

Public Health (Smoking Control) Regulations

SAINT LUCIA

STATUTORY INSTRUMENT, 2020, No. 81

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*Public Health (Smoking Control) Regulations***SAINT LUCIA**

STATUTORY INSTRUMENT, 2020, No. 81

[2nd June, 2020]

In exercise of the power conferred under section 9 of the Public Health Act, Cap. 11.01, the Minister responsible for health makes these Regulations:

Citation

1. These Regulations may be cited as the Public Health (Smoking Control) Regulations, 2020.

Interpretation

2. In these Regulations —

“carton” means a box, container or package containing more than one pack of tobacco products;

“child” means a person under the age of eighteen years;

“constable” means a police officer below the rank of corporal;

“emission” means substances that are released from tobacco or tobacco products and other product and substances;

“enclosed” means a space covered by a roof or one or more walls or sides, using any type of material and whether the structure is permanent or temporary;

“entrance” does not include —

(a) a parking lot;

(b) a gateway; or

(c) a driveway;

“exit” does not include —

(a) a parking lot;

(b) a gateway; or

(c) a driveway;

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“guest” includes a person who pays for the use of a service or accommodation in a hotel;

“hotel” means a building or group of buildings used to provide services and accommodation to guests for reward, containing —

- (a) not less than six bedrooms;
- (b) one or more kitchens in which meals may be prepared by employees of the hotel owner or hotel operator for the guests; and
- (c) one or more dining rooms shared in common by all the guests in which meals may be served by employees of the hotel owner or hotel operator to such guests;

“package” means a covering, wrapper, container, carton, bag or other enclosure that contains a tobacco product, including labels and other written or graphic information regarding same;

“place of assembly for use of the public” means a public space used for gathering of persons;

“public conveyance” means a form or mode of transportation which carries passengers, for hire or reward, whether in Saint Lucia or internationally but does not include privately operated, vehicles not used for commercial purposes;

“public place” —

- (a) means a —
 - (i) structure,
 - (ii) facility,
 - (iii) place of assembly,
 - (iv) other place, open to the public,for use of the public or accessible to the public;

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(b) includes —

- (i) Government offices,
- (ii) bars, restaurants, clubs and tourist establishments, and
- (iii) other places or buildings of all types accessible to the public;

(c) does not include a privately occupied residence not used for commercial purposes;

“smoke” —

- (a) means inhaling or exhaling the emissions of tobacco, other product and substance;
- (b) includes handling an ignited or heated tobacco product, other product and substance that it produces smoke or other emissions by any means, including by electronic means;

“tobacco” includes a tobacco product;

“tobacco product” means tobacco in any form including by electronic nicotine delivery in which it is used or consumed and includes the tobacco leaf, tobacco in cigarettes and any product entirely or partly made from the leaf of the tobacco plant as raw material and which is manufactured for use in smoking, sucking, chewing or snuffing tobacco or a by-product;

“tobacco smoke” means the smoke or other emissions released from tobacco;

“tourist establishment” means a hotel, resort, cottage, villa, guest house, apartment complex or such accommodation with or without facilities for the preparation of meals, offering accommodation to guests, for reward, and includes the premises;

“workplace —

- (a) means an area or place used by persons during employment, work or contract for services —

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(b) includes —

- (i) vehicles used in the course of employment or work purposes,
- (ii) connected, annexed places or common areas, and
- (iii) residences used for commercially operated child care facilities.

No smoking in public places

3.—(1) A person who smokes or holds a lit or electronic tobacco product in or within a ten metres radius of the entrance, exit, window or ventilation intake of an enclosed public place, enclosed workplace or public conveyance, including a place listed in Schedule 1 commits an offence.

(2) Notwithstanding subregulation (1), an owner and operator of a business including —

- (a) a bar, restaurant and club; and
- (b) a tourist establishment,

may create outdoor smoking areas in open spaces under subregulations (3), (4) and (5).

(3) An owner and operator of a business under subregulation (2) shall cause outdoor smoking areas to —

- (a) be open-sided;
- (b) be located at a distance of at least fifteen metres from any structure or area where smoking is prohibited;
- (c) be located in an area where access by persons, other than those smoking, is not necessary;
- (d) be physically separated and structurally unconnected to, areas where smoking is prohibited;
- (e) be inspected by an environment health officer.

(4) In an outdoor smoking area created under subregulation (2), there must not be —

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- (a) distribution, promotion, branding or sale of tobacco products; or
 - (b) a form of entertainment, organized by the proprietor.
- (5) An operator or a proprietor of a business under subregulation (2) shall ensure that —
- (a) a child is not permitted to enter, or stay in, an outdoor smoking area;
 - (b) a user of the outdoor smoking area is advised that staff do not serve in the area;
 - (c) smoking is prohibited in the outdoor smoking area, when it is being cleaned.
- (6) This regulation does not prevent a manager, an owner or a lessee of premises from prohibiting smoking anywhere else on the premises.

Display of no smoking signs

4.—(1) A manager, an owner or a lessee of premises specified in Schedule 1 shall ensure that —

- (a) there is displayed in a prominent position at each entrance to the premises a “No Smoking” sign as set out in Schedule 2;
- (b) in addition to the places mentioned in paragraph (a), a similar sign is placed in at least one other prominent place on the premises.

(2) The size of each “No Smoking” sign must be at least 216 mm x 279 mm and must be posted at eye level.

(3) A manager, an owner or a lessee of premises specified in Schedule 1 and a manager of a public conveyance or other motor vehicle, shall display a “No Smoking” sign in a prominent position on the premises or in the conveyance.

(4) Notwithstanding anything to the contrary in these Regulations, a person shall display in premises, tourist establishment, national heritage or other site a “No Smoking” sign of the size and appearance required or specified to be placed in a motor vehicle under subregulation (6).

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(5) Notwithstanding anything to the contrary in these Regulations, in the case of a manager, an owner or a lessee of a tourist establishment, the “No Smoking” sign must be placed at —

- (a) the reception area;
- (b) the entrances to all other main buildings; and
- (c) all dining areas;
- (d) toilet areas; and
- (e) other indoor common areas,

of the tourist establishment.

(6) In the case of a public conveyance or other motor vehicle being used to carry passengers for reward, the manager of that conveyance or motor vehicle shall ensure that at least one “No Smoking” sign that is at least 76 mm x 229 mm in size is prominently displayed in each compartment of the conveyance or motor vehicle.

(7) If a person contravenes subsection (1), the manager, owner or lessee of the premises where the contravention occurred and who authorized or acquiesced in the act or omission commits an offence and is personally liable.

Prohibition on sale of tobacco products in certain places

5.—(1) A person shall not sell, including by way of exposing tobacco for sale or by an offer to sell tobacco, within a ten metres radius of the perimeter of any of the following places —

- (a) a health facility;
- (b) a sports, athletic or other similar facility, for the use of the public;
- (c) a Government occupied building or premises; or
- (d) a child care facility, educational and religious institution.

(2) A person who contravenes subregulation (1) commits an offence and is liable —

- (a) in the case of an individual, on summary conviction to a fine not exceeding five thousand dollars;

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- (b) in the case of a body corporate, on summary conviction to a fine not exceeding ten thousand dollars.

Removal of offending persons

6. Where there is non-compliance with these Regulations, an environmental health officer may, in the company of a constable, remove an offending person from the premises or public conveyance where the non-compliance took place.

Evidence

7. In a legal action for non-compliance with these Regulations, tobacco or tobacco products from the same lot or batch is deemed to possess the same characteristics as those products from the same lot or batch found on —

- (a) a public conveyance;
- (b) premises; or
- (c) at another location,

under the control of the driver of the public conveyance, the owner or operator of the premises, but if there is no lot or batch number on the tobacco or tobacco products, any tobacco or tobacco product found on the public conveyance, premises or location is deemed to possess the same characteristics as other tobacco products found on the public conveyance, premises or at another location under the control of the driver, owner or operator of the premises.

Protection of employees

8. An employer who dismisses, suspends, demotes, disciplines, harasses or otherwise disadvantages an employee or denies that employee a benefit on the ground that the employee testified against an employer in an action brought under these Regulations, commits an offence.

Penalties

9.—(1) A person who commits an offence under these Regulations for which a penalty is not provided is liable —

- (a) in the case of an individual, on summary conviction, to a fine not exceeding five thousand dollars;

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- (b) in the case of a body corporate or tourist establishment, club, bar, restaurant and other businesses other than small shop owners, itinerant vendors and pedlars, on summary conviction, to a fine not exceeding ten thousand dollars.
- (2) Subregulations (1)(b) and (3) do not apply to —
- (a) a shop owned by a person;
 - (b) an itinerant vendor of small goods; or
 - (c) a pedlar.

(3) If a body corporate or tourist establishment, club, bar, restaurant and other businesses other than small shop owners, itinerant vendors and pedlars, contravenes these Regulations, the director, manager or other corporate officer who authorized or acquiesced in the act or who knew or, who using due diligence or care, ought to have known that the commission or omission constituted an offence, that director, manager or other corporate officer, commits an offence and is personally liable.

(4) In proceedings for an offence under these Regulations it is a defence for a person against whom the proceedings are brought to show that all reasonable efforts were made to ensure compliance with the regulation, as is alleged to have been contravened.

(5) Where a person is convicted of an offence against or arising under these Regulations —

- (a) the Criminal Procedure Rules, Cap. 3.01 apply in respect of the sentencing options of the court before which the charges are heard; and
- (b) the conviction does not form a part of the criminal record of that person.

Transitional

10. A person, whose operations are subject to these Regulations, has six months from the date of commencement of these Regulations to comply with these Regulations.

*Public Health (Smoking Control) Regulations***SCHEDULE**

(Regulation 4)

Places or premises where smoking, holding lit, electronic tobacco, other products and substances are prohibited —

1. A public place including —

- (a) a health facility, including a pharmacy, clinic and hospital;
- (b) a sports, athletics or other similar facility, for the use of the public;
- (c) an educational institution of all levels and a childcare institution;
- (d) a bus stop, public transport terminal, including the departure and arrival waiting area at a seaport, airport or station for any form of transport;
- (e) an area specifically for use by children;
- (f) a balcony of a tourist establishment, except where the balcony —
 - (i) does not exceed ten per cent of the room stock,
 - (ii) is not served by ventilation units for —
 - (A) a room designated for use by non-smoking guests; or
 - (B) an area where smoking is prohibited,
 - (iii) are located on a block of rooms, which does not include any adjoining room designated for use by non-smokers,
 - (iv) are completely, physically separated and unconnected from every other area where smoking is prohibited, and
 - (v) are barred from entry into or use by minors;
- (g) a beach, except where an outdoor smoking area has been established on the beach, under regulation 3(2);
- (h) an outdoor dining and service area;
- (i) a park;
- (j) a site declared under the National Conservation Authority Act, Cap. 6.01 to be “a protected area” excluding the parking lot, driveway and gateway;
- (k) a swimming pool accessible to the public, except a pool for private use or where a pool is exclusively accessible for an independent or private villa or suite;

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- (l) an outdoor market, except where an outdoor smoking area has been established under regulation 3(2);
 - (m) other outdoor events or activities, being used for gathering by individuals, except where an outdoor smoking area has been established under regulation 3(2);
 - (n) a public and private owned space rented for a public event;
 - (o) a cinema, theatre, concert hall, casino, and another place used for indoor public entertainment; and
 - (p) a museum, library, district center, recreation center and hall.
2. A public conveyance such as, an aircraft, helicopter, bus, public motor vehicle, ship, or other vessel, and all other means of public transportation.
3. A workplace including —
- (a) a residence and a guesthouse for the use of the staff employed there;
 - (b) a café, discotheque, club, cafeteria, pub, bar, lounge and restaurant including spaces that are contributing or are part of these facilities functioning;
 - (c) an elderly home and other spaces that are part of or operate in conjunction with the facility,
 - (d) an industrial estate, such as a public and private facility, which is in use by an industrial or commercial activity or service;
 - (e) a factory, storage area and warehouse; and
 - (f) a small commercial establishment, such as a shop, market, market square and shopping mall.

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SCHEDULE 2

(Regulation 4)



VIOLATORS ARE SUBJECT TO PROSECUTION
The Public Health (Smoking Control) Regulations.

Made this 7th day of February, 2020.

MARY ISAAC
Minister responsible for health.