td>date to be set</td>
<td>29 May 2008</td>
</tr>
<tr>
<td>Ontario</td>
<td>16</td>
<td>21 Jan 2009</td>
<td>18 June 2008</td>
</tr>
<tr>
<td>Manitoba</td>
<td>16</td>
<td>15 July 2010</td>
<td></td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>18</td>
<td>15 Sept 2009</td>
<td></td>
</tr>
<tr>
<td>New Brunswick</td>
<td>16</td>
<td>1 Jan 2010</td>
<td></td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>16</td>
<td>1 Oct 2010</td>
<td></td>
</tr>
<tr>
<td>Newfoundland</td>
<td>16</td>
<td>31 May 2011</td>
<td>13 Dec. 2010</td>
</tr>
<tr>
<td>Labrador</td>
<td>16</td>
<td>13 Dec 2010</td>
<td></td>
</tr>
<tr>
<td><strong>Alberta and Quebec are now the only two provinces in the country without such a law</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Canadian municipalities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wolfville, Nova Scotia</td>
<td>19</td>
<td>1 June 2008</td>
<td>19 Nov 2007</td>
</tr>
<tr>
<td>Surrey, British Columbia</td>
<td>19</td>
<td>31 July 2008</td>
<td>14 July 2008</td>
</tr>
<tr>
<td>Okotoks, Alberta</td>
<td>16</td>
<td>1 Sept 2008</td>
<td>15 July 2008</td>
</tr>
<tr>
<td>Atabasca, Alberta</td>
<td>18</td>
<td>Mar 2011</td>
<td></td>
</tr>
<tr>
<td>Leduc, Alberta</td>
<td>18</td>
<td>2 July 2011</td>
<td></td>
</tr>
<tr>
<td><strong>US states</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>14</td>
<td>30 Mar 2011</td>
<td>amended prior law</td>
</tr>
<tr>
<td>California</td>
<td>18</td>
<td>1 Jan 2008</td>
<td>10 Oct 2007</td>
</tr>
<tr>
<td>Louisiana</td>
<td>13</td>
<td>15 Aug 2006</td>
<td>5 July 2006</td>
</tr>
<tr>
<td>Maine</td>
<td>16</td>
<td>1 Sept 2008</td>
<td>10 Apr 2008</td>
</tr>
<tr>
<td><strong>Puerto Rico</strong></td>
<td>13</td>
<td>2 Mar 2007</td>
<td>2 Mar 2006</td>
</tr>
<tr>
<td>(US Commonwealth in Caribbean)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Many states also ban smoking in cars when foster children are present</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>US municipalities</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bangor, Maine</td>
<td>18</td>
<td>18 Jan 2007</td>
<td>8 Jan 2007</td>
</tr>
<tr>
<td>Keyport, New Jersey</td>
<td>18</td>
<td>26 Apr 2007</td>
<td>24 Apr 2007</td>
</tr>
<tr>
<td>Rockland County, N.Y.</td>
<td>18</td>
<td>21 June 2007</td>
<td>15 June 2007</td>
</tr>
<tr>
<td>West Long Branch Borough, N.J.</td>
<td>18</td>
<td>9 June 2007</td>
<td>6 June 2007</td>
</tr>
<tr>
<td><strong>Australian states and territories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Australia</td>
<td>16</td>
<td>31 May 2007</td>
<td>5 Apr 2007</td>
</tr>
<tr>
<td>Tasmania</td>
<td>18</td>
<td>1 Jan 2008</td>
<td>19 Dec 2008</td>
</tr>
<tr>
<td>New South Wales</td>
<td>16</td>
<td>1 July 2008</td>
<td>20 Nov 2008</td>
</tr>
<tr>
<td>Victoria</td>
<td>18</td>
<td>1 Jan 2010</td>
<td>18 Aug 2009</td>
</tr>
<tr>
<td>Western Australia</td>
<td>17</td>
<td>23 Sept 2010</td>
<td>22 Sept 2009</td>
</tr>
<tr>
<td>Queensland</td>
<td>16</td>
<td>1 Jan 2010</td>
<td>29 Oct 2009</td>
</tr>
<tr>
<td><strong>Countries</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bahrain (private cars with accompanying children)</td>
<td></td>
<td></td>
<td>13 April 2009</td>
</tr>
<tr>
<td>Cyprus</td>
<td>16</td>
<td>since 2004</td>
<td></td>
</tr>
<tr>
<td>South Africa</td>
<td>12</td>
<td>Sept 2009</td>
<td>23 Feb 2008</td>
</tr>
<tr>
<td>Mauritius (while carrying passengers)</td>
<td></td>
<td></td>
<td>since 2008</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>12</td>
<td>since 2008</td>
<td></td>
</tr>
</tbody>
</table>

Source: Global Advisors on Smokefree Policy

---


15.6.5

Multi-unit dwellings

‘Neighbour smoke’ is a relatively new concept in tobacco control.52 Several published studies now have documented significant transfer of SHS between dwellings in multi-unit apartment complexes.53 Children in apartments have been found to have higher mean cotinine levels than children in detached houses.54 Air sealing and modifications to ventilation can reduce, but not completely eliminate, smoke drift from apartments where residents smoke indoors.55

While smoking is banned in enclosed common or shared areas of multi-unit housing in several states and territories, private living areas are generally exempted. In 2011 the owners of a block of apartments in Ashfield, Sydney agreed to a by-law banning smoking anywhere within the building and on balconies, making the building the first multi-unit dwelling in Australia to become 100% smokefree.

In the 2010 case of Norbury v. Hogan 2010 QCAT 296 the Queensland Civil and Administrative Tribunal found in favour of a smoker who had been ordered to take reasonable steps to ensure her smoking did not cause a nuisance to her neighbour by an adjudicator under the Body Corporate and Community Management Act 1997 (Qld). The tribunal considered the law of nuisance in the context of smoke drift in residential units and held that the relevant question to ask is whether the smoke is of a sufficient character or quantity as to unreasonably interfere with a neighbour’s use and enjoyment of their premises, based on an objective test rather than on the sensitivities of a particular individual.

In 2006 the New South Wales Consumer, Trader and Tenancy Tribunal upheld a case brought by occupants of an apartment against their smoking neighbours, requiring them to stop smoking in their adjacent apartment because of smoke drift.56 This case could precipitate other such actions and give license to rental managers to advise tenants that smoking is banned in rental apartments.

A Canadian survey found that 46% of apartment dwellers had experienced smoke from a neighbour seeping into their apartment and 64% would prefer to live in an entirely smokefree complex.57 It seems that apartment owners may gradually be starting to respond to this demand. A study of landlords who had implemented smokefree policies in apartment buildings in Douglas County Nebraska found that expected adverse consequences generally did not occur.58 In a survey published in 2010, the majority of apartment owners in New York expressed interest in introducing smokefree policies.59 A campaign educating housing providers in Portland Oregon resulted in a 29% increase in smokefree apartments becoming available in that city.60 At least 36 public housing authorities in the US have banned smoking within private apartments.61 Commentators in the US have called for a national ban on smoking in public housing62 and the US federal Department of Housing and Urban Development has urged all state public housing authorities to make public housing developments smokefree.63

15.6.6

Domiciliary services

Community nurses and other health and welfare workers may be repeatedly exposed to SHS while dealing with clients living in their own home or in community supported accommodation outside institutions.64 This is an occupational health and safety issue for these workers, and some institutions in the UK and Australia insist as a matter of policy that clients do not smoke in their presence. The Aged and Community Services Association of New South Wales and the Australian Capital Territory for instance advises agencies that all clients should be advised not to smoke in the presence of workers.65
References


References

Date of last update: 6 Dec 2011


15.7

Legislation to ban smoking in public spaces

Every state and territory bans smoking in enclosed public places. Indoor environments such as public transit, office buildings, shopping malls, schools and cinemas are smokefree across the country. There is, however, great variability between jurisdictions in terms of exemptions from indoor bans. Regions also have different approaches for managing smoking in outdoor areas. A detailed overview of these important variations between each state and territory is summarised in this section. A summary table of the state and territory smokefree laws (Table 15.7.1) follows at the end of this section. Local governments in a number of states have also enacted local laws to ban smoking in outdoor areas not covered by state legislation.

15.7.1

Commonwealth legislation

While smokefree environments fall primarily under state and territory control, there are three areas of Commonwealth regulation. Regulations made under the Air Navigation Act 1920 (Cth) have prohibited smoking on all domestic flights since 1987.\(^i\) From 1996, the Air Navigation Regulations 1947 (Cth) were amended to extend the ban on smoking in aircraft to all international flights operated by Australian airlines.\(^ii\)

Smoking on board buses registered under the Interstate Road Transport Act 1985 (Cth) is banned at all times while passengers are on board, pursuant to regulation 51B of the Interstate Road Transport Regulations 1986 (Cth).\(^iii\)

Regulations made under the Airports Act 1986 (Cth)\(^iv\) provide that the operator of a regulated airport may decide that an area of the airport is to be a no-smoking area.\(^v\) The airport operator must put up a prominent sign bearing the words ‘No-smoking’ in any no-smoking area. Designated smoking rooms are therefore legally permissible in most Australian airports, but in practice have been removed from Australian airports. The Sydney Airport Corporation Limited smoking policy, for example, states that smoking is not permitted inside the terminal, and those who choose to smoke outside the terminals are requested ‘to be mindful of the comfort of others and do so away from doorways and public waiting areas’.\(^vi\)

15.7.2

Australian Capital Territory legislation

Smoking is banned in enclosed public places in the Australian Capital Territory under the Smoke-Free Public Places Act 2003 (ACT) (‘the Smoke-Free Public Places Act’).\(^i\) To be considered ‘enclosed’, a public place must have an overhead cover, and be 75 per cent or more enclosed. Smoking was first banned in most enclosed public places including dining areas of restaurants and cafes under 1994 legislation,\(^iii\) making the Australian Capital Territory the first Australian jurisdiction to ban smoking in restaurants.\(^2\) The Australian Capital Territory was also the first jurisdiction to ban smoking in enclosed areas of pubs and clubs when it enacted a partial ban in these areas four years later. A complete ban on smoking in enclosed areas of pubs and clubs came into effect on 1 December 2006. Since 9 December 2010, smoking has been banned in outdoor eating and drinking places (other than in designated outdoor smoking areas of licensed premises) and at under-age functions. The Smoke-Free Public Places Act also requires occupiers of premises to take reasonable steps to prevent smoke from entering no-smoking areas.

---

\(^iii\) Air Navigation Regulations (Amendment) 1996 (Cth), reg 4.
including neighbouring premises. This may require that smoking not occur in some outdoor public places, such as areas near to windows, doorways and air intakes. Smoking is also banned in all enclosed areas of the Canberra casino. The Australian Capital Territory, South Australia and Tasmania are the only Australian jurisdictions to have banned smoking in all enclosed areas of casinos including high-roller rooms.

15.7.2.1
Enclosed public places

The Smoke-Free Public Places Regulation 2005 (ACT) made under the Smoke-Free Public Places Act sets out what constitutes an ‘enclosed public place’ in the Australian Capital Territory.

A public place means a place to which the public or a section of the public has access:
- by payment, membership of a body or otherwise; or
- by entitlement or permission.

Examples of public places include:
- business premises, including professional, trade and commercial premises
- a cinema or theatre
- a club, hotel or motel
- a community centre, hall or public library
- government premises
- a hostel or nursing home
- a place of worship
- a public transportation vehicle (including a bus, taxi or boat)
- a restaurant or cafeteria
- a school, college or university
- a shopping centre, mall or plaza
- sporting or recreational premises.

To be considered ‘enclosed’, a public place (or part of a public place) must have an overhead cover and be 75 per cent or more enclosed. A public place is ‘75 per cent or more enclosed’ if the area that opens directly to the outside air is 25 per cent or less of the total closed and open area of the walls and overhead cover.

15.7.2.2
Outdoor eating and drinking places

From 9 December 2010 smoking was banned in all outdoor eating and drinking places in the Australian Capital Territory apart from designated outdoor smoking areas at licensed premises. Smoking is banned only during periods where food or drink is being offered or provided, consumed or cleared. An ‘outdoor eating and drinking place’ is defined as a public place where tables and chairs are provided for customers to consume food purchased from an on-site service, or any liquor licensed outdoor area. Liquor licensed venues such as pubs, clubs, taverns and bars may designate part of their licensed outdoor area as a designated outdoor smoking area (DOSA). A DOSA must be separated from non-smoking outdoor areas by a non-permeable wall, or a four metre wide buffer zone. No food or drink service may be provided and no food may be eaten within a DOSA. In addition, the

---

occupier of the licensed premises must maintain a smoking management plan and take reasonable steps to prevent smoke from the DOSA entering any other part of the outdoor eating or drinking place.

15.7.2.3

Smoking in cars

In October 2011 the Australian Capital Territory Legislative Assembly passed legislation banning smoking in cars when children under 16 years of age are present, that will take effect in 2012.

15.7.3

New South Wales legislation

Smoking is banned in enclosed public areas in New South Wales under the Smoke-free Environment Act 2000 (NSW) (‘Smoke-free Environment Act’) and Smoke-free Environment Regulation 2007 (NSW) (‘Smoke-free Environment Regulation’). This includes shopping centres, dining areas, schools, business premises, community centres, churches, theatres, libraries, public transport, motels, recreation centres, childcare facilities and hospitals. Smoking was banned in all ‘substantially enclosed’ licensed premises in New South Wales from 2 July 2007 after being phased in from 2005 to 2007. The phase-in period involved a ban on smoking in 50% of the enclosed area of hotels, nightclubs and clubs in 2005. The ban was increased to 75% of the total enclosed area of licensed venues in 2006 and finally in 2007 a total ban on smoking in all enclosed (including substantially enclosed) areas of licensed premises was imposed. Smoking is permitted in private gaming rooms of casinos.

In November 2010 the New South Wales Labor Government released for public consultation a discussion paper on its five-year tobacco control strategy. The paper proposed amendments to the Smoke-free Environment Act to further reduce environmental tobacco smoke exposure in workplaces, public places and other settings, including:

- a) at commercial outdoor eating areas
- b) in public playgrounds and within 10 metres of children’s play equipment
- c) in and around public swimming pools and public recreation centres
- d) in sporting stadiums
- e) at public sports grounds
- f) at enclosed or covered bus stops and taxi ranks
- g) within four metres of the entrance to a public building.

The New South Wales Labor Party lost government to the NSW Coalition in March 2011. At the time of writing (November 2011), the new NSW Government was in the process of developing a new tobacco control strategy.

15.7.3.1

Smokefree areas

The Smoke-free Environment Act defines a smokefree area as any enclosed public place other than an exempt place. Examples of places that are smokefree if they are enclosed public places include:

- shopping centres, malls and plazas
- restaurants, cafes, cafeterias, dining areas and other eating places
- schools, colleges and universities
- professional, trade, commercial and other business premises

ii Smoke-free Environment Amendment Act 2004 (NSW), schedule 1, ss. 11A and 11B.
Under section 10 of the Smoke-free Environment Act, occupiers of premises where smoking is allowed must take reasonable steps to prevent smoke from penetrating any smoke-free areas.

The Smoke-free Environment Act stipulates that a ‘public place’ means a place or vehicle that the public, or a section of the public, is entitled to use, or that is open to the public or a section of the public, whether by payment of money, by virtue of membership of a club or body, or otherwise. A public place is considered to be ‘enclosed’ if it has a roof or ceiling and is completely or substantially enclosed. The Smoke-free Environment Regulation sets out guidelines for determining what an enclosed public place is, and when a covered outside area is considered ‘substantially enclosed’. A public place is considered to be substantially enclosed if the total area of the ceiling and wall surfaces is more than 75 per cent of the total notional ceiling and wall area. Doors or windows that open to the outside and that are locked fully open are regarded as open space when calculating the actual ceiling and wall surfaces. If an occupier includes locked-open doors or windows in the calculation of a substantially enclosed space, they must be kept locked fully open in order for smoking to be allowed.

15.7.3.2
Licensed premises

In October 2004, then New South Wales Premier Bob Carr announced that smoking in indoor areas of licensed premises would be phased out by July 2007. All enclosed areas of hotels, clubs and nightclubs that are open to the public must be completely no-smoking, and all areas of Star City Casino with the exception of private gaming rooms must also be no-smoking. The exemption for private gaming rooms at the casino must be reviewed by the New South Wales Government annually on the basis of maintaining parity with exemptions for casinos in other states. There are currently no statewide restrictions on smoking in unenclosed areas of pubs or clubs, other than restrictions that may apply as a result of an occupier’s duty to prevent smoke from penetrating enclosed or substantially enclosed areas.

15.7.3.3
Smoking in cars

Smoking in a car when a child under 16 years of age is present was banned in New South Wales from 1 July 2009 under section 30 of the Public Health (Tobacco) Act 2008 (NSW).
15.7.3.4

Local government

Since 2007 numerous local councils in New South Wales have implemented smoking bans in outdoor areas under local laws or policy. As at 30 June 2011, 59 per cent of New South Wales local councils (89 out of 152) had banned smoking in one or more outdoor areas, compared to 28 in 2007. The most common outdoor areas covered by smoking bans include children’s playgrounds, sporting fields, swimming pools and near council buildings.\(^{11}\)

15.7.4

Northern Territory legislation

Under the Northern Territory’s Tobacco Control Act 2002\(^1\) and Tobacco Control Regulations, smoking is banned in enclosed public areas, enclosed workplaces, outdoor public venues, food service areas, public transport, public transport areas, entrance areas, air conditioning inlet areas, outdoor eating and drinking areas and voluntarily declared areas. From 2 January 2010, licensed venues and substantially enclosed areas were included in the ban. As of 2 January 2011, smoking was banned at outdoor eating and drinking areas. Licensed premises are covered by the ban, but these venues may provide an outdoor smoking area (OSA) that makes up no more than 50 per cent of the total outdoor eating and drinking area. The OSA must be separated from the smokefree portion of the outdoor area, no food may be consumed within an OSA, and no entertainment may be provided within an OSA. Outdoor public venues that do not serve food may also designate a smoking area.

15.7.4.1

Smokefree areas as of 31 May 2003

The following areas became smokefree in the Northern Territory on 1 January 2003:

- indoor eating places, including licensed restaurants and food service and dining areas in hotels, clubs and casinos
- shops, shopping centres, plazas and malls, including enclosed car parks
- community building such as theatres, halls, libraries, museums and government buildings
- all forms of public transport and sheltered common areas such as waiting and ticketing areas, including train platforms, designated taxi ranks, bus stops and ferry terminals; there are exceptions for bus stops which consist of a post at the roadside, and rental car companies may set their own policies
- within two metres of entrances to all non-domestic buildings and within three metres of air-conditioning inlets (not applicable to al fresco dining areas or beer gardens that allow smoking)
- dance floors
- common rooms and thoroughfares in group accommodation including nursing homes and hotels; private rooms within the group accommodation may allow smoking, and guest accommodation venues may also allow smoking in private rooms and are not obliged to designate any rooms as no-smoking
- areas of common access such as toilets, lobbies, staff rooms, corridors, thoroughfares or stairways
- childcare centres, schools and other education facilities, including buildings and grounds; an outdoor area that is not visible to children can be designated as a staff smoking area
- 50 per cent of fixed seating in sporting venues and other outdoor events (such as racetracks, grandstands and showgrounds)\(^2\)

The following additional areas became smokefree on 31 May 2003:

---


\(^2\) Tobacco Control Act 2002 (NT)
Tobacco in Australia:
Facts and Issues

15.7.4.2
Smokefree areas as of 2 January 2011

In July 2008 the Northern Territory Government announced amendments to the legislation to end the exemption for smoking in enclosed licensed premises. The amendments to the Tobacco Control Regulations meant smoking was banned within licensed venues with effect from 2 January 2010.¹

In September 2009 the Northern Territory Government announced that from 2 January 2011 outdoor eating and drinking areas in the Northern Territory would be required to be smokefree. Relevant amendments to the legislation were passed in 2010.² Outdoor eating and drinking areas are defined as any outdoor public place provided for the consumption of food or drink, or where a person would expect to be able to consume food or drink provided by an on-site food service. Licensed premises are included in the ban, but may designate up to 50 per cent of their total outdoor eating and drinking area as an exempt area, known as an outdoor smoking area (OSA).³ An OSA may be no more than 50 per cent of the total outdoor eating and drinking area, and must be separated from the no-smoking portion of the outdoor area by either a 2.1 metre high barrier or two metre wide buffer zone. The OSA must be clearly marked, no food may be consumed within the OSA, and no entertainment may be provided within the OSA (including gaming machines or pool tables). The amendments also enabled workplaces, venues, organisations and local governments to voluntarily implement outdoor smokefree areas that would be enforceable through the Tobacco Control Act.

A smokefree area is defined as any of the following:

- an enclosed public area
- an enclosed workplace area
- an outdoor public venue
- a food service area
- public transport
- a public transport area
- shared accommodation
- an educational facility
- an entrance area
- an air-conditioning inlet area
- a voluntarily declared area
- an outdoor eating or drinking area.⁴

---

¹ Tobacco Control Act 2002 (NT)

---

Section: 15.7.4.2
Date of last update: 6 Dec 2011
Domestic premises and exempt areas are excluded from the definition. Exempt areas are specified in the Tobacco Control Regulations, and include declared high-roller rooms in the casino; designated smoking areas within educational facilities; designated smoking areas in outdoor public venues that do not have an on-site food service; personal living areas in shared accommodation; the top deck of public transport vessels, oil and gas platforms; and outdoor smoking areas of liquor licensed premises.

15.7.4.3
Smoking in cars

The Northern Territory has not banned smoking in cars when children are present. The Northern Territory is the only Australian jurisdiction not to have legislated to ban smoking in cars with children (at the time of writing: November 2011).

15.7.5
Queensland

Smoking in enclosed workplaces and public areas including indoor dining areas of liquor licensed premises has been restricted in Queensland since 2002 under the Tobacco and Other Smoking Products Act 1998 (Qld) ("Tobacco and Other Smoking Products Act"). Amendments to the Act in 2004 introduced the most comprehensive smokefree laws in Australia at the time with effect from 1 January 2005. Smoking was banned anywhere within four metres of an entrance to a non-residential building, within 10 metres of outdoor children's playground equipment, in stadiums managed by the Queensland Major Sports Facilities Authority, and between the flags at patrolled beaches and at artificial beaches. Smoking bans in enclosed liquor licensed premises and poker machine gaming areas were phased in from 2005 to 2006, with smoking being permitted in one third of these areas from 30 September 2005 and being completely phased out by 1 July 2006. A ban on smoking at outdoor eating or drinking areas where food or drink is provided as part of a business came into effect from 1 July 2006. Liquor licensed premises can have a designated outdoor smoking area where only smoking and drinking can occur in up to 50 per cent of the outdoor area of the premises.

15.7.5.1
Exempt areas

Areas in Queensland that are not required to be smokefree include:
- residential premises, other than a part of residential premises being used for carrying on a business while one or more persons who do not reside at the premises are present, such as an employee
- multi-unit residential accommodation, other than common areas of the accommodation
- vehicles, unless the vehicle is for business use and there is more than one person in the vehicle
- a premium gaming room (high-rollers club)
- a secure facility under the Corrective Services Act 2006
- an exemption also applies for a person who performs in a theatre or other enclosed place. Such a person does not commit an offence by smoking during the performance if smoking is part of the performance.

---


15.7.5.2
Outdoor areas where smoking is restricted

From 1 January 2005 smoking was banned in the following outdoor public places where people gather as groups, and particularly where children are present:

- patrolled beaches (between the flags)
- artificial beaches
- sports stadiums managed by the Major Sports Facilities Authority
- within 10 metres of outdoor children’s playground equipment
- within 4 metres of the entrance to a non-residential building (this does not apply to entrances to residential premises such as homes or multi-unit residential accommodation, to liquor licensed premises with a commercial hotel licence or community club licence, casinos, or to a person in a prescribed outdoor pedestrian mall).

From 1 July 2006 outdoor eating or drinking places in Queensland were also declared smokefree. An outdoor eating or drinking place is defined as any unenclosed area where customers may consume food or drink provided by an on-site food service. An outdoor smoking area can be provided as long as no food or drink sold by the on-site food service is provided or consumed in the area, and the area is not within 4 metres of a public building entrance. Pubs, clubs and casinos may designate up to 50 per cent of the licensed outdoor area of their premises as a designated outdoor smoking area.

15.7.5.3
Definition of an enclosed and outdoor area

Under Queensland legislation, an area is ‘enclosed’ if it has a ceiling or roof, and except for doors and passageways, is completely or substantially enclosed. An outdoor area is an area that does not meet the definition of ‘enclosed’. Queensland Health advises that when making a decision about whether an area is an outdoor area or an enclosed area the following questions should be considered:

- Does the area have a roof or ceiling or other solid covering? If the answer is ‘no’, the area will most likely be an outdoor area because it cannot meet the definition of enclosed. If the answer is ‘yes’, then further questions need to be considered.
- Is the area surrounded by walls or fences or otherwise enclosed? As a general rule, if the area has only one wall, it will most probably not meet the definition of enclosed. If the area has three or more walls, it most probably will meet the definition of enclosed. The materials the walls or fences are made from are also considered. It is not possible to give a more definitive description of enclosed because of the infinite number of building configurations.

The most important question to consider is:
- Would the average person say the area is enclosed?

15.7.5.4
Guidelines for ‘designated outdoor smoking areas’

Liquor licensed premises that hold a general or club licence can designate an outdoor smoking area (DOSA) where only smoking and drinking can occur. Patrons can order their drinks in a different area then take them into the DOSA and smoke and drink there. A DOSA can be made comfortable for patrons through the use of furniture,

---


lighting or heating, but no form of entertainment may be provided. A number of rules must also be followed, including:

- A premise may have more than one DOSA, but the total area of all DOSAs must not be more than 50 per cent of the whole outdoor liquor licensed area of the premises.
- Each DOSA must have a buffer around the perimeter, wherever it is next to other parts of an outdoor area that are ordinarily accessed by patrons. A buffer indicates a separation between smoking and no-smoking areas. There are two options for the buffers, either a two metre wide area in which patrons cannot eat, drink or smoke or a 2.1 metre high screen that is impervious to smoke.
- No poker machines can be located in a DOSA.
- Food cannot be taken into or consumed in the DOSA nor can food or drink be served to patrons within the DOSA. Staff can enter the DOSA to clear glasses and empty ashtrays, but must not take orders from or serve food or drinks to patrons.
- It is a legal requirement that the entire remaining outdoor licensed area is no-smoking.
- The licensee must prepare and implement a smoking management plan for the entire premises.

15.7.5.5

Smoking management plans

If a licensed premise chooses to have a DOSA, a smoking management plan must be prepared. The premise must display a sign in or near the DOSA stating that the plan is available for perusal on request. The plan must:

- identify the DOSA
- identify the outdoor areas where food is served
- identify the buffers
- state how the licensee will minimise the exposure of staff and patrons to secondhand smoke
- describe the training given to staff to ensure the laws and the plan are complied with
- provide for signage in the premises to clearly identify where smoking is or is not allowed.

15.7.5.6

Local government

From 1 January 2010, Queensland local governments were given express power under the Tobacco and Other Smoking Products Act 1998 (Qld) to enact local laws banning smoking in pedestrian malls and at public transport waiting points such as bus stops. Brisbane City Council used the power to enact a local law banning smoking in Queen Street Mall in Brisbane’s central business district in 2011.1

15.7.5.7

Smoking in cars

Smoking has been banned in cars carrying children under 16 years of age in Queensland since 1 January 2010.2

---

15.7.6

South Australian legislation

A ban on smoking in all indoor dining areas was introduced in South Australia in January 1999. As of 6 December 2004, smoking was banned in all enclosed public places, workplaces and shared areas under amendments to the Tobacco Products Regulation Act 1997. Smoking restrictions in enclosed licensed hospitality premises were phased in from 2004, with a total ban on smoking in all enclosed areas of pubs, clubs and the Adelaide casino beginning on 1 November 2007. South Australia, the Australian Capital Territory and Tasmania are the only Australian jurisdictions to have completely banned smoking within all enclosed areas of casinos. Other states and territories provide exemptions from indoor smoking bans for high-roller rooms in casinos (see Chapter 15, Section 15.4.1.5).

The South Australian ban on smoking in enclosed workplaces excludes workplaces that are also residences (such as hostels and nursing homes), places where self-employed persons work alone and work vehicles that are used by only one person.

In some residential facilities, for example units and hostels, enclosed areas that are used by all tenants are defined as ‘shared’ areas and must be smokefree. For example, the following enclosed shared areas must be smokefree: stairwells, car parks, foyers, corridors, laundries, kitchens and common rooms.

15.7.6.1

Enclosed areas

From 1 November 2007, smoking was banned in public places, workplaces or shared areas that are more than 70 per cent enclosed. An area is regarded as being enclosed if it is fully enclosed, or is at least partially covered by a ceiling and has walls such that the total area of the ceiling and wall surfaces exceeds 70 per cent of the total notional ceiling and wall area. Shade sails and umbrellas are regarded as a roof or ceiling for the purposes of this calculation. An area without a roof is considered unenclosed, as is an area that is at least 30 per cent open and allows the free flow of air. Blinds or other moveable structures used to weatherproof outdoor areas may be considered to enclose an area depending on their use. Where blinds or other structures are open, smoking is permitted if their opening results in the area being less than 70 per cent enclosed. Closed blinds or other structures are considered as equivalent to walls, so if they result in an area being more than 70 per cent enclosed smoking will not be permitted.

15.7.6.2

Smoking in cars

On 31 May 2007, South Australia became the first Australian state to enact a ban on smoking in vehicles when children under 16 years of age are present (Figure 15.7.1). This ban applies to both the driver and passengers and when the vehicle is either moving or stationary. Police officers and tobacco control officers have authority to enforce the law by issuing an expiation fee of $75.

---


The maximum penalty is $200.27 Smoking is also prohibited in work vehicles, which are considered to be enclosed workplaces.

15.7.6.3

Legislative reform

On 14 September 2011 the South Australian Government introduced the Tobacco Products Regulation (Further Restrictions) Amendment Bill 2011 into the lower house of the South Australian Parliament. If passed, the Bill would result in smoking being banned at covered public transport waiting areas including bus stops, tram stops, railway stations, taxi ranks and airports; within 10 metres of children’s playground equipment; and in public areas or at public events declared to be smokefree at the request of a local council or other incorporated entity. In 2011 the South Australian Government also announced that it would encourage the hospitality industry to take voluntary steps to ban smoking in all "al fresco" dining areas by 2016.23,24

15.7.7

Tasmanian legislation

In Tasmania all indoor public places and workplaces must be smokefree under the Public Health Act 1997 (Tas).25 The smokefree legislation was extended to include all licensed premises from 1 January 2006.4 Further restrictions apply to serviced outdoor areas of licensed premises, entry points to public buildings and outdoor dining areas. Tasmania, the Australian Capital Territory and South Australia are the only Australian jurisdictions to have completely banned smoking within all enclosed areas of casinos. Other states and territories provide exemptions from indoor smoking bans for high-roller rooms.

The following areas must be smokefree in Tasmania:26

- enclosed public places and workplaces
- at least 50 per cent of the tables in outdoor dining areas (and 100 per cent of the tables from 1 March 201227)
- outdoor areas of licensed premises such as bars, clubs and nightclubs except for designated ‘outdoor smoking areas’
- any area not within private premises that has been designated by the occupier as a smokefree area
- any area of an outdoor sporting or cultural venue containing reserved seating (and from 1 March 201227 at all outdoor sporting venues when an organised sporting event is being held)21
- within three metres of an entrance or exit from a non-domestic or multiple-use building (exceptions to the three metre rule apply to some outdoor smoking areas and outdoor dining areas)
- within 10 metres of any air intake for ventilation equipment in a non-domestic or multiple-use building
- work vehicles while being used during the course of employment if another person is present.

The following areas are not smokefree areas unless designated as such by the occupier:

- an open deck area of a ship or vessel
- personal living areas of a place providing accommodation for a fee, residential care facility or prison from which smoke drift to smokefree areas cannot reasonably occur
- outdoor smoking areas of licensed premises.

An occupier who requires persons to work in a personal living area that is not smokefree must develop and implement procedures to minimise the risk to the health of those persons.

---

- any permanent or temporary public seating
- the marshalling and warm up areas, podiums or other parts of the venue reserved for competitors or officials and
- any part of the venue used to conduct the sport.
15.7.7.1

Outdoor areas of licensed premises

*The Public Health Act 1997 (Tas)* bans smoking in outdoor areas of licensed premises such as pubs, clubs and nightclubs that:

- have a licence or permit under the *Liquor Licensing Act 1990 (Tas)* and
- where the provision of beverages rather than food is the primary function

Smoking in outdoor areas of licensed premises is only permitted in designated ‘outdoor smoking areas’. An outdoor smoking area:

- must not be serviced (this includes the delivery of beverages and food by staff to patrons)
- must either not have a roof, or, if roofed, must not have a perimeter consisting of more than 50 per cent walls or windows (whether open or closed). A roof includes any structure or device whether fixed or moveable that prevents or impedes upward airflow.

When the Tasmanian Department of Health and Human Services considers whether an area has a roof or a perimeter consisting of more than 50 per cent walls or windows, several factors are considered. These include the purpose of the wall (whether it encloses, divides, supports or protects), the height of any walls, the size of the outdoor smoking area, the distance of the outdoor smoking area from any adjacent buildings, the density or permeability of the walls or roof material, the proportion of the outdoor smoking area covered by a roof, and the angle (pitch) of the roof.

An outdoor smoking area will generally not be considered to have a roof if at least two-thirds of the roof space is uncovered. However, there will be a requirement for a greater proportion of roof space to be uncovered in small areas where:

- the ceiling height in the outdoor smoking area is less than 3 metres
- the area is less than 10 metres

Less restrictive consideration may be given to this requirement if the roof is angled or pitched upwards.

15.7.7.2

Smoking in cars

On 19 December 2007, Tasmania passed a ban on smoking in vehicles if a person under the age of 18 years is inside the vehicle. A police officer or other nominated officer has the authority to enforce the law by issuing a fine of up to 20 penalty units. Smoking is also banned in work vehicles used during the course of employment if another person is present.

15.7.7.3

Local government

A number of local governments in Tasmania have enacted local laws to ban smoking in outdoor areas not already covered by the *Public Health Act 1997 (Tas)*. Hobart City Council has banned smoking in Elizabeth Street Mall, Hobart bus mall and Wellington Court within Hobart’s CBD as well as playgrounds and parks, and banned smoking in outdoor dining areas including Salamanca Place from 1 August 2011. Launceston City Council has banned smoking in on-street dining areas, Brisbane Street Mall, Quadrant Mall, in two bus interchange areas, near playground equipment and at council controlled sporting venues.

---


15.7.7.4

Other outdoor areas

After considering the response to a discussion paper on proposed legislative measures to prevent and reduce tobacco-related harm released for public consultation in August 2010 in March 2011, the Tasmanian government announced plans to expand smoking bans to all outdoor dining areas; within 20 metres of the competition and seating areas at all outdoor sporting venues; near playgrounds; in all pedestrian malls, bus malls and covered bus shelters; and to introduce smokefree areas in all outdoor public swimming pool premises. In November 2011 the Tasmanian Legislative Council passed the necessary amendments to Section 67B of the Public Health Act (Tas) to ban smoking in outdoor places including:

- public swimming pools
- between the flags at beaches
- pedestrian and bus malls
- in and within three metres of bus shelters and
- in and within 10 metres of children’s playgrounds
- in outdoor dining areas
- within three metres of outdoor dining areas that are not surrounded by a screen at least 2.1 metres high and impervious to smoke
- within 20 metres of any permanent or temporary public seating and the competition area at all outdoor sporting venues.

15.7.8

Victorian legislation

Smoking was banned in all enclosed restaurants, cafes and dining areas of hotels, licensed clubs and shopping centres in Victoria from 2001 under the Tobacco Act 1987 (Vic). From 1 March 2006 the ban was extended to most enclosed workplaces; outdoor areas of underage music/dance events; and covered areas of train station platforms, trams stops and bus stops. Exemptions to the ban on smoking in enclosed workplaces apply in relation to residential premises, casinos, vehicles, sole operator businesses that are not open to the public, personal living areas in paid accommodation or residential care, approved mental health facilities and immigration detention facilities. An exemption applied to licensed premises until 1 July 2007 when smoking was completely banned in enclosed licensed premises. At the same time, smoking was banned in outdoor dining or drinking areas with a roof and walls in place that are more than 75 per cent enclosed.

15.7.8.1

Exemptions to the workplace smoking ban

Smoking is banned in enclosed workplaces in Victoria. There are a number of exemptions to the ban, including:

- residential premises not used for carrying on a business
- a part of residential premises used for carrying on a business, while no non-resident employees or members of the public are present
- outdoor dining or drinking areas
- a declared smoking area of a casino (high-roller rooms at Crown Casino)
- a vehicle

---

Enclosed and outdoor areas

An ‘enclosed’ workplace under the Victorian legislation means an area, room or premise that is substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are (a) permanent or temporary or (b) open or closed. ‘Substantially’ is not defined in the legislation. This means workplaces with large roller doors, even if they are open, are required to be smokefree. It also means the smoking status of an enclosed licensed premise will not change at any time.

Outdoor dining and drinking areas are treated differently from enclosed workplaces. Smoking is permitted in outdoor dining or drinking areas in Victoria unless the area has a roof and walls in place, and the total surface area of the walls is more than 75 per cent of the total notional wall area. An outdoor dining or drinking area includes a balcony, verandah, courtyard, rooftop, marquee, street, footpath or any similar outdoor area. The smoking status of outdoor dining and drinking areas may change depending on the position of the walls and roof. For example, if the walls of a marquee are retracted smoking may be permitted, whereas if they are closed smoking may be banned.

Smoking in cars

Smoking was banned in cars carrying persons under 18 years of age in Victoria from 1 January 2010.

Local government

A number of Victorian local councils have banned smoking in outdoor areas not covered by state legislation. For example, Frankston City Council has banned smoking in designated outdoor areas of the Frankston central activity district; Surf Coast Shire, City of Port Phillip and Hobsons Bay City Councils have banned smoking on beaches; and Moreland City Council has banned smoking at playgrounds. From October 2011 Monash City Council extended its ban on smoking at playgrounds to include within 10 metres of the entrance to buildings on designated council land (including schools, sporting grounds, council offices and community centres) and at designated council events.

\[i\] Tobacco Act 1987 (Vic), s. 5A. Available from: http://www.austlii.edu.au/au/legis/vic/consol_act/ta198773/


Western Australian legislation

Occupational health and safety regulations introduced in July 1997 restricted smoking in enclosed workplaces in Western Australia, but did not specifically apply to patrons attending hospitality venues. In 1999 smoking in enclosed public places such as theatres, shopping centres and cinemas was banned under the Health (Smoking in Enclosed Public Places) Regulations 1999 (WA). From 31 July 2006, smoking was prohibited in enclosed public places including pubs, clubs and restaurants under the Tobacco Products Control Act 2006 (WA) ("Tobacco Products Control Act") and Tobacco Products Control Regulations 2006. Private guest rooms of hotels and residential accommodation are not considered to be public places, although other areas including corridors, foyers and lobbies of such premises are required to comply with the legislation. There are minimal exceptions to the law, which include:

- the international room of Burswood Casino, provided the room has adequate ventilation
- an actor, artist or other performer who smokes for the purposes of a performance, provided the occupier of the enclosed public place granted prior consent.

Amendments to the Tobacco Products Control Act that came into effect on 22 September 2010 banned smoking between the flags at patrolled beaches; at outdoor eating areas (other than designated smoking zones at licensed premises); within 10 metres of children's playground equipment; and in vehicles when a person under the age of 17 years is present.

In April 2011 the WA Department of Health released a discussion paper outlining options for review of the Tobacco Products Control Act for public consultation. The results of the public consultation will inform departmental advice to the Minister for Health in relation to further options for reform of smokefree legislation. The discussion paper identifies the following possible options for amending the Tobacco Products Control Act:

- Introduce a buffer zone around entrances, air-conditioning intakes and in relation to *al fresco* eating areas;
- Extend smokefree restrictions to other public outdoor areas;
- Clarify local governments' powers to regulate smoking in outdoor areas under their control;
- Introduce a complete ban on smoking in all outdoor eating areas;
- Consider removing the smoking exemption for the Burswood Casino International Room;
- Extend smokefree legislation to include common shared areas in boarding and lodging houses and residential strata complexes.

Definition of an enclosed public place

An 'enclosed public place' is defined as a public place that has a ceiling or roof and that is more than 50 per cent enclosed by walls or other vertical structures or coverings. The surface area of windows, doors or other closable openings must be included when calculating the percentage of vertical surfaces surrounding a space regardless of whether they are open or closed. The surface area of any vertical structures located at or within 1 m from the perimeter of the ceiling or roof must also be included in the calculation. If a public place does not have a roof then it is not considered to be enclosed.
15.7.9.2

Duty to prevent smoke entering enclosed public places

Unless an enclosed public place has adequate ventilation, the occupier must take reasonable steps to ensure that smoke from a tobacco product does not enter the enclosed place. Adequate ventilation is defined as either natural ventilation or mechanical ventilation complying with specified provisions of the Building Code of Australia (which has been given the status of building regulations by all states and territories). Reasonable steps by an occupier may include:

- closing doors or windows
- designating outdoor smoking areas away from entrances and openings to an enclosed public place (the Western Australia Department of Health recommends no-smoking within at least 5 metres from entrances and openings)
- restricting smoking around air intakes for ventilation equipment.

15.7.9.3

Outdoor eating areas

From 22 September 2010, smoking was banned in outdoor eating areas in Western Australia, other than in ‘smoking zones’ in licensed premises. An outdoor eating area is defined as a public place or part of a public place that is provided, on a commercial basis, as an area where food or drink may be consumed by people sitting at tables. The owner or occupier of a liquor licensed premise that is not the subject of a restaurant licence may designate up to 50% of their outdoor eating area as a smoking zone, provided the area is not an enclosed public place.

15.7.9.4

Smoking in cars

Smoking in a vehicle while a person under 17 years of age is present was banned in Western Australia from 22 September 2010.

15.7.10

Summary of smokefree legislation across Australian states and territories

Table 15.7.1 provides a timeline of implementation dates of smokefree legislation across all states and territories.

---


Table 15.7.1
Implementation dates of smoke-free legislation
Australian states and territories
Last updated 11/11/2011

<table>
<thead>
<tr>
<th>ACT</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 December 1994</td>
<td>Smoking (Prohibition in Enclosed Public Places) Act 1994 (s.5 and Schedule 1) [Repealed]</td>
<td>Smoking ban in enclosed public places except for exempt restaurants and licensed premises. ‘Public place’ means a place which the public, or a section of the public, is entitled to use or which is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a body, or otherwise). Examples of ‘public places’ include shopping centres, dining areas, clubs, schools, business premises, community centres, theatres, public transport, multi unit residential premises and recreational facilities. Smoking permitted by performer during stage show. A ‘public place’ is ‘enclosed’ if it has a ceiling or roof and is, except for doors and passageways, completely or substantially enclosed by walls or windows.</td>
</tr>
<tr>
<td>1 December 2006</td>
<td>Smoking (Prohibition in Enclosed Public Places) Act 2003 (Part 2, ss.3, 6, 8A, 9 and 14) Smoking (Prohibition in Enclosed Public Places) Regulation 2005 (Part 2, r.6 – r.12)</td>
<td>Smoking ban in enclosed public places: ‘Public place’ is a place to which the public or a section of the public has access, whether — by payment, membership of a body or otherwise or by entitlement or permission. Examples of ‘public places’ include business premises, cinemas, hotels, clubs, community centres, government premises, hospitals, nursing homes, churches, public transport, dining areas, schools, shopping centres and recreational premises. A ‘public place’ is enclosed if it is covered and is 75% or more enclosed. The regulations may exempt an area from the operation of Part 2 of the Act if the premises are occupied by a university or other entity and the area is for scientific research into the effects of smoking. Offence to permit smoke into an enclosed public place from another part of the premises. Offence by a neighbouring occupier to fail to take reasonable steps to prevent smoke from the premises entering an enclosed public place on other premises.</td>
</tr>
<tr>
<td>9 December 2010</td>
<td>Smoking (Prohibition in Enclosed Public Places) Amendment Act 2009 [amends the Smoking (Prohibition in Enclosed Public Places) Act 2003 and re-names it the Smoke-free Public Places Act 2003] s.9A(1), s9F</td>
<td>Smoking banned in ‘outdoor eating or drinking places’ during periods where food or drink is being either offered or provided, or consumed or cleared. A place is an ‘outdoor eating or drinking place’ if: • it is a public place (other than an enclosed public place); and • people at the place may consume food or drink provided from an on-site service; and • either — (i) the place is licensed premises; or (ii) tables and chairs are provided by the on-site service for use by people consuming food or drink at the place. ‘Food or drink service’ means a business, or an enterprise of a commercial, charitable or community nature, that sells food or drink. Smoking is permitted in the designated outdoor smoking areas of licensed premises. There must be a buffer on the perimeter of the designated area of either a screen/wall of required height, or 4m wide area where no food, drink or smoking is allowed.</td>
</tr>
<tr>
<td>2012</td>
<td>Smoking in Cars with Children (Prohibition) Act 2011 (ACT)</td>
<td>Smoking ban in cars when child under 16 years of age is present.</td>
</tr>
</tbody>
</table>

## Tobacco in Australia: Facts and Issues

**NSW**

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban on restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 September 2000</td>
<td>Smoke-free Environment Act 2000 (Part 2, ss 4, 6, 7, 10 and Schedule 1)</td>
<td>Smoking ban in any ‘smoke-free area’ (unless the area is exempt). ‘Smoke-free area’ is any place, or part of a place, of a kind described in Schedule 1 that is an enclosed public place. Places described in Schedule 1 include shopping centres, dining areas, schools, business premises, community centres, churches, theatres, libraries, public transport, motels, recreation centres, childcare facilities and hospitals. A public place is a place or vehicle that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise). Exempt places include casinos and licensed premises (other than parts of the premises which constitute a dining area, while that part is being used as a dining area). Smoking permitted by performers in theatre or other performance places if smoking is a necessary part of the performance.</td>
</tr>
<tr>
<td>4 October 2002</td>
<td>Smoke-free Environment Regulation 2000 (r.6)</td>
<td>A smoke-free area must be separated from a smoking permitted area by a barrier to ensure that a space of at least 1.5 metres separates them.</td>
</tr>
<tr>
<td>3 January 2005</td>
<td>Smoke-free Environment Act 2000 (Part 3, s.11A)</td>
<td>Smoking ban in any dining area and at any counter at which drinks and food are served.</td>
</tr>
<tr>
<td>4 July 2005</td>
<td>Smoke-free Environment Act 2000 (Part 3, s.11B)</td>
<td>Smoking room or area in hotels, nightclubs and clubs must not exceed 50% of the total area of the combined drinking, gaming and recreation area in the venue.</td>
</tr>
<tr>
<td>3 July 2006</td>
<td>Smoke-free Environment Act 2000 (Part 3, s.11B)</td>
<td>Smoking room or area in hotels, nightclubs and clubs must not exceed 25% of the total area of the combined drinking, gaming and recreation areas in the venue.</td>
</tr>
<tr>
<td>2 July 2007</td>
<td>Smoke-free Environment Amendment Act 2004 (Part 2, ss 6 and Schedule 1) Smoke-free Environment Regulation 2000 (r.8)</td>
<td>Smoking ban in all enclosed (including substantially enclosed) areas of hotels, clubs and nightclubs open to the general public. Smoking ban on all enclosed areas of casinos except for private gaming rooms. A public place is substantially enclosed if the total area of the ceiling and wall surfaces of the public place is more than 75% of its total notional ceiling and wall area.</td>
</tr>
<tr>
<td>1 July 2009</td>
<td>Public Health (Tobacco) Act 2008 (NSW) (Part 4, Division 2, s.30)</td>
<td>Smoking ban in cars carrying children under the age of 16 years.</td>
</tr>
<tr>
<td>30 November 2010</td>
<td>Public consultation — Strategic Directions in Tobacco Control 2011–2016. Consultation period closed 29/11/2011. Priority Area 6 — reduction of ETS exposure in workplaces, public places and others settings.</td>
<td>The paper recommends the following action: Consider amendments to the Smoke-free Environment Act 2000 to prohibit smoking in the following areas: a) Commercial outdoor eating areas; b) In public playgrounds and within 10 metres of children’s play equipment; c) In and around public swimming pools and public recreation centres; d) In sporting stadia; e) At public sports grounds; f) At enclosed or covered bus stops and taxi ranks; and g) Within 4 metres of the entrance to public buildings.</td>
</tr>
<tr>
<td>March 2011</td>
<td>NSW Coalition wins government from NSW Labor Party</td>
<td></td>
</tr>
<tr>
<td>November 2011</td>
<td>NSW Government currently developing new tobacco control strategy</td>
<td></td>
</tr>
</tbody>
</table>

### Northern Territory

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
</table>
| 1 January 2003 | Tobacco Control Act (Part 1, ss.5, 7 & 9) | Smoking ban in any ‘smoke-free area’.  
‘Smoke-free area’ includes an ‘enclosed public area’, ‘enclosed workplace area’, outdoor public venue, food service area, public transport, public transport area, shared accommodation, educational facility, ‘entrance area’ and ‘air-conditioning inlet area’. Smoke-free area does not include domestic or ‘exempt’ areas.  
Smoking not prohibited by a performer in a theatrical performance if necessary for the purposes of the performance.  
‘Enclosed public area’ means a public area with a ceiling or roof that (except for doorways and passageways) is completely or substantially enclosed by walls, windows, blinds, curtains or other objects, materials or things.  
‘Enclosed workplace area’ means a workplace with a ceiling or roof and which (except for doorways or passageways) is completely or substantially enclosed by walls, windows, blinds, curtains or other objects, materials or things, but does not include an area of the business which is in or on domestic premises that is not used or intended to be used by members of the public or employees of the business.  
‘Entrance area’ means an area within 2 metres of a door, window or other opening that opens into or onto an enclosed public area or an enclosed workplace area.  
Smoking permitted in designated areas of:  
- Educational facilities if majority of staff agree and the area is not normally accessible to children or in the line of their sight.  
- Outdoor public venues if the area designated does not contain more than 50% of the venue’s fixed seating and a smokefree area of equal amenity with 50% of the venue’s fixed seating remains.  
- Outdoor food service areas, subject to condition that reasonable measures are taken to minimise exposure of other people to environmental tobacco smoke.  
- Personal living areas in shared accommodation and upper decks or decks on public transport vessels.  
- Oil and gas platforms, subject to the condition they are adequately ventilated. |
| 31 May 2003   | Tobacco Control Regulations (Part 2, r.9) | Smoking permitted in designated areas of licensed premises and gaming venues, however:  
- a smokefree area of ‘equal amenity’ must be provided.  
- reasonable measures must be taken to minimise employees exposure to environmental tobacco smoke |
| 2 January 2010 | Tobacco Control Amendment Regulations 2009 | Smoking is prohibited inside all public places including licensed venues and ‘substantially enclosed areas’.  
‘Substantially enclosed’ has been given the following general guideline: If a footpath or courtyard is covered by a roof or ceiling and is at least 75% surrounded by walls, windows or other buildings, smoking is prohibited in such a place (such as those forming part of restaurants, cafes or licensed premises).  
The Minister may exempt a high-roller room at a casino from the smoking ban. |
| 2 January 2011 | Tobacco Control Act 2002 as amended by the Tobacco Control Legislation Amendment Act 2010 (s.7) Tobacco Control Regulations r.11, 15B | A smoke-free area is any of the following:  
- an enclosed public area;  
- an enclosed workplace area;  
- an outdoor public venue;  
- a food service area;  
- public transport;  
- a public transport area;  
- shared accommodation;  
- an educational facility;  
- an entrance area;  
- an air-conditioning inlet area;  
- a voluntarily declared area.  
Domestic premises are exempt from the definition. Other exemptions apply for casino high roller rooms, educational facilities, designated smoking areas in outdoor public venues that do not have an on-site food service, personal living areas in shared accommodation, the top deck of public transport vessels, oil and gas platforms, and outdoor smoking areas of liquor licensed premises.  
The new legislation bans smoking in all outdoor eating and drinking areas apart from outdoor smoking areas of up to 50% of licensed premises. |

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 May 2002</td>
<td>Tobacco and Other Smoking Products Act 1998 (Part 1, s.4 and Part 2B, s.26R) [Amended]</td>
<td>Smoking ban in any 'enclosed place', subject to the following exceptions:</td>
</tr>
<tr>
<td></td>
<td>Tobacco and Other Smoking Products Act 1998 (Part 2B s.26Q – Part 2C, s.26ZK) Tobacco and Other Smoking Products Amendment Regulation 1998 (Part 5, ss.15 &amp; 18 and Part 6, ss.22 &amp; 23) [Part 5 of the Regulations expired]</td>
<td>Smoking ban:</td>
</tr>
<tr>
<td></td>
<td>Tobacco and Other Smoking Products Regulations 1998 (Part 5, ss.16 &amp; 17) Note – Part 5 of the Regulations expired 30 June 2006</td>
<td>Smoking ban:</td>
</tr>
<tr>
<td>1 Jan 2010</td>
<td>Tobacco and Other Smoking Products Act 1998 (Part 2A, s.26W)</td>
<td>Smoking banned in cars carrying children under the age of 16 years.</td>
</tr>
<tr>
<td>1 Jan 2010</td>
<td>Tobacco and Other Smoking Products Act 1998 (Part 2C, s.26ZPV)</td>
<td>Local councils can choose to regulate smoking in pedestrian malls and public transport waiting points such as bus stops.</td>
</tr>
</tbody>
</table>

## South Australia

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Jan 1999</td>
<td>Tobacco Products Regulation Act 1997</td>
<td>Smoking ban in enclosed public dining areas.</td>
</tr>
<tr>
<td>6 Dec 2004</td>
<td>Tobacco Products Regulation Act 1997 (ss. 4, 46 and 47)</td>
<td>Smoking ban in all enclosed public places, workplaces and shared areas. Smoking ban applies one metre from all hospitality service bars/counters. Licensed premises with two or more bar rooms must have one bar room designated as non-smoking. Licensed premises with one bar room must have at least 50% of their bar room floor space designated as non-smoking. At least 75% (until 31 October 2005) and 50% (until 31 October 2007) of all gaming machines are to be designated as non-smoking.</td>
</tr>
<tr>
<td>31 May 2007</td>
<td>Tobacco Products Regulations Act 1997 (Part 4, s.48)</td>
<td>Smoking ban in cars containing children (defined as under 16 years of age).</td>
</tr>
<tr>
<td>1 November 2007</td>
<td>Tobacco Products Regulations Act 1997 (ss.46 &amp; 47)</td>
<td>Smoking ban in all ‘enclosed’ areas (includes indoor and outdoor) of pubs, clubs and the casino.</td>
</tr>
</tbody>
</table>
| 14 September 2011 | Tobacco Products Regulation (Further Restrictions) Amendment Bill 2011 introduced into SA House of Assembly | The Bill proposes a smoking ban:  
- at covered public transport waiting areas, including bus stops, tram stops, railway stations, taxi ranks and airports.  
- within 10 metres of children’s playground equipment.  
- in public areas or at events declared to be smokefree at the request of a local council or other incorporated entity. |

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>28 April 2000</td>
<td>Public Health Act 1997 (Part 4, s.67B) (<strong>Repealed</strong>)</td>
<td>Smoking ban in theatres and cinemas (unless smoking is part of performance).</td>
</tr>
</tbody>
</table>
| 3 September 2001  | Public Health Act 1997 (Part 4, s.3, s.s.67B - 67H [Amended]) | Smoking ban in any enclosed public places and workplace, outdoor sporting or cultural venue with reserved seating, any area within 3 metres of an entrance to or exit from a building, within 10 metres of any ventilation equipment in a building, reasonable area of a bar. A 'public place' includes a place to which the public ordinarily has access, whether or not by payment or invitation (definition of 'public place' effective from 1 February 1998). An 'enclosed public place' means a place for the use of the public which has a ceiling or roof, and except for doors and passageways, is completely or substantially enclosed by walls or windows (definition of 'enclosed public place' effective from 1 February 1998). Smoking not prohibited in:  
  - Any open deck area of a ship or vessel,  
  - Any personal living area of paid accommodation, residential care facility or prison from which smoke drink to any smokefree area cannot reasonably occur  
  - Any area within 3 metres of an entrance to or exit from any non-domestic building or multiple-use building in any period during which food purchased from the occupier of the building is consumed within that area at a table provided by the occupier.  
  - Any bar or gaming area in any period during which no food, other than specified snacks, confectionery or beverages are available or consumed in the bar area. Smoking ban in vehicles while being used in the course of employment if another person is present. Any non smoking area of licensed premises must be of equal amenity to the smoking area. |
| 1 January 2005    | Public Health Act 1997 (Part 4, s.67B) [Amended] | Smoking ban in nightclubs, cabarets, gaming areas. In outdoor dining areas where tables are provided, smoking ban in an area of not less than 50% of those tables, grouped together in one part of that dining area. Where no tables are provided, areas consisting of not less than 50% of the seating in the dining area. |
| 1 January 2006    | Public Health Act 1997 (Part 4, s.3A and 67B, 67F) Public Health (General Regulations) 2005 (r.5) | Smoking ban in licensed venues and nightclubs. Smoking ban in outdoor drinking and dining areas unless the area is designated as an outdoor smoking area. An outdoor smoking area may only be on premises where the provision of beverages rather than food is the primary function. The area must either not have a roof or, if roofed, not more than 50% of the area perimeter may consist of walls or widows (whether open or closed). Food and beverages must not be served or consumed in approved smoking area. Any smoking area of an outdoor dining area must be of equal amenity to a non-smoking area. |
| 1 Jan 2008        | Public Health Act 1997 (Part 4, s. 67H) | Smoking ban in vehicles containing persons under 18 years of age. |
| 1 March 2012      | Public Health Act 1997 Amending Act: Public Health Amendment Act 2011 | Smoking ban:  
  - at public swimming pools  
  - between the flags at beaches  
  - in pedestrian and bus malls  
  - in and within 3 metres of bus shelters  
  - in and within 10 metres of children's playgrounds  
  - in outdoor dining areas  
  - within 3 metres of outdoor dining areas that are not surrounded by a screen at least 2.1 metres high and impervious to smoke  
  - within 20 metres of competition and seating at sporting events |

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2001</td>
<td>Tobacco Act 1987 (Part 2, ss.4, 5A – 5R) (amended)</td>
<td>Smoking ban in all enclosed restaurants, cafes and the dining areas of hotels and licensed clubs. ‘Enclosed’ in relation to an area or premises, means an area that is, or premises that are, except for doorways, passageways and internal wall openings, completely or substantially enclosed by a solid permanent ceiling or roof and solid permanent walls or windows, whether the ceiling, roof, walls or windows are fixed or movable and open or closed.</td>
</tr>
<tr>
<td>1 November 2001</td>
<td>Tobacco Act 1987 (Part 2, ss.5C-5D) (amended)</td>
<td>Smoking ban in shopping centres.</td>
</tr>
</tbody>
</table>
| 1 September 2002 | Tobacco Act 1987 (Part 2, ss.5F-5R) (amended)                             | Smoking ban in casino, except in designated areas.  
Smoking ban in gaming areas/premises.  
Smoking ban in all bingo centres and bingo areas (while bingo is being played).  
Requirement for multi-roomed licensed premises to provide a smoke-free room at any time that two or more rooms are open to the public. |
| 1 March 2006  | Tobacco Act 1987 (Part 2, ss.5A, 15E – 15F, s.222A) (amended)                  | Smoking ban in enclosed workplaces but does not apply to residential premises, other than a part of the premises being used for carrying on a business while one or more person who does not reside at the premises is present, licensed premises, outdoor dining or drinking areas, a casino, a vehicle, sole operator businesses that are not for the use of members of the public, personal sleeping or living areas of paid accommodation or residential care facilities, areas approved under the Mental Health Act 1986, the Corrections Act 1986 or the Migration Act 1958. |
|              | Transport (Conduct) Regulations 2005 – r.24A                                    | Smoking ban in covered train platforms, tram and bus stops and underage music/dance events.  
‘Enclosed’ means an area, room or premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are—permanent or temporary, open or closed. |
| 1 July 2007  | Tobacco Act 1987 (Part 2, ss.5C – 5D)                                           | Smoking ban in enclosed licensed premises.  
Smoking ban in outdoor dining or drinking area if the area has a roof and walls in place and the total actual area of the wall surfaces exceeds 75% of the total notional wall area.  
Smoking ban in the casino, except for declared high roller rooms. |

## Western Australia

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation **</th>
<th>Ban or restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>29 March 1999</td>
<td>Health (Smoking in Enclosed Public Places) Regulations 1999 (r. 4 – 10 and Sch 1)</td>
<td>Smoking ban in enclosed public places except bar or lounge areas, allocated areas in restaurants (where meals are not served or consumed), cabarets or nightclubs and gaming areas.</td>
</tr>
<tr>
<td></td>
<td>Health Act 1911 (s.289E)</td>
<td>Smoking prohibited in all but two enclosed public places located in the same premises at any one time.</td>
</tr>
<tr>
<td></td>
<td><strong>[repealed]</strong></td>
<td>Smoking permitted if person is a performer who smokes for the purposes of a performance.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>An ‘enclosed public place’ is a place that has, whether permanently or temporarily, a ceiling or a roof and walls, sides or other vertical coverings so that when the public place’s existing closable openings are closed, the public place is completely or substantially enclosed.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A ‘public place’ is a place or vehicle that the public, or a section of the public, is entitled to use or is open to, or is being used by, the public, or a section of the public, whether on payment of money, by virtue of membership of a club or other body, by invitation or otherwise.</td>
</tr>
<tr>
<td>1 January 2000</td>
<td>Health (Smoking in Enclosed Public Places) Regulations 1999 (r.13)</td>
<td>If smoking is prohibited in an enclosed public place but not in another part of the premises, the occupier must, unless the place has adequate ventilation, take reasonable steps to prevent smoke caused by smoking in the other part of the premises from penetrating the place.</td>
</tr>
<tr>
<td>1 July 2004</td>
<td>Health (Smoking in Enclosed Public Places) Regulations 1999 (Sch 1)</td>
<td>Smoking ban on 50% of the floor space in cabarets, nightclubs and gaming areas.</td>
</tr>
<tr>
<td></td>
<td><strong>[repealed]</strong></td>
<td>Size restrictions apply where two bar or lounge areas are set aside for smoking in certain premises.</td>
</tr>
<tr>
<td>1 November 2005</td>
<td>Health (Smoking in Enclosed Public Places) Regulations 2004 (r.7 and Sch 1)</td>
<td>Smoking ban limited to one room only in all licensed premises.</td>
</tr>
<tr>
<td></td>
<td><strong>[repealed]</strong></td>
<td>Smoking ban in all enclosed places in Burswood Casino except the International Room.</td>
</tr>
<tr>
<td>31 July 2006</td>
<td>Tobacco Products Control Regulations 2006 (r.8 – 11)</td>
<td>Smoking ban in all enclosed public places, including licensed premises (except Burswood Casino’s International Room).</td>
</tr>
<tr>
<td></td>
<td><strong>[repealed]</strong></td>
<td>An ‘enclosed public place’ is a public place with a ceiling or roof and is greater than 50% enclosed by walls or other vertical structures or coverings.</td>
</tr>
<tr>
<td>22 September 2010</td>
<td>Tobacco Products Control Act 2006 (ss.107A–107C)</td>
<td>Smoking ban in an area that is between flags or other markers placed on a beach for the purpose of indicating a patrolled swimming area.</td>
</tr>
<tr>
<td></td>
<td>Amending Act: Tobacco Products Control Amendment Act 2009</td>
<td>Smoking ban in outdoor eating areas unless the place is a smoking zone. A ‘smoking zone’ means a place that — (a) is in licensed premises but not in a place to which a restaurant licence applies; and (b) is in an outdoor eating area at the licensed premises; and (c) has a total area that is not more than 50% of the whole of the area of that outdoor eating area.</td>
</tr>
<tr>
<td></td>
<td>Tobacco Products Control Regulations 2006 (r.8-11)</td>
<td>Smoking ban within 10 metres of children’s playground equipment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Smoking ban in vehicles if person under 17 years of age present.</td>
</tr>
<tr>
<td>April 2011</td>
<td>Discussion paper prepared by WA Department of Health to inform advice to WA Minister for Health in relation to review of the Tobacco Products Control Act 2006.</td>
<td>The discussion paper identifies the following possible options for reform of smokefree legislation: • Introduce a buffer zone around entrances, air-conditioning intakes and in relation to alfresco eating areas; • Extend smoke-free restrictions to other public outdoor areas; • Clarify local governments’ powers to regulate smoking in outdoor areas under their control; • Introduce a complete ban on smoking in all outdoor eating areas; • Consider removing the smoking exemption for the Burswood Casino International Room; • Extend smokefree legislation to include common shared areas in boarding and lodging houses and residential strata complexes.</td>
</tr>
</tbody>
</table>


** References to legislation are to legislation at the relevant “point in time”. Where identified, the sections or regulations have since “expired” or have been “amended” or “repealed” following further legislative development. To identify current legislative or regulatory provision relevant to ban or restriction refer to current Act or Regulations.

UPDATED 11 November 2011
References


Immediate impact of smokefree legislation in improving air quality

Experience both in Australia and internationally shows that smokers and non-smokers support and are readily able to comply with smokefree legislation, resulting in measurable improvements in air quality.

Support for legislation

The Cochrane Collaboration published a review in 2010 of 50 studies examining the impact of smokefree legislation.\(^1\) Compared with before bans, public approval for smokefree policies increased after implementation. Support for the legislation increased in nine of the studies reviewed (Biener 2007; Fong 2006; Fowkes 2008; Gallus 2007; Heloma 2003; Hyland 2009; Larsson 2008; Palmersheim 2006; Waa 2006). Two studies showed no significant change in support pre and post ban. One study showed greater than 70% support post ban with greater support amongst smokers who had stopped or tried to stop smoking. Four studies showed that support was greater amongst non smokers than smokers but support for the smoking ban legislation increased for both smokers and non smokers after implementation\(^{p10}\).

Compliance with smokefree legislation

The Cochrane Collaboration review also concluded that compliance with smokefree legislation was very high.\(^1\) Nine studies reported compliance with smoking bans as an outcome (Biener 2007; Fernando 2007; Fong 2006; Galán 2007; Goodman 2007; Gotz 2008; Heloma 2003; Lemstra 2008; Mulcahy 2005). Four studies reported full compliance in no-smoking hospitality venues, three others reported significant decrease in observed smoking or smoking in the workplace. Two others showed compliance with the ban in terms of signage. Only one study reported that 31% of smokers reported no change post ban or seeing more smoking after implementation of ban\(^{p10}\).

An evaluation of a legislative ban on smoking inside restaurants, which compared smoking in Sydney restaurants (where legislative bans had been introduced six weeks prior to the study) with smoking in Melbourne restaurants (not subject to a legal ban), showed that compliance with smokefree legislation in restaurants was high; there were few ongoing difficulties for staff, and the laws attracted many more favourable than unfavourable comments from patrons and did not adversely affect trade. Since introduction of the legislation, 76% of restaurants reported normal trade, 14% increased trade, and 9% reduced trade.\(^1\)

Research conducted on behalf of the Queensland Government following the introduction of new amendments to strengthen smokefree legislation in 2006 revealed that the vast majority of smokers (85%) reported they had ‘completely stopped smoking in all areas where it is illegal to smoke at all times’ and two-thirds (67%) were ‘smoking less in public spaces’\(^{p4}\).\(^1\)

Data from the Australian arm of the International Tobacco Control Policy Evaluation Project examined attitudes towards and compliance with Australian legislation prohibiting smoking in licensed venues. Three states (Queensland, Tasmania and Western Australia) implemented a total ban on smoking in all enclosed licensed premises in 2006, and two others (Victoria and New South Wales) did so in mid-2007. Following the introduction of the bans, more than 90% of smokers reported they were complying with the bans. Attitudes towards the legislative bans became more positive in the year before the ban, and more than doubled in the year the bans were implemented.\(^4\)
Research from New Zealand shows evidence of high compliance with smokefree legislation in workplaces, including bars and pubs—where most enforcement problems had been expected. The research also showed increased support for smokefree legislation and its underlying principles among the public and bar managers following implementation of smokefree law.

A 2009 study examined the impact of smokefree legislation in Scotland and compared it to the rest of the UK, where no ban was in place at that time. The study showed dramatic declines in the observance of smoking in pubs, restaurants and workplaces compared to the rest of the UK. Support for smokefree policies increased to a greater extent in Scotland than in the rest of the UK and despite predictions from some segments of the hospitality industry, there was no evidence of a significant decline in patronage of pubs and restaurants following the ban. Self-reported frequenting of pubs and restaurants was generally comparable between Scotland and the rest of the UK; however non-smokers in Scotland were more likely to frequent pubs more often following the smoking ban.

**15.8.3.1**

**Improvements in air quality resulting from smokefree legislation**

Levels of respirable suspended particles (RSP) are an important marker of secondhand smoke (SHS) and many studies have demonstrated significantly lower levels of RSP in smokefree hospitality venues compared with venues that allowed smoking. Eight studies in the 2010 Cochrane Collaboration Review reported environmental measures of air quality (Cesaroni 2008; Ellingsen 2006; Goodman 2007; Gotz 2008; Heloma 2003; Larsson 2008; Mulcahy 2005; Semple 2007). The impact was clear, with all studies showing a significant reduction in levels of markers of poor air quality, such as nicotine, dust, benzene and particulate matter. At least three further studies published since the review confirm this finding.

There is also evidence that comprehensive legislation results in improvement in sensory and respiratory symptoms associated with exposure to SHS.

A Scottish study—the largest evaluation of the effect of smokefree legislation on air quality inside pubs—found substantial improvement in air quality in pubs, a pattern that was repeated following the introduction of similar bans in England and in Wales. After the smoking ban, many pubs had air particulate levels similar to those found in the ambient outside air.

In its comprehensive review of evidence concerning the effectiveness of smokefree policies, the International Agency for Research on Cancer found that evidence internationally was ‘sufficient’ (p 260)—that is, ‘an association has been observed in studies in which chance, bias and confounding can be ruled out with reasonable confidence. The association is highly likely to be causal’ (p259).

**15.8.3.1**

**Partial restrictions are ineffective**

To be effective, smokefree legislation must be comprehensive. Partial smoking restrictions can deliver some improvements in air quality, but do not sufficiently protect the public or hospitality workers from the effects of SHS. For example, smokefree laws in Spain introduced in 2006 affected all enclosed workplaces except hospitality venues, whose proprietors could choose among a totally smokefree policy, a partial restriction with designated smoking areas, or no restriction on smoking on the premises. An evaluation of the impact of these laws showed that salivary cotinine levels decreased by 56% after the ban among non-smoking workers in venues where smoking was totally prohibited. Cotinine concentrations decreased by only 28% among workers in venues with designated smoking areas, and by only 11% among workers in venues where smoking was allowed.

A 2009 US study also clearly demonstrated the ineffectiveness of partial smokefree air laws. The study examined the impact of complete and partial smoking bans in seven Kentucky communities. The impact of different strengths of smokefree air laws on indoor air quality was assessed. When comprehensive smokefree air laws were implemented, indoor particulate matter PM(2.5) concentrations decreased significantly from 161 to 20 mcg/m(3). In one community that implemented a comprehensive smokefree law after initially passing a partial law, indoor...
PM(2.5) concentrations were 304 mcg/m(3) before the law, 338 mcg/m(3) after the partial law, and 9 mcg/m(3) after the comprehensive law.⁹

15.8.3.2

**Comprehensive bans are effective**

Following implementation of smoking bans in restaurants and bars in 2007 in Washington D.C, a 2009 study by Pearson et al found sensory symptoms reported four weeks after the ban declined by 70%–100% and employee saliva cotinine levels declined significantly by 70%.¹⁰

A study of 106 randomly selected bars in Scotland, England and Wales before and after the introduction of smoking restrictions found that prior to legislation, PM(2.5) concentrations within bars across the UK were much higher than the 65 mcg/m(-3) ‘unhealthy’ threshold for outdoor air quality as set by the US Environmental Protection Agency. Legislation in all three countries produced improvements in indoor air quality with the median reduction ranging from 84% to 93%. Personal exposure reductions for bar staff were also within this range. There was also evidence that bars located in more deprived postcodes had higher PM(2.5) levels prior to the legislation.⁷

15.8.3.3

**Smoke drift must be minimised**

Smoke drift from outdoor smoking areas where smoking is allowed can compromise the air quality of smokefree areas indoors.¹ To address the issue of smoke drift, legislation in most Australian jurisdictions contains provisions to require the occupier of the premises to take reasonable steps to prevent smoke from entering no-smoking areas, including any neighbouring premises. This may require that smoking not occur in some outdoor (unenclosed or enclosed) public places, such as areas near to windows, doorways and air intakes.¹⁶

In 2010, Brennan et al examined the extent to which SHS drifts from outdoor smoking areas to adjacent indoor areas. The study found that indoor particulate matter less than 2.5 mum in diameter PM(2.5) concentrations reduced by 66% from pre-ban to post-ban. Following the ban, indoor concentrations of PM(2.5) were positively associated with outdoor concentrations of PM(2.5). A 100% increase in mean outdoor PM(2.5) was associated with a 36% increase in mean indoor PM(2.5) exposure. The study concluded that indoor smoking bans are an effective means of improving air quality in pubs and bars, although the air quality of smokefree indoor areas may be compromised by smoking in adjacent outdoor areas.¹⁷
References


Effectiveness of smokefree legislation in reducing exposure to tobacco toxins and changing smoking behaviours

Several meta-analyses of the impact of smokefree legislation have been published over the past 10 years concluding that such bans reduce exposure to tobacco toxins, reduce respiratory symptoms in workers and reduce the amount smoked among continuing smokers. There is also strong evidence that such bans encourage smokers to quit and to remain abstinent, and reduce social inequalities in secondhand smoke (SHS) exposure at work.

The most comprehensive and rigorous of these is the report of the International Agency for Research on Cancer, which systematically reviewed evidence on the effects of smokefree legislation and found strong to conclusive evidence in 11 of the 11 areas it studied. Results are summarised in Table 15.9.1.

Numerous additional studies and another major review have been published since release of the International Agency for Research on Cancer report, and evidence from these is summarised below.

The implementation of widespread bans on smoking have also been followed by reductions in hospital admissions for smoking-related diseases (see Chapter 15, Section 15.10 for further details).

Table 15.9.1
Evaluation of the weight of evidence for the effectiveness of smokefree legislation

<table>
<thead>
<tr>
<th>Study</th>
<th>Sufficient evidence</th>
<th>Strong evidence</th>
<th>Limited evidence</th>
<th>Evidence of no effect</th>
<th>Inadequate or no evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smokefree policies do not cause a decline in the business activities of the restaurant and bar industry (Ch 4)</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implementation of smokefree policies leads to a substantial decline in exposure to SHS (Ch 6)</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implementation of smokefree legislation reduces social inequalities in SHS exposure at work (Ch 6)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implementation of smokefree legislation causes a decline in heart disease morbidity (Ch 6)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Implementation of smokefree legislation decreases respiratory symptoms in workers (Ch 6)</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Smokefree workplaces lead to reduced cigarette consumption among continuing smokers (Ch 7)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Smokefree workplaces lead to increased successful cessation among smokers (Ch 7)</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smokefree homes policies reduce tobacco use among youth (Ch 7)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smokefree home policies reduce exposure to children to SHS (Ch 8)</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smokefree home policies reduce adult smoking (Ch 8)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smokefree homes policies reduce youth smoking (Ch 8)</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Effects on employees in affected industries

Complete bans on smoking effectively eliminate exposure of employees to SHS, dramatically reducing employee biomarkers of exposure and almost eliminating reports of sensory symptoms associated with SHS.

A number of studies in several different jurisdictions show reduced levels of cotinine (a marker of SHS exposure) among non-smoking staff and patrons after the implementation of smoking bans in pubs and clubs. Hospitality workers experience a greater reduction in exposure to SHS compared to the general population. Bar workers also experience a decrease in respiratory illness symptoms following the implementation of smokefree laws.
A longitudinal study of the health of bar workers after the introduction of smokefree legislation in Scotland found bar workers reported significantly fewer respiratory and sensory symptoms one year after their working environment became smokefree. These improvements were seen in both non-smokers and smokers, and indicate that smokefree working environments may have potentially important benefits even for smokers. At one year follow-up, the percentage of bar workers reporting any respiratory symptoms fell from 69% to 57%, and for sensory symptoms, from 75% to 64% following reductions in exposure. For non-smokers, the reductions in reported symptoms were significant for phlegm production (32% to 14%) and red/irritated eyes (44% to 18%).

There remains some debate about the impact of smokefree legislation on the smoking behaviour of the public and hospitality workers. While the focus of these regulatory measures is to protect public health, and particularly employee health, by reducing exposure to SHS, some studies have reported a reduction in smoking prevalence and consumption while others have found no evidence of such an effect.

A study examining the effects of smoking bans in Spain in all enclosed workplaces except hospitality venues—where only partial bans were implemented—reported 5% of Spanish hospitality workers surveyed had quit smoking and the number of cigarettes smoked among remaining smokers had reduced by 9%. The proportion of workers with a high nicotine dependence was also reduced by half after the ban (19.5% vs. 9.7%).

### 15.9.2 Effects on population exposure to secondhand smoke

Smokefree legislation leads to reductions in population exposure to SHS. In Spain, the overall prevalence of exposure to environmental tobacco smoke decreased from 49.5% in 2005 to 37.9% in 2007 (22% reduction) following implementation of smokefree laws (although only partial restrictions were implemented in bars and restaurants). The greatest reduction in prevalence of SHS exposure was in workplaces (from 25.8% to 11%, a decrease of 58.8%). Smaller reductions occurred in the home (from 29.5% to 21.4%, a decrease of 27%) and in recreation venues (from 37.4% to 31.8%, a decrease of 8%). In New Zealand, exposure to SHS in the workplace decreased significantly from about 20% in 2003 to 8% in 2006. Air quality improved greatly in hospitality venues. Reported SHS exposure in homes also reduced significantly. A very large-scale US study published at the end of 2011 examining the relationship between clean air legislation and smoking policies in the home found that those living in counties with strong clean indoor air laws was associated with large increases in voluntary smokefree-home policies both in the homes with and without smokers. These results support the hypothesis of norm spreading of clean indoor air laws.

### 15.9.2.1 Effects on children’s exposure to secondhand smoke

Smokefree environments have generally been followed by reduction in children's overall exposure to SHS. The Cochrane Collaboration Review published in 2010 examined the results of 15 studies that measured exposure to SHS in the home (Abrams 2006; Akhtar 2007; Biener 2007; Brownson 1995; Fong 2006; Galán 2007; Gilpin 2002; Hahn 2006; Haw 2007; Hyland 2009; Jiménez-Ruiz 2008; Larsson 2008; Palmessheim 2006; Pell 2008; Waa 2006). In general there was no change after the implementation of the ban though some studies reported positive findings. Fong 2006 reported a significant reduction in homes where smoking was allowed and Gilpin 2002 indicated that the percentage of Californian adults reporting smokefree homes increased one year post ban. Similarly Waa 2006 reported reduced exposure in New Zealand. In two studies where home smoking was assessed, there was no change (Galán 2007 & Biener 2007). Galán 2007 showed a drop in smoking at work in compliance with the ban in Spain, but not at home. Similarly Biener 2007, in a Boston study, showed no reduction in home smoking rates.

Research since publication of the Cochrane Collaboration review has continued to find evidence of reductions in children's exposure to SHS. A US study found that children and adolescents living in non-smoking homes in counties with smokefree public place laws had lower levels of cotinine in their blood than those in counties with no
such laws. Following implementation of smokefree legislation in Italy, a study by Pellegrini et al demonstrated a significant trend towards lower exposure to SHS among young Italian adolescents aged 10–16 years.

In response to concerns regarding potential displacement of smoking into the home following smokefree legislation, several studies assessed changes in SHS exposure among non-smoking children following legislative smoking bans. Studies of the impact of smokefree legislation in various parts of the UK reported a decline in children's exposure to SHS. In Wales, reported SHS exposure in public places (cafés, restaurants, buses, trains and indoor leisure facilities) fell significantly. However, the home remained the main source of children's SHS exposure and did not change significantly post legislation. Following the implementation of smokefree legislation in Scotland, there was an increase in the proportion of children reporting a complete ban on smoking in their household. A similar pattern was reported in Queensland following implementation of new smokefree laws in 2006. Data from Hong Kong, however, found that the prevalence of exposure to SHS at home and outside the home both increased among primary school students in Hong Kong post legislation. Parental smoking rates were similar before and after the legislation.

### 15.9.3 Effectiveness in prompting cessation

Smoking bans have shown to be helpful to smokers who are trying to quit by encouraging more quit attempts and increasing the chances of a successful quit attempt. In a 2002 review of 26 studies on the effects of smokefree workplaces in the US, Australia, Canada and Germany, totally smokefree workplaces were associated with reductions in prevalence of smoking of 3.8%, and 3.1 fewer cigarettes smoked per day per continuing smoker. Additionally, smokers who are ‘socially cued’ to smoke in places such as bars may be more likely to give up smoking when comprehensive bans are introduced.

Studies from Australia, New Zealand and Hong Kong found little evidence of a change in smoking cessation behaviour apart from an increase in calls to the Quitline in New Zealand and Hong Kong. Research by the Queensland Government in 2006, however, suggested that smokefree laws can act as a trigger for renewed quit attempts. More than one in five smokers (22%) reported they had attempted to quit following the introduction of new smokefree laws. This equated to an estimated 123,000 Queenslanders who had attempted to quit. About 2% of smokers reported they had successfully quit as a result of the new laws: an estimated 14,000 new ex-smokers. More than a quarter of ex-smokers (27%) reported that the new tobacco laws had helped them to not resume smoking.

A systematic review published in 2010 examined the evidence of effectiveness of smokefree policies in reducing tobacco use between 1976 and 2005. The review concluded that the median absolute change was an increase in cessation of 6.4 percentage points. The studies examined provided sufficient evidence that smokefree laws reduce tobacco use among workers when implemented in worksites or by communities.

Two studies reported an increase in the rate of smoking cessation in the three-month period immediately prior to smokefree legislation in Scotland. An examination of changes in sales of over-the-counter nicotine replacement therapy during the implementation of the legislation also suggest an increase in smoking cessation behaviour in the period immediately before the introduction of smokefree legislation, but this was not sustained beyond the first few months of the post-legislation period.

A US study in Kentucky by Hahn et al reported significant reductions in smoking prevalence in communities with smokefree laws compared to control communities, resulting in 16,500 fewer smokers. Other research by Hahn et al suggested that smokefree laws may have a delayed effect on cessation among adults; that is, the longer a smokefree law is in effect, the more likely adults will attempt to quit smoking and become former smokers.

The implementation of workplace smoking bans was followed by a decrease in smoking prevalence in The Netherlands but there was no further reduction in prevalence associated with a hospitality industry smoking ban. Both bans, especially the workplace ban, were followed by an increase in quit attempts and successful quit attempts. The workplace ban had a larger effect on successful quitting among higher educated than on lower educated respondents. The hospitality industry ban had a larger effect on quit attempts among frequent bar visitors than on non-bar visitors.
A British study reported that a smoking ban in Bury, England, did not have a substantial impact on smoking prevalence but had an impact on consumption, reducing the proportion of heavy smokers. The baseline survey found that the standardised prevalence of smoking before the ban was 22.4% and after the ban was 22.6%. The proportion of smokers reporting that on average they smoked 20 cigarettes a day or more fell from 27.6% to 21.8%.

The 2009 expert report of the scientific committee of the International Agency for Research on Cancer concluded that the evidence was strong but not 'sufficient' that smokefree workplaces lead to increased successful cessation among smokers.1 The Cochrane Collaboration review published in the following year concluded:

"The effect of smoking bans on smoking prevalence was inconclusive with smoking prevalence declining slightly in most of the population based studies, particularly amongst working men but remaining unchanged or not adequately assessed in the studies of workplaces. There was inconsistent evidence of a reduction in cigarette consumption, but in studies where declines in prevalence were recorded, consumption levels also fell. Whilst several country-based studies did show improvements in smoking trends, the question of active smoking merits further investigation' (p11).2

15.9.4
Effectiveness in reducing youth smoking

A number of studies have identified the positive impact of smokefree legislation on the initiation and prevalence of youth smoking.46–48 Research from Massachusetts in the US shows that smokefree legislation has an impact on initiation of smoking among young people and the strength of smokefree restrictions in the legislation is a key factor influencing the uptake of smoking.46 Young people living in towns with a strong restaurant smoking regulation at baseline had significantly lower odds of progressing to established smoking compared with those living in towns with weak regulation. The observed association between strong restaurant smoking regulations and impeded progression to established smoking was entirely due to an effect on the transition from experimentation to established smoking. The study concluded that local smokefree restaurant laws can significantly lower youth smoking initiation by impeding the progression from cigarette experimentation to established smoking.46 Another US study found similar results—compared with students living in states with strict regulations, those living in states with no or minimal restrictions, particularly high school students, were more likely to be daily smokers.47 A 2011 Australian study confirms that adult-directed, population-based tobacco control policies such as smokefree legislation and increased prices of cigarettes, implemented as part of a well-funded comprehensive tobacco control program, can reduce adolescent smoking.48

15.9.5
Effects on low socio-economic status and Indigenous groups

As indicated in Table 15.9.1 above, in its systematic review the International Agency for Research on Cancer concluded that there is strong evidence that smokefree legislation leads to reductions in social inequalities in exposure to tobacco smoke.1 But what about the impact on subsequent rates and success in quitting?

A review of studies on the impact of various tobacco control policies among different socio-economic status (SES) groups found mixed results for workplace smoking bans.49 A subsequent study from The Netherlands also suggested that the introduction of workplace bans had a larger effect on successful quitting among higher-educated than on lower-educated respondents.44 However the same study found that restrictions on smoking in bars had a greater effect on subsequent quitting among people who attended bars than among those who did not. One study examining smoking behaviours among parents with young children suggested that smokefree legislation does not appear to widen health inequalities and may even help reduce them by encouraging quitting across SES groups.50 A US study reported that smokefree laws and tobacco price increases appear to benefit all socio-economic and race/ethnic groups equally in terms of reducing smoking participation and consumption.51
A study of 106 randomly selected bars in Scotland, England and Wales before and after the introduction of smoking restrictions found that prior to legislation, there was evidence that bars located in more deprived postcodes had higher concentrations of harmful particulate matter. In relation to health outcomes, reductions in hospital admissions for asthma associated with smoking bans were apparent among both preschool and school-age children. There were no significant interactions between hospital admissions for asthma and age group, sex, urban or rural residence, region, or quintile of SES.

The impact of smokefree legislation on Indigenous peoples is not well documented (see Chapter 8, Section 8.10.12). A study by Edwards et al examined the impact of the New Zealand Smokefree Environments Amendment Act on Indigenous Maori people in New Zealand. The study found that support for the legislation was strong among Maori and by 2006, support reached 90% for smokefree restaurants and 84% for smokefree bars. Maori stakeholders interviewed were mostly supportive of the way the legislation had been introduced. Reported exposure to SHS in workplaces decreased similarly in Maori and non-Maori with 27% of employed adult Maori reporting SHS exposure indoors at work in 2003 compared with only 9% in 2006. Exposure to SHS in the home declined, and may have decreased more, in Maori households containing one or more smokers. For example, the proportion of Maori children aged 14–15 years reporting that smoking occurred in their home fell from 47% in 2001 to 37% in 2007. In common with other research studies, evidence for the effect on smoking prevalence was mixed. However Maori responded to the new law with increased calls to the national Quitline service.
References


Effects of smokefree legislation on health outcomes

When smokers smoke fewer cigarettes each day due to restrictions on smoking in public places, benefits are likely to accrue for smokers and non-smokers alike.

The benefits of reduced daily consumption of cigarettes are doubtful; however as outlined in Chapter 15, Section 15.9, smoking restrictions significantly dampen uptake, and do appear to contribute to increased rates of cessation among smokers. This will undoubtedly bring benefits in reductions in death and disease in both the long and the short term. 'The secondhand smoke issue can be considered a 'Trojan horse to its less discussed effects: the reduced morbidity and mortality likely to result in smokers from the significant reductions in smoking frequency that occur with the proliferation of smoking restrictions introduced in the name of concern for the health of non-smokers'(p417).

While the benefits of reduced morbidity and mortality resulting from smoking restrictions in public places will be very difficult to quantify in the longer term, surprisingly large short-term benefits have already been detected for heart attacks and asthma exacerbations.

Cardiovascular disease

When a smoker quits, the risk of myocardial infarction falls quite quickly, by some estimates halving within four to five years and approaching that of a non-smoker over a 10- to 20-year period. As discussed in Chapter 4, Section 4.6, the risk of cardiovascular disease increases sharply with quite minimal exposure to secondhand smoke. It would therefore not be surprising to find that following the introduction of smokefree policies in particular communities, the number of acute cardiovascular episodes, such as heart attacks, decline quite quickly when additional smokers quit and when non-smokers are no longer exposed to tobacco smoke in public venues. Indeed, more than 20 studies have now reported rapid reductions in acute myocardial infarctions following passage of strong smokefree legislation that includes restrictions in public venues such as restaurants and bars.

A meta-analysis of eight studies examining the effects of smokefree laws on acute myocardial infarction (AMI) authored by Glantz in 2008 reported a pooled estimate of an immediate 19% reduction on AMI admission rates associated with smokefree laws. Glantz stated: 'The fact that many studies from so many locations around the world provide consistent findings of a substantial drop in AMI’s associated with the implementation of smokefree laws increases the confidence that we can have that smokefree policies have immediate and substantial benefits in terms of reducing acute myocardial infarctions' (p1). Lightwood and Glantz went on to show how closely this magnitude of decline corresponds to the decline in mortality that would be predicted by reductions in relative risk generated by epidemiological studies.

Shortly after publication of the Glantz review, in 2009 the International Agency for Research on Cancer reviewed the 10 studies on AMI admissions published until the end of 2008 and concluded that there was ‘strong evidence’ that the reduction in myocardial infarction had been a direct result of the adoption of such policies.

One of the best-designed of these studies was a prospective examination of coronary admissions in Scottish compared to English hospitals following the implementation of comprehensive smokefree legislation in Scotland. The number of admissions for acute coronary syndrome decreased in the Scottish hospitals by 17% after the implementation of smokefree legislation (compared with a 4% reduction in England, which had no similar legislative restrictions). Two-thirds of the decrease involved non-smokers. However, fewer admissions among smokers also contributed to the overall reduction. There was a 14% reduction in the number of admissions for acute coronary syndrome among smokers, a 19% reduction among former smokers, and a 21% reduction among persons who had never smoked.

In 2010 the Cochrane Collaboration published a systematic review of a total of 12 studies, including 10 that reported hospital admission rates for AMI or coronary heart disease following implementation of a ban: five in the US (Bartecchi 2006; Juster 2007; Khuder 2007; Sargent 2004; and Seo 2007); three in Italy (Barone-Aldesi

Section: 15.10.1
Date of last update: 6 Dec 2011
Four studies had control groups without a ban. Admissions for AMI reduced in all 10 studies. Two further studies showed an impact on deaths from coronary heart disease (Fichtenberg 2000) and better prognosis post-acute coronary syndrome among non-smokers (Pell 2009) following smokefree legislation.

Another review published by Mackay and colleagues in 2010 included most of those covered in the Cochrane Collaboration review plus a further five studies. This review included seven studies with geographical control groups and a total of 35 statistical comparisons. This review came to a similar conclusion as the previous reviews by Glantz, the IARC and the Cochrane Collaboration finding that legislation has been followed with an average immediate fall of about 10% in the rate of myocardial infarctions and even greater reductions in the long term. Several studies published since these three reviews strengthen the case still further.

In summary, four major reviews covering 17 studies and several recent additional studies strongly support the conclusion that acute coronary events have reduced by at least 10% following the implementation of comprehensive smokefree legislation, with the benefits increasing over time from implementation.

### 15.10.2

**Effects on exacerbations of asthma**

Exposure to secondhand smoke increases the risk for the development and increasing severity of asthma among adults and children. Reducing exposure to secondhand smoke decreases symptomatic exacerbations among patients with asthma in groups with occupational exposure as well as in the broader population (see Chapter 4, Sections 4.9.4 and 4.10).

Following the introduction of smokefree laws in the US state of Kentucky, emergency department visits for asthma declined by 22%. The rate of decline (adjusted for seasonal variations) was 24% in adults aged 20 years and older, whereas the decrease among children 19 years or younger was 18%. Asthma admissions declined in Delaware relative to the rest of the US following the introduction of legislation in that state at the end of 2002.

In Scotland prior to the legislation being implemented in March 2006, hospital admissions for asthma were increasing at a mean rate of 5% per year. After implementation of the legislation, there was a mean reduction in the rate of admissions of 18% per year, relative to the rate on 26 March 2006. The reduction was apparent among both preschool and school-age children.
Tobacco in Australia: Facts and Issues

References


References

Date of last update: 6 Dec 2011