

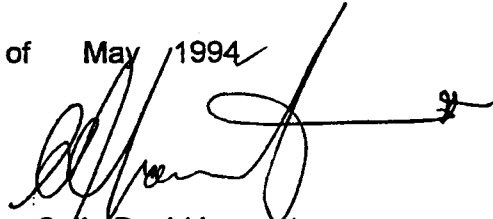
AUSTRALIAN CAPITAL TERRITORY
OCCUPATIONAL HEALTH AND SAFETY ACT 1989
INSTRUMENT OF APPROVAL

NO. 25 OF 1994

Under Section 87 (1) of the *Occupational Health and Safety Act 1989*, I, Colin David Lamont, approve, after consultation with the Occupational Health and Safety Council, the Code of Practice for Smoke Free Workplaces.

Dated this *Twenty Fourth Day*

day of *May* 1994



Colin David Lamont
Deputy Chief Minister
on behalf of the
Chief Minister

**CODE OF PRACTICE
FOR
SMOKE FREE
WORKPLACES**

**AUSTRALIAN CAPITAL TERRITORY
OCCUPATIONAL
HEALTH AND SAFETY COUNCIL**

Dated 20 May 1994

This document contains the
CODE OF PRACTICE
FOR SMOKE FREE WORKPLACES

*together with the key consultative procedures that should be followed
for its effective implementation.*

*These procedures are based on principles agreed to by the
representatives of peak industry and union bodies as well as State
Government regulatory authorities through the National Occupational Health and Safety
Commission and released in November 1990.*

*The ACT Occupational Health and Safety Council contributed
significantly to the development of the key principles in this Code
which are based on submissions made following the release of a Discussion Paper on Passive
Smoking in the Workplace, by the WorkCover
Authority of New South Wales in July 1991 and after consultation with key ACT employers, unions
and health groups in July 1993.*

IMPORTANT NOTE:

*The information appearing under the heading "Foreword" and in the
Appendices in this Code does not form part of this Code.*

THE CODE OF PRACTICE FOR SMOKE FREE WORKPLACES

Section 1. WHAT IS "PASSIVE SMOKING"?

"PASSIVE SMOKING" describes the involuntary inhalation of other peoples' tobacco smoke.

It may take the form of either "mainstream smoke" inhaled and exhaled by the smoker, or "sidestream smoke" emitted directly from burning tobacco.

The term "environmental or ambient tobacco smoke" refers to the combination of sidestream and exhaled mainstream smoke in the atmosphere.

Smoke inhalation by non-smokers in this manner is, therefore, unintended or involuntary. Passive smokers run the risk of getting diseases caused by tobacco smoke without lighting up themselves.

FOREWORD

There is growing recognition that non-smokers may suffer adverse health effects through inhaling tobacco smoke.

Passive smoking can occur in a variety of circumstances, including home and recreational venues. A major source of exposure is the workplace. Workplaces are usually enclosed spaces that concentrate smoke. Unlike home and recreational environments individuals experience little control over the air quality of their work surroundings and exposure can occur regularly and over long periods of their working lives.

Employers are increasingly expected to limit passive smoking risks in the workplace in the interests of their employees and clients.

The Code of Practice has been produced by the ACT Occupational Health and Safety Council to provide industry with a workable framework of occupational health and safety principles applicable to Smoke Free Workplaces.

The Code is an approved Code of Practice, approved by the Deputy Chief Minister, in accordance with the provisions of Section 87 of the Occupational Health and Safety Act 1989. It can be cited as the Code of Practice for Smoke Free Workplaces.

It recommends that the most effective manner in which an employer can fulfil legal obligations to provide a healthy and safe work environment *in relation to smoking is through the implementation of a workplace program. Such a program is generally described in the Code as a "no-smoking policy"*. This policy should be developed and finalised on or before *.....insert date....* (being a 12-month period from the date of Gazettal of the Code) and following consultation with employees. The ACT Occupational Health and Safety Council believes that three years from gazettal is a reasonable timeframe to achieve full implementation of the no-smoking policy.

Procedures that should be followed dealing with issues such as handling of grievances procedures is provided in this Code. Guidance Notes for employers and employees have been developed to support this Code. *This will be an ongoing process and it is contemplated that Guidance Notes will be expanded as experience in this area develops.* It is also contemplated that Guidance Notes may be issued for industries with special and complex problems.

The underlying philosophy of this Code is to clearly identify where smoking may or may not take place at work. Its primary purpose is to define where people smoke, not whether they smoke.

Chair
ACT Occupational Health and Safety Council

Section 2. THE RELATIONSHIP BETWEEN PASSIVE SMOKING AND ILL HEALTH

A large number of studies have been undertaken on the relationship between passive smoking and ill health.

Considerable medical and scientific evidence suggests that there is a relationship between passive smoking and ill health in enclosed workplaces.

Research on Medical Effects of Tobacco Smoke Inhalation

The causal connection between tobacco smoke inhalation and various medical conditions has been the subject of considerable research.

The International Agency for Research on Cancer, an agency of the World Health Organisation, lists tobacco smoke as a Group 1¹ carcinogen. This category is used only when the Agency considers there is sufficient evidence of carcinogenicity in humans. The Environmental Protection Agency in the USA has also classed tobacco smoke as a Group A² carcinogen.

In Australia, the National Health and Medical Research Council has produced a report on the effects of passive smoking on health, based on a thorough review of the literature.³ The Council identified relationships between passive smoking and ill health.

References to extensive literature on the medical evaluation of the health risks of passive smoking are also contained in the Federal Court finding of Justice Morling in February 1991⁴, and a subsequent full Federal Court Appeal in late 1992.

Interactive Effects of "Concurrent Smoking".

Tobacco smoke inhalation concurrently with exposure to other hazards present in a workplace can compound the health effects of those hazards.⁵

For example, smoking is known to increase the risk of lung cancer for people exposed to asbestos and there are other interactions with cement dust, chlorine, irritant gases.

¹ Group 1 Category - The agent (mixture) is carcinogenic to humans. This category is used when there is sufficient evidence of carcinogenicity in humans. See: International Agency for Research on Cancer (1985). IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans: Tobacco Smoking. World Health Organisation, Geneva. Volume 38.

² Group A (known human) carcinogen designation is used when there is sufficient evidence from epidemiological studies to support a causal association between exposure to the agents and cancer. See: Environmental Protection Agency (December 1992). Respiratory Health Effects of Passive Smoking: Lung Cancer and other Disorders. US Environmental Protection Agency. Washington DC. Chapter 5, p63.

³ National Health & Medical Research Council (1987) "Effects of Passive Smoking on Health", Australian Government Publishing Service: Canberra.

⁴ Australian Federation of Consumer Organisation v. Tobacco Institute of Australia.

⁵ See Fraumeni, J.F. & Blot, W.J. "Lung and Plura" in D. Schottenfeld & J.F. Fraumeni (eds.) Cancer, Epidemiology and Prevention Chapter 32, p.571

Outdoor Workplaces

From a safety and health perspective, passive smoking is not considered to be a hazard in outdoor workplaces where *there is a constant and significant movement of substantially fresh air which prevents the involuntary inhalation of other people's tobacco smoke.*

External areas of workplaces could include rooftops, balconies, verandahs, street frontages, car parks, loading bays, atriums and external areas adjacent to the internal workplace covered for example by a canopy or tent roof. If these areas are part of the building structure, they must not be part of the building's air circulative or air supply system. **However**, these areas must meet the same criteria as any outdoor workplace, specified above, and the air from this area **should not contaminate the non-smoking areas.**

Indoor Workplaces

Indoor or other enclosed workplaces do not contain the same inherent safeguards against the effects of passive smoking as outdoor environments, i.e. movement of substantially fresh air. Conventional air conditioning systems do not deal with the very small substances contained in the gaseous phase of tobacco smoke. The air conditioning and other ventilation systems in buildings today were generally designed before the effects of passive smoking and other air-borne contaminants on ill health were widely recognised. Accordingly, they do not replicate the outdoor environment in the sense of a constant and significant movement of substantially fresh air which reduces the involuntary inhalation of other people's tobacco smoke.

The ACT Occupational Health and Safety Council recognises, however, that there are significant advances being made in air conditioning technology, through appropriately designed air conditioning systems with advanced filtration or ventilation systems exhausting to the open air. These may have the potential to replicate outdoor conditions in enclosed workplaces.

Conclusion

The Code of Practice for Smoke Free Workplaces has been prepared on the basis that considerable medical and scientific evidence exists suggesting a relationship between passive smoking and ill health in enclosed workplaces, which warrants a major preventative initiative on passive smoking in Australian Capital Territory workplaces.

Section 3. THE LEGAL POSITION

There are a number of legislative provisions in the Australian Capital Territory relating to smoking at the workplace. These take the following forms:

- (1) direct bans on smoking in certain workplaces or in special circumstances, under specific provisions in various legislation
- (2) general duty of care covering all workplaces, where there is a statutory obligation on employers to ensure the health, safety and welfare of all employees.

This obligation has three main sources:

- Occupational Health and Safety Act 1989
- Workers Compensation Act 1951
- Common Law Liability

(1) DIRECT BANS ON SMOKING IN CERTAIN WORKPLACES OR IN SPECIAL CIRCUMSTANCES.

A number of legislative provisions exist which specifically restrict smoking in certain workplaces or special circumstances in the Australian Capital Territory. These provisions either specifically ban smoking or make provision for regulations to control smoking in various circumstances. Appendix 1 contains a detailed outline of the relevant legislation. **These are the only workplaces or special circumstances in the Australian Capital Territory where smoking is specifically prohibited by law.** In general, these specific prohibitions relate to explosion and fire risks or public health issues.

(2) GENERAL DUTY OF CARE PROVISIONS APPLICABLE TO ALL WORKPLACES.

The liability of employers to provide a workplace free of the risks associated with passive smoking has three main sources:

- (a) *Occupational Health and Safety Act 1989*
- (b) *Workers Compensation Act 1951*
- (c) *Common Law.*

(a) Occupational Health and Safety Act 1989

By virtue of Section 27(1) of the Occupational Health and Safety Act 1989, every employer "shall take all reasonably practicable steps to protect the health, safety and welfare at work of the employer's employees". This means that there is a statutory obligation establishing a far reaching obligation and imposing a duty in absolute terms, subject to certain defences under Section 35 of the Act, that the employer must provide a safe place of work for the health, safety and welfare of its employees.

Under the Occupational Health and Safety legislation employers are required to take all measures that are reasonably practical to protect the workers in relation to their health, safety and welfare. This would entail employers assessing potential hazards and taking steps to eliminate them.

Environmental tobacco smoke is one of a number of major airborne contaminants and employers are required to take preventative steps to ensure that overall air quality at a workplace over which a person has control to any extent, does not endanger the health, safety or welfare of any workers employed. This includes third parties bringing hazardous substances into the workplace.

The implication of recent legal cases is that passive smoking constitutes a risk which could lead to an alleged breach of the statutory obligations afforded at Section 27(1) of the Act. In other words, employers who continue to allow smoking at the workplace which constitutes a health, safety or welfare risk to workers, and ignore the issues raised in this Code, could be in contravention of their legislative obligations.

Legislative obligations for safety and health at the workplace are incumbent on employees as well as employers. Under Section 28 of the Occupational Health and Safety Act 1989, employees have an obligation to take responsible care for the health and safety of persons who are at their place of work and who may be affected by their acts. There is a further obligation to co-operate with the employer as far as is necessary to enable requirements imposed for health and safety at work to be complied with. Accordingly, smokers in an enclosed workplace, for example, should be aware of the legal implications of their actions.

(b) Workers' Compensation

Workers' Compensation is another legal framework for dealing with work injuries arising from passive smoking. The principal issue is whether the work environment or work performed contributed in any way to the disease or illness suffered, or that aggravation/exacerbation of an existing disease occurred due to the workplace environment.

(c) Common Law

In November 1986, the Federal Attorney General, in a statement in the House of Representatives, said:

"An employer has a common law duty of care to take reasonable steps to protect its employees' health and safety, including the provision and maintenance of safe workplaces.

... It could be argued that injury from passive smoking is reasonably foreseeable and that consequently such an injury could give rise to an action for damages at common law."⁶

The use of common law in recent court cases⁷ has further highlighted an employers' obligations to provide a safe and healthy workplace for their workers. However, in determining whether failing to provide a smoke-free workplace constitutes negligence, the Court must consider whether the employer took reasonable action to reduce the risk associated with passive smoking. This may include any actions taken to minimise the risks, such as a no-smoking policy.

The Relationship Between Legislative Requirement and Workplace Air Quality

It should be recognised that under the Occupational Health and Safety Act, employers have a responsibility to eliminate all occupational health and safety hazards emanating from air contaminants (of which environmental tobacco smoke is one element). This responsibility is also outlined in other occupational health and safety standards, such as the exposure standard for Atmospheric Contaminants in the Workplace Environment already adopted in the ACT.

The ACT Occupational Health and Safety Council recommends that this Code of Practice for Smoke Free Workplaces should be used in conjunction with other preventative strategies to improve the quality of air at the workplace.

The ACT Occupational Health and Safety Office does not consider that employers have fulfilled their legislative obligations concerning improvement of air quality solely by reliance on this Code of Practice. The Office can provide a range of advice to employers on preventative strategies for other airborne contaminants other than Environmental Tobacco Smoke.

⁶ Hansard, House of Representative, 13 November 1986, 2979, Canberra Australian Government Publishing Service.

⁷ Scholem v. Department of Health, District Court of New South Wales, 27 May 1992

LEGAL STATUS OF CODE

The Code of Practice for Smoke Free Workplaces is an approved Code of Practice under the ACT Occupational Health and Safety Act 1989.

What is a Code of Practice?

An approved Code of Practice is a practical guide to achieving the standard of health and safety required by the Occupational Health and Safety Act 1989 and Regulations for a particular area of work.

An approved Code of Practice should be followed, unless there is an alternative course of action which achieves the same or a better standard of health and safety in the workplace.

A Code of Practice is approved by the Deputy Chief Minister. It comes into effect on the day the notice of this approval is published in the ACT Government Gazette or on the day specified in the Gazette notice.

An approved Code of Practice is designed to be used in conjunction with the Act and Regulations but does not have the same legal force. A person or company cannot be prosecuted for failing to comply with an approved Code of Practice.

However, in proceedings under the Act or Regulations, failure to observe a relevant approved Code of Practice can be used as evidence that a person or company has contravened or failed to comply with the provisions of the Act or Regulations.

An Occupational Health and Safety Inspector may cite an approved Code of Practice in a direction in an Improvement or Prohibition Notice, indicating the measures that should be taken to remedy an alleged contravention or non-compliance. Failure to comply with a requirement in an Improvement or Prohibition Notice is an offence.

In summary, an approved

CODE OF PRACTICE:

- *gives practical guidance on how the required standard of health and safety can be achieved in an area of work,*
- *should be followed, unless there is an alternative course of action which achieves the same or better standard of health and safety in the workplace,*
- *can be used in support of the preventive enforcement provisions of the Occupational Health and Safety Act,*
- *can be used to support prosecution for failing to comply with or contravening the Act or Regulations.*

Section 4. IMPLEMENTING THE CODE OF PRACTICE- THE KEY PRINCIPLES

In implementing the Code of Practice for, Smoke Free Workplaces, the following principles should be followed. They have been endorsed by representatives of peak industry and union bodies as well as State/Territory Government regulatory authorities through the National Occupational Health and Safety Commission and released in November 1990. The ACT Occupational Health and Safety Council acknowledges significant contribution of the Occupational Health, Safety and Rehabilitation Council of New South Wales and the ACT Occupational Health and Safety Council have contributed to the development of these principles through to 1993.

Principle 1 - Consultation

Consultation with employees during the development and implementation of a workplace program is essential for its success. Discussion with members of an occupational health and safety committee, where one exists, is the appropriate way to begin this consultation.

Unions, employer associations and professional bodies can assist with advice on program development and materials to help in the implementation of a workplace program.

Principle 2 - Organisational Support

Demonstrated commitment by management is essential.

A workplace program to reduce and eliminate smoking needs to be observed by all staff if it is to be effective. In all workplaces, all levels of staff will need to be involved in the consultation process as well as participating in no-smoking programs. A no-smoking policy must apply equally to employers and employees.

Principle 3 - Timetable

Once an organisation commitment to implement a smoke-free work environment has been made, then a workplace program should be phased in according to an agreed timetable.

This phasing-in period should be developed in consultation with employees. A reasonable time frame, (the ACT Occupational Health and Safety Council recommends within a 12 month period for development of the policy, namely on or before ...INSERT DATE...), is appropriate, in keeping with established practice concerning staged implementation of new policies or programs. Specifying such a time recognises that program implementation will take place progressively and in a way that suits each workplace. The ACT Occupational Health and Safety Council believes three years from the time of gazettal is a reasonable period of time to achieve full implementation of the no-smoking policy.

5. AN IMPLEMENTATION FRAMEWORK

After it has been decided to implement a workplace program, a number of approaches may be taken. These depend on the time over which the program is to be implemented and the degree to which the physical layout of the workplace has to be changed.

Four components are necessary to ensure success:

- management commitment.
- education and information program;
- a work environment that enables the workplace program to be implemented;
- personnel support facilities; and

(1) EDUCATION AND INFORMATION

Education and information programs should be developed and provided to all staff about:

- the effects of passive smoking on health;
- the reasons for the workplace policy; and
- the timetable for the program's introduction.

This information should be available in a form readily understandable to all staff. This may mean that it will need to be in community languages for those of non-English speaking background, and in plain language for workers with a low level of literacy.

(2) WORK ENVIRONMENT

The changes to the work environment required to introduce a workplace program will realistically take account of the nature of the particular workplace, for example:

- the physical layout of the workplace;
- the nature of the work; and
- the availability and effectiveness of ventilation if there are to be Designated Smoking Areas.

Implementing changes to the work environment should include the steps outlined on the following page:

Step 1 In all workplaces, particular areas should be designated immediately as non-smoking areas.

Areas that should be designated immediately as non-smoking areas include:

- fire hazard areas;
- fire escapes;
- conference rooms, training areas and interview rooms;
- areas in which chemicals are stored or areas containing flammable substances;
- areas used for food preparation;
- sick rooms and first aid posts;
- confined and poorly ventilated spaces;
- toilets;
- stairways/stairwells and other major internal thoroughfares;
- libraries;
- motor vehicles with passengers;
- enclosed areas of public access, e.g. foyers;
- lifts;
- areas where equipment can be damaged by smoke, for example, computer rooms, photocopier rooms and storerooms; and
- lunch rooms and employee recreation areas.

Step 2 Work areas should be made non-smoking

Smoke-free work areas are needed from the beginning of the program for the health and comfort of non-smoking workers. It will also indicate to the workforce that there is an organisational commitment to the introduction of a non-smoking workplace.

Step 3 Signs should indicate clearly the presence of a non-smoking area

Signs using standard symbols are available from organisations listed at the end of this document in appendix 3.

If signs are situated at the entrance to non-smoking areas, then provide ash trays or smoker's bins, immediately outside the non-smoking area.

(3) PERSONNEL POLICIES

The introduction of a policy for a smoke-free work environment will benefit all who work there. Its introduction needs sensitivity on the part of smokers, non-smokers, management, supervisors and other employees. Consultation and an explanation of the changes planned, and the reasons for them, will be necessary. A reasonable, but firm management commitment to change, coupled with consideration of the issues and for the concerns of employees, both smokers and non-smokers, will be essential.

Implementing changes to personnel policies includes the following:

- Offer smokers access to programs which help people to stop smoking, for example, counselling programs and the QUIT program. Implementation of a workplace program combined with access to skilled counselling programs may be of great benefit in helping people to give up smoking. When offering smokers access to cessation programs it is usually advised that employers and employees make a joint financial commitment so that the cost to the employee is reduced.
- Job recruitment advertisements should clearly state that employees will be working in a smoke-free environment. **(However, smokers should not be discriminated against in the offer of employment.)**
- Implementation of an acceptable grievance handling procedure.

(4) MODEL WORKPLACE NO SMOKING POLICY⁸

Introduction

Considerable medical and scientific evidence suggests that there is a relationship between passive smoking (breathing other people's tobacco smoke) and ill health in certain circumstances. There may be a relationship with lung cancer and heart disease in non-smokers, asthma attacks, chest infections, watery eyes, headaches and sore throats. It may also be dangerous for people with pre-existing heart or lung conditions.

Under the ACT Occupational Health and Safety Act 1989 (and ancillary legislation) an employer has a duty to provide a safe working environment and to protect the health of all employees from illness or injury arising from the workplace. To protect the health of all employees from the ill effects of tobacco smoke, at work, *(name of company)* has adopted a policy of providing a smoke-free workplace.

Under the Occupational Health and Safety Act, an employee also has an obligation to ensure the safety and health of persons at the workplaces.

To design the best way of introducing such a policy, a working party with representatives from all groups affected by this policy, has been set up. At the recommendation of the working party, the following timetable outlines a gradual progression to no smoking in all indoor areas.

Certain areas within the workplace are already designated as non-smoking areas for health, safety of other reasons (e.g. fire, food preparation, sensitive equipment areas). These areas will remain non-smoking.

⁸ Based upon "Going Smoke Free, A Guide for Workplaces". p45 National Heart Foundation. 1991.

Timetable

The development of the policy should occur within 12 months but this can be brought forward by agreement between employers and employees and the policy fully implemented within 3 years of the Codes gazettal.

Phase 1 Commencement date.....

Smoking will NOT be allowed in the following areas:

.....
.....
.....

Ashtrays will be removed from all non-smoking areas and the appropriate signs displayed.

Smoking will be permitted in the following areas during this phase:

.....
.....

Employees wishing to leave their work stations to smoke may do so in their lunch and tea breaks, and during pre-determined adjustment breaks. Adjustment breaks (e.g. four 5-minute breaks) will be permitted in order to assist smokers to gradually cut down their smoking following the introduction of this phase of the policy.

Phase 2 Commencement Date.....

In addition to the areas designated as non-smoking up to and including Phase 1, the following areas will now be designated smoke-free:

.....
.....

Smoking will only be permitted in (nominated remaining working area or an appropriate outdoor area, preferable away from public view) during lunch and tea breaks. Adjustment breaks will be reduced (e.g. two five-minute breaks).

Phase 3 Commencement date.....

All indoor areas, other than Designated Smoking Areas, will be smoke-free. Adjustment breaks will be phased out. Smoking may continue during lunch and tea breaks in (nominate an outdoor area).

Smokers who experience difficulties adjusting are advised to contact their supervisor (or nominate a contact person associated with the policy) to discuss individual concerns.

ASSISTANCE FOR SMOKERS:

It is recognised that while this initiative will provide a positive benefit to all staff, some staff members may have difficulty in adjusting, particularly those whose smoking habit is a long standing one. Smokers are being asked to restrict their smoking in the workplace, rather than to stop smoking altogether. Every effort will be made to assist smokers to adapt to working conditions under the policy:

The following assistance will be provided:

.....
.....
.....

PROCEDURES FOR BREACH OF POLICY:

Non-compliance with the no-smoking policy will be viewed as a serious matter. While all efforts will be made to help individuals meet the requirements of this policy, any disregard for the policy will be viewed in the same way as any breach of the occupational health and safety policy, and standards disciplinary procedures will apply. Any individual repeatedly breaching this policy will be asked to have discussions involving his/her union representative (if requested) and (name or contact person).

If you have any questions about this policy the contact person(s) (names) located at (location).

(5) GRIEVANCE HANDLING PROCEDURES

The no-smoking policy should not be regarded differently from any other occupational health and safety issue. Employees should be treated in a sensitive manner, dealing with each person individually.

Consideration needs to be given to:

- employees being given information about services provided to assist people in giving up smoking
- providing counselling and support for staff experiencing difficulties in quitting smoking whilst at work
- all disciplinary procedures must be in writing and accessible to all staff, and displayed on staff notice boards
- no staff dismissal without consultation with any involved union
- all counselling and discipline sessions properly recorded in writing

If a visitor breaches a policy:

- inform the visitor of the no-smoking policy
- worker to inform supervisor if visitor continues to smoke
- supervisor to enforce the no-smoking policy.

APPENDIX 1

Australian Capital Territory - Specific Provisions Relating to Smoking

There is a range of industries and circumstances where the Australian Capital Territory legislation makes specific provision for restrictions on smoking. This Appendix provides a broad overview of these provisions for guidance purposes only. Reference should be made to each legislation (including associated Regulations) for further detail.

1. Canberra Theatre Centre By-Laws

By-Law 14:

The Trust may cause to be displayed in or adjacent to a part of the Centre a notice prohibiting entry into, or prohibiting smoking in, that part of the Centre.

By-Law 16:

A person shall not smoke -

- (a) in an auditorium of a theatre in the Centre; or
- (b) in a part of the Centre in which smoking is prohibited by notice under By-law 14 of these By-laws.

2. Careless Use of Fire Act 1936

Section 8:

Except as otherwise provided by this Act, a person who during the period commencing on the first day of October in any year and ending on the thirtieth day of April in the following year, smokes or lights any tobacco pipe, cigar or cigarette of any material whatsoever, within any area enclosed by a fence in which is situated any plantation or afforestation reserve belonging to, maintained by or under the control of the Territory, or within 100 metres of any plantation or afforestation reserve situated within the area described in the First Schedule to the Cotter River Act 1914 - 1931 shall be guilty of an offence.

Penalty: \$100.

3. Flammable Liquids Act 1976

Section 20E:

- (1) The occupier of premises in or on which there is installed a dispensing pump shall ensure that at all times there is clearly visible to any person entering the premises a sign in accordance with sub-section (2) bearing the following, and no other, words and figures:

**NO SMOKING
PENALTY \$500
SWITCH OFF ENGINE
BEFORE OPENING
FUEL TANK**

Penalty: \$500

4. Inflammable Liquids Act 1971

Section 18:

(1) Any person keeping inflammable liquid in registered premises, and person in and about registered premises, shall comply with, and cause to be complied with, the following requirements:-

(l) A person shall not smoke in, or bring matches into, a depot;.....

5. Motor Omnibus Regulations

Regulation 46

The driver or conductor of an omnibus shall not-

(c) suffer or permit any passenger to smoke in or upon the omnibus except in that portion thereof (if any) which is set apart for the purpose.

Regulation 50

The driver or conductor of an omnibus shall not -

(a) smoke whilst the vehicle is conveying any passengers;

Regulation 67

A person shall not smoke in or upon any omnibus or any portion thereof where smoking is prohibited as indicated by a notice displayed in or upon the omnibus.

6. Motor Omnibus Service Regulations

Regulation 25A

(1) A person, other than the driver, shall not take into an omnibus a cigarette, cigar, pipe or other article that is alight.

(2) A passenger in an omnibus shall not light or smoke a cigarette, cigar pipe or other article

Penalty: \$100

7. Public Baths and Public Bathing Act 1956

Section 17

A person shall not -

(o) smoke in any open space in any public baths;...

8. Public Health (Dairy) Regulations

Regulation 73

A person shall not spit, smoke tobacco or any other substance, or chew tobacco-

- (a) while engaged in the production, treatment, handling, storage, carriage, distribution or delivery of milk or cream intended for sale; or
- (b) in any place used for the production, treatment, handling, storage, carriage, distribution or delivery of milk or cream intended for sale.

9. Public Health (Eating Houses) Regulations

Regulation 17

- (1) Every employee shall be cleanly in his or her person and shall not smoke or spit within any dining room or kitchen appurtenant thereto.

10. Public Health (Meat) Regulations

Regulation 14

No person engaged in the manufacture, preparation, packing storage, carriage or delivery of any meat for sale shall -

- (i) spit, or smoke, or chew tobacco in any place used for the manufacture or preparation of meat, or while so engaged;.....

11. Public Health (Sale of Food & Drugs) Regulations

Regulation 23

Any person who spits or chews or smokes tobacco while engaged in the manufacture, packing, or storing of any food or drug for sale, or in any place used for the manufacture or preparation of such food or drug, shall be guilty of an offence:

Provided that this Regulation shall not apply to the packing or storing of any food or drug which is enclosed in an hermetically sealed container.

Regulation 52

- (1) Every person packing or serving food for sale shall exercise care to avoid any unnecessary human contact with the food during the packing or serving, and for such purposes shall not -
 - (f) smoke, chew, or spit while at work in packing or serving; and

Regulation 83

The owner of any premises used for the manufacture or preparation for sale of aerated waters, syrups, and cordials, summer or temperance drinks or similar beverages shall comply with the following conditions:

- (i) Employees shall be cleanly in their habits, person, and clothing, and shall not smoke or spit within the factory premises;.....

Regulation 87

Any person employed in any bakehouse shall not -

- (c) spit, smoke, or chew tobacco in any bakehouse when any work connected with the preparation of food for sale is being performed;.....

Regulation 90

Employees at hotels, boarding and lodging houses, restaurants, eating-houses, cooked meat shops, and refreshment rooms shall be cleanly in their habits, person, and clothing and shall not smoke nor spit within any dining room, kitchen, or other place appurtenant thereto.

12. Scaffolding and Lifts Act. 1912-1948 (NSW) as in force in the ACT

Section 12A

- (1) The lessee of a building containing a passenger lift shall ensure-
 - (a) that a notice bearing the words "SMOKING IS PROHIBITED", or words to that like effect, is at all times displayed in a prominent part of the car of the lift; and

Penalty: \$100

- (2) A person using a passenger lift in which such a notice is displayed shall not smoke in the car of the lift.

Penalty: \$25

13. Taxi and Private Hire Car Regulations

Regulation 7

The driver of a taxi or a private hire car shall not -

- (b) smoke without obtaining the permission of the person who has hired the vehicle.

14. Tobacco Act 1927

Section 10 "smoking" means inhaling or puffing the smoke or a cigarette or cigar of any composition, or tobacco in any form;....."

APPENDIX 2

Sources of Advice and Further information Relating to Smoke-free Workplaces.

A number non - profit organisation promote information on the health effects of smoking and give practical guidance on how to formulate and implement a no-smoking policy. Some sources are:

- *National Health and Medical Research Council, Effects of Passive Smoking on Health (1987).*
- *The National Heart Foundation: "Going Smoke Free. A Guide for Workplaces "1991, p.45*
- *The National Occupational Health and safety Commission National Policy Statement on Smoking in the Workplace. (1990)*

The following are organisations which offer quit-smoking programs, therapy and counselling services for those employees needing assistance:-

Alcohol and Drug Service

*ACT Health
1st Floor, ACT Health Building
CNR Moore & Alinga Streets
Canberra City, ACT 2601
Phone: 205 1323*

*ACT Cancer Society
Quitline*

*15 Theodore Street
Curtin, ACT 2601
Phone 282 3452 or 285 3070*

Employee Assistance Service ACT Ltd

*David Temple House,
2 Napier Close,
Deakin, ACT 2600
Phone: 285 2383*

Health Advancement Services

*ACT Health,
3rd Floor, ACT Health Building
CNR Moore & Alinga Streets
Canberra City, ACT 2601
Phone: 205 3311*

*National Heart Foundation,
ACT Division*

*1st floor
64 Colbee Court
Philip, ACT 2626
Phone: 282 5744*

*Seven Day Adventist Church
Quit Now Program*

*3 Mackay Gardens
Turner, ACT 2601
Phone: 249 6822*

APPENDIX 3

ORGANISATIONS FROM WHICH SIGNS ARE AVAILABLE

*ACT Occupational Health
and Safety Office*

*1st Floor North Building
London Circuit
CANBERRA ACT 2601
Phone 205 0200*

ACT Cancer Society

*15 Theodore Street
Curtin, ACT 2601
Phone 282 3452 or 285 3070*

*National Heart Foundation,
ACT Division*

*1st floor
64 Colbee Court
Philip, ACT 2626
Phone: 282 5744*