

South Australia

Tobacco and E-Cigarette Products (Smoking Bans) Amendment Regulations 2023

under the *Tobacco and E-Cigarette Products Act 1997*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Tobacco and E-Cigarette Products (Smoking Bans) Amendment Regulations 2023*.

2—Commencement

- (1) Subject to subregulation (2), these regulations come into operation on 1 March 2024.
- (2) Regulation 4, insofar as it inserts regulation 20 into the *Tobacco and E-Cigarette Products Regulations 2019*, comes into operation 12 months after the day on which these regulations are made.

Part 2—Amendment of *Tobacco and E-Cigarette Products Regulations 2019*

3—Amendment of regulation 9—No smoking signs in enclosed public places

Regulation 9(1)(b)—delete "whether of tobacco products or e-cigarettes" and substitute:

both of tobacco products and e-cigarettes

4—Insertion of regulations 17 to 24

After regulation 16 insert:

17—No smoking at or in vicinity of premises at which early childhood services are provided

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas—
 - (a) within premises at which early childhood services are provided; or
 - (b) within 10 m of the boundary of premises at which early childhood services are provided,

at all times during which those services are being provided at the premises.

- (2) In this regulation—

early childhood services has the same meaning as in section 4 of the *Education and Early Childhood Services (Registration and Standards) Act 2011*.

18—No smoking at or in vicinity of education and children's services facility

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas—
 - (a) within an education and children's services facility; or
 - (b) within 10 m of the boundary of an education and children's services facility.

- (2) In this regulation—

education and children's services facility means—

- (a) premises where services of a kind to which the *Education and Care Services National Law (South Australia)* applies are provided; or
- (b) premises occupied by a children's services centre, a Government preschool, a Government school or a non-Government school all within the meaning of the *Education and Children's Services Act 2019*.

19—No smoking at or in vicinity of hospital

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas—
 - (a) within a hospital; or
 - (b) within 10 m of the boundary of a hospital.

- (2) In this regulation—

hospital means a site at which activities of an incorporated hospital or a private hospital (both within the meaning of the *Health Care Act 2008*) are undertaken.

20—No smoking at or in vicinity of residential aged care facility

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas—
- (a) within a residential aged care facility; or
 - (b) within 10 m of the boundary of a residential aged care facility.
- (2) In this regulation—

residential aged care facility means premises at which residential care is provided by an approved provider under the *Aged Care Act 1997* of the Commonwealth.

21—No smoking near entrance to enclosed public place, workplace or shared area

- (1) Subject to this regulation, for the purposes of section 52 of the Act, smoking is banned in all public areas at or within 10 m of any part of an entry point to an enclosed public place, workplace or shared area at all times during which the enclosed public place, workplace or shared area is open for use by persons who work at or otherwise use the enclosed public place, workplace or shared area.
- (2) Subregulation (1) does not apply to an area (not being an enclosed public place, workplace or shared area)—
- (a) in respect of which a licence is in force under the *Liquor Licensing Act 1997*; or
 - (b) that is at or within 10 m of any part of an entry point for an area referred to in paragraph (a) if the entry point leads directly to such a licensed area and not to an unlicensed area within the same premises; or
 - (c) that is at or within 10 m of any part of an entry point to a place that—
 - (i) is used solely for residential purposes; or
 - (ii) is used partly for residential purposes and partly for other purposes if the entry point is used solely for entry to or exit from that part of the place that is used for residential purposes.

Examples—

If an outdoor area that forms part of licensed premises under the *Liquor Licensing Act 1997* also lies within 10 m of an entry point to some other enclosed public place, workplace or shared area, the ban in subregulation (1) will not apply to that licensed outdoor area.

If a person is within 10 m of an entry point to residential premises and also within 10 m of an entry point to other premises that are an enclosed public place, workplace or shared area, the ban in subregulation (1) will not apply to the person.

- (3) In this regulation—

entry point means an entrance to or exit from a place.

22—No smoking at major events venue

For the purposes of section 52 of the Act, smoking is banned in all public areas within a major event venue within the meaning of the *Major Events Act 2013*.

23—No smoking at or in vicinity of swimming facility, jetty or certain areas of beach

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas—

- (a) at an outdoor swimming facility; or
- (b) at, or within 5 m of any part of, a jetty; or
- (c) within a sanded area of beach that is—
 - (i) between red and yellow flags temporarily erected on behalf of Surf Life Saving South Australia Inc. or its affiliated surf life saving clubs marking the boundaries for safe swimming; or
 - (ii) within a 50 m radius of a red and yellow flag referred to in subparagraph (i).

- (2) In this regulation—

outdoor swimming facility means premises where an outdoor swimming pool is available for use.

24—No smoking at underage sporting events

- (1) For the purposes of section 52 of the Act, smoking is banned in all public areas at or within 10 m of a sporting venue at all times during which—

- (a) an organised underage sporting event is being conducted; or
- (b) a training or practice session to prepare for participation in an organised underage sporting event is being conducted.

- (2) In this regulation—

organised underage sporting event means a sporting event that—

- (a) is planned in advance; and
- (b) is organised or intended for, or predominantly participated in by, persons under the age of 18 years; and

- (c) is conducted according to established rules by a professional or amateur sporting body or by an educational institution; and
- (d) may be a one-off event or part of a series of events;

sporting event means a match, game, tournament or other event that involves the playing of, or participation in, sport;

sporting venue includes any part of a public place at which a sporting event occurs, and includes—

- (a) a playing field;
- (b) a track;
- (c) an arena;
- (d) a court or rink;
- (e) any permanent or temporarily erected seating at the venue;
- (f) any seating, marshalling area, warm-up area, podium or other part of the venue reserved for the use of participants in the sporting event.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 7 December 2023

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