



**Saskatchewan
Labour**
Occupational Health
and Safety

Smoking Regulations Guide



SAFETY

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Introduction

This publication provides guidance in the application of section 77 of *The Occupational Health and Safety Regulations, 1996* (the regulations). Regulation 77 deals with the impact of second-hand tobacco smoke on workers.

The smoking regulations deal with two types of workplaces:

- **general workplaces**
- workplaces which are “**institutions, public places or private dwellings**”

The intention of the smoking regulations is not to ban smoking in either of these two types of workplaces. Instead, it is to minimize worker exposure to second-hand tobacco smoke originating from other workers or persons who may be in the workplace.

This guide will discuss the following topics.

- *General workplaces* covered by the smoking regulations
- *Institutions, public places or private dwellings* where workers may be required or permitted to work
- *Questions and answers* on the smoking regulations

The *Appendix* contains a copy of regulation 77.

General workplaces

In general workplaces, minimization of exposure to second-hand tobacco smoke is to be achieved by: (1) ensuring that workers do not smoke in an enclosed part of the workplace except in designated areas; and (2) restricting smoking in all enclosed parts of the workplace. (See section 77(3) and 77(4) of *The Occupational Health and Safety Regulations, 1996*.)

If smoking areas are to be established, this must be done in consultation with the occupational health committee (OHC). If the workplace is too small to have an OHC, employers should consult the occupational health and safety representative (the representative) or the workers.

There are three types of areas in general workplaces which can be designated as smoking areas:

- any enclosed area
- worksites or parts of a workplace
- one or more vehicles

Enclosed areas

Any enclosed area can be designated as a smoking area; however, tobacco smoke must not escape to non-smoking areas to the extent that it is visible, is *offensive*¹ to workers or causes eye, nose or throat irritation. This option is primarily meant to refer to smoking rooms or private offices.

It is recommended that the designated smoking area be physically separated from other areas and used exclusively for smoking (that is to say, used as a “smoking room”).

Worksites or parts of a workplace

Worksites or parts of a workplace can be designated as smoking areas if their designs prevent worker exposure to second-hand tobacco smoke due to their:

- design (such as a large open area in a warehouse); or
- ventilation/air movement (such as a ventilated welding area in a manufacturing plant).

The option of designating a worksite or part of a workplace as a smoking area is normally intended to apply to large areas in industrial workplaces and is not usually an acceptable option in an office-type environment. Before designated smoking areas are established under this option, a careful assessment should be made to determine if there are predictable situations or activities which may result in significant worker exposure to second-hand tobacco smoke. In addition, if there are workers who are hypersensitive to tobacco smoke, their special needs must also be taken into consideration. (See *Questions and answers – Hypersensitive workers*.)

¹In this case, “*offensive*” means “a strong, objectionable odour”.

Vehicles

An employer may designate a vehicle as a smoking area on a temporary basis. This means that smoking is permitted as long as all workers in the vehicle are smokers and all of them agree to smoking taking place when they are in the vehicle. Where an employer has more than one vehicle, it is recommended that not all of them be designated as smoking areas. Instead, as many vehicles as possible should be designated as “smoke free.”

Institutions, public places or private dwellings

An “institution” is defined in section 77 of the regulations as:
“a place of employment where persons who are not workers reside for extended periods of time, but does not include a private dwelling.”

A “public place” is not defined in the regulations. In section 77 of the regulations, a public place is considered to be a place where the public is customarily welcomed. A place of employment does not become a public place merely because a non-worker is, or may be, present. Therefore, a restaurant, bar, lobby of a building or reception area would normally be considered as a public place. However, a private office would not normally be considered as a public place merely because a member of the public is in the office.

In “institutions, public places or private dwellings” where clients or customers are present, it is more difficult to prevent everyone from smoking. Examples include residents in a nursing home, customers in a restaurant or bar and inmates in a correctional centre. The regulations are designed to take this into account.

In “institutions, public places and private dwellings” where workers are present, employers must prohibit workers from smoking in enclosed areas, other than in designated smoking areas. They must also restrict workers’ exposure to second-hand tobacco smoke to the extent that is possible. The following are examples of the types of actions that employers, contractors and owners can take to comply with this obligation.

- Prevent workers from smoking in all areas except designated smoking areas.
- Post signs indicating areas where smoking is permitted (for example, parts of a nursing home where smoking is permitted).

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- Prevent smoking by clients or occupants when workers are providing specific services, especially when workers have to spend significant time providing those services (for example, providing personal care or counseling to a client).
 - Match workers who do not smoke with clients or occupants who do not smoke. Match workers who smoke with clients or occupants who smoke.
 - Position smoking and non-smoking areas so that airflow in the workplace does not blow or draw tobacco smoke into non-smoking areas.
 - Design or modify areas so that air is supplied to non-smoking areas and exhausted from smoking areas.
 - Schedule services, such as cleaning a room of an institutionalized client, when the client is away.

In “public places, private dwellings and parts of institutions” where workers are regularly exposed to second-hand tobacco smoke, employers must inform workers that repeated exposure:

- can significantly increase the risk of lung cancer; and
- may add to health problems caused by existing medical conditions such as asthma or circulatory conditions.

Workers should also be advised of the steps the employer has taken to minimize exposure to second-hand tobacco smoke.

Questions and answers

This section reviews commonly asked questions about topics in the smoking regulations, including:

- air recirculation
- air filtration
- designated smoking areas in all workplaces
- entire general workplace as a designated smoking area
- non-smokers working in designated smoking areas in general workplaces
- workers smoking in designated smoking areas in public workplaces
- posting requirements
- exposure to second-hand tobacco smoke and section 23 of *The Occupational Health and Safety Act, 1993*

- hypersensitive workers
- fresh air ventilation
- definition of second-hand tobacco smoke
- workplaces under other laws, regulations or policies

Air recirculation

Question: Can air from a designated smoking area be recirculated back into another part of a building?

Answer: Air from an office area or other area where smoking is permitted can be recirculated by the ventilation system as long as the resulting air being supplied by the ventilation system to work areas is not found to cause eye, throat or nose irritation or to be offensive due to the presence of tobacco smoke.

The regulations do not prevent persons being exposed to the residual odour of tobacco smoke. If air from a smoking area is recirculated, the requirement contained in section 65(b) of the regulations must be met.

Section 65(b) reads as follows:

“An employer, contractor or owner shall:

- (a) ensure the adequate ventilation of a place of employment; and*
- (b) to the extent that is reasonably practicable, render harmless and inoffensive, and prevent the accumulation of, any contaminants or impurities in the air by providing an adequate supply of clean and wholesome air and maintaining its circulation throughout the place of employment.”*

Where a room is used exclusively for smoking, the room will have to be ventilated so that it is under a negative air pressure with respect to surrounding areas. The ventilation system will have to exhaust directly outdoors. Air from the smoking room is not to be recirculated. The exhausted air must, as far as reasonably practicable, be prevented from re-entering any work area.

Where a room is used exclusively for smoking it is likely that substantial quantities of contaminants (tobacco smoke) would be given off. Section 66(1) of the regulations requires that ventilation systems in such situations prevent accumulation of contaminants. Section 66(4) requires that ventilation systems exhaust contaminants clear of the place of employment.

Air filtration (air cleaners)

Question: Can air filtration devices be used as a means of controlling exposure to second-hand tobacco smoke?

Answer: They may have a role in reducing the irritative effects of airborne tobacco smoke in areas where smoking is permitted; however, air filtration should never be used for cleaning air exhausted from a smoking room for the purpose of recirculation. Air from a smoking room must be exhausted directly outdoors. (See *Questions and answers – Air recirculation.*)

In many cases air filtration devices have proven to be very ineffective in controlling exposure to second-hand tobacco smoke. When they are effective, a substantial amount of time is needed to clean or replace the filters and to keep the equipment well maintained.

In some cases, HEPA² air filtration systems can reduce the amount of tobacco smoke particulates in the air, but they have to be used in conjunction with a ventilation system which exhausts large quantities of air from the area and replaces it with fresh outdoor air.

Designated smoking areas in all workplaces

Question: Is an employer required to designate a smoking area or provide a special area for workers who smoke?

Answer: No, the regulations do not require employers to provide a smoking area for workers who smoke. Designation of smoking areas is an option that the employer may choose in consultation with the occupational health committee, the occupational health and safety representative or the workers.

² HEPA filter, as defined in the regulations, “means a high-efficiency particulate aerosol filter that is at least 99.97% efficient in collecting a 0.3 micrometre aerosol.”

Entire general workplace as a designated smoking area

Question: Can an employer in a general workplace designate the whole place of employment as a smoking area?

Answer: The objective of the regulations is to prevent, as much as possible, worker exposure to second-hand tobacco smoke. If the workplace is a relatively small room occupied by more than one person, or an open office area or a similar type of workplace, it is very unlikely that the objective of the regulation will be achieved if the entire workplace is designated as a smoking area.

In large office areas, it will be expected that the workplace be declared a non-smoking area. Some portions of the building may be set aside as smoking areas as long as the requirements in the smoking regulations are met.

In large buildings, such as warehouses or manufacturing shops, it may be possible to designate the whole workplace as a smoking area as long as workers are not exposed to visible, irritating or offensive levels of second-hand tobacco. When this option is being considered, a careful assessment should be made to determine if there are predictable situations or activities which may result in significant worker exposure to second-hand tobacco smoke. The special needs of any workers who are hypersensitive to tobacco smoke must also be considered. (See *Questions and answers – Hypersensitive workers.*)

Non-smokers working in designated smoking areas in general workplaces

Question: Can an employer require a non-smoking worker to work in a portion of a general workplace which has been set aside as a designated smoking area?

Answer: The regulations do not eliminate the possibility that non-smoking workers may have to work in designated smoking areas; however, employers have an obligation to minimize the worker's exposure to second-hand tobacco smoke. If a non-smoking worker periodically has to work for more than a short period of time in an area which has been designated as a smoking area, it is reasonable that smoking not be permitted in the designated area while the non-smoker is present. The regulations do not prevent non-smoking workers from being exposed to the residual odour of tobacco smoke.

Workers smoking in designated smoking areas in public workplaces

Question: Are workers allowed to smoke in areas where the public, residents or clients are allowed to smoke?

Answer: The regulations do not directly prevent workers from smoking in such areas. In some situations tobacco smoke from workers can significantly increase the amount of second-hand tobacco smoke to which other workers are exposed. Employers would be expected to prohibit workers from smoking in such situations.

Posting requirements

Question: Must non-smoking areas be posted?

Answer: No, the legislation requires only that employers, contractors or owners post signs to indicate clearly the areas of a place of employment in which smoking is permitted. This means that areas which are not posted are to be considered as non-smoking areas. In most cases, it would be desirable to post signs on main entry doors which indicate that smoking is only permitted in areas which are posted "Smoking Area."

Exposure to second-hand tobacco smoke and section 23 of the Act

Question: Will exposure to second-hand tobacco smoke be considered unusually dangerous to a worker's health and safety under section 23 of *The Occupational Health and Safety Act, 1993*?

Answer: This will depend on many factors associated with the specific situation. A situation is unlikely to be viewed as unusually dangerous if an employer has: (1) fully complied with all the requirements under the smoking regulations; and (2) the worker in question does not have a special medical condition, such as asthma, associated with exposure to second-hand tobacco smoke.

Hypersensitive workers

Question: What if a worker is particularly sensitive (hypersensitive) to tobacco smoke?

Answer: This situation is covered under section 308 of the regulations. It states:

“Where a chemical substance or biological substance is present at a place of employment in a form and to an extent that may be harmful to a worker who is pregnant, has become sensitized to the substance or is unusually responsive to the substance, an employer shall, as soon as is reasonably possible after the worker has notified the employer of the worker’s condition:

- (a) where reasonably practicable, take steps to minimize the exposure of the worker to the substance; or*
- (b) on the worker’s request, assign the worker to less hazardous alternate work if that work is available.”*

In other words, if a worker has been medically diagnosed as having health problems or symptoms from exposure to second-hand tobacco smoke in the work area, the employer must take all reasonably practicable steps to further reduce the worker’s exposure to second-hand tobacco smoke. This must include a review of any steps already taken to minimize exposure, such as the adequate prevention of tobacco smoke escaping from any designated smoking areas.

If this does not solve the problem, the worker has the option of requesting that the employer assign him/her to alternate work (or an alternate work area) where there will be less exposure to second-hand tobacco smoke. The employer must comply with this request if such work (or such a work area) is available.

In some cases, such as in institutions or public places, it may not be possible for the employer to completely protect a person who is hypersensitive to second-hand tobacco smoke. In such cases, employers will usually not be expected to take further action once they have taken all reasonably practicable steps to minimize the worker’s exposure, including fully evaluating the possibility of reassigning the worker to a work location where there will be less exposure to second-hand tobacco smoke.

Fresh air ventilation

Question: How much fresh, outside air should be supplied to a workplace in which a large amount of smoking occurs, such as a dedicated smoking room, bar/lounge or bingo hall?

Answer: The normally recommended ventilation design rates for various types of environments are published in Standard 62-1989 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE).

ASHRAE recommends a ventilation rate of 60 cubic feet per minute (CFM) of fresh, outdoor air per occupant for smoking rooms. The regulations do not require a specific ventilation rate for smoking rooms. Instead, they require that the ventilation in smoking rooms be adequate to prevent the escape of smoke into other nearby areas. The smoking regulations are not intended to prevent smokers in a dedicated smoking room from being exposed to second-hand tobacco smoke from other smokers in the room.

For bars, lounges and bingo halls, ASHRAE recommends a ventilation rate of at least 30 CFM of fresh outdoor air per occupant. In some cases, air filtration equipment is also needed. (In some casinos in this province, ventilation rates approaching 60 CFM of fresh outdoor air per occupant have been used.)

For other recommended ventilation rates, employers, contractors or owners may wish to consult ASHRAE Standard 62-1989. This is available from:

The American Society of Heating, Refrigerating
and Air-Conditioning Engineers, Inc.
1791 Tullie Circle, NE
Atlanta, GA 30329

Telephone: 1 (404) 636-8400
Fax number for publication orders: 1 (404) 321-5478

Definition of second-hand tobacco smoke

Question: What is meant by the term “second-hand tobacco smoke” in the regulations?

Answer: Second-hand tobacco smoke is smoke which is exhaled by a smoker, or originates from a tobacco product which he/she is using, to which a second person is exposed. It includes smoke from a smouldering cigarette, cigar, pipe or other tobacco material.

Workplaces under other laws, regulations or policies

Question: Which requirements apply if a workplace falls under more than one set of regulations, laws or policies, such as provincial regulations and municipal bylaws?

Answer: Section 77 of the regulations does not permit an employer to designate a smoking area if this would violate another law or policy (such as municipal or federal laws or a policy of the Saskatchewan government).

Appendix: The smoking regulations

77(1) In this section:

- (a) “institution” means a place of employment where persons who are not workers reside for extended periods, but does not include a private dwelling;
- (b) “smoke” means to smoke, hold or otherwise have control over an ignited tobacco product;
- (c) “tobacco product” means a product that is manufactured from tobacco and intended to be used for the purpose of smoking.

(2) This section does not apply to a self-employed person at a place of employment where no other self-employed person and no employer, contractor, owner or worker is present.

(3) An employer, contractor or owner shall ensure that:

- (a) on and after July 1, 1997, no worker smokes in an enclosed place of employment, worksite or work-related area except in an area designated for smoking pursuant to subsection (5); and
- (b) worker exposure to second-hand tobacco smoke is restricted until smoking areas are designated at the place of employment pursuant to subsection (5).

(4) On and after July 1, 1997, no worker shall smoke in an enclosed place of employment, worksite or work-related area except in an area designated for smoking pursuant to subsection (5).

(continued)

- (5) An employer or contractor, in consultation with the committee, may:
 - (a) designate one or more enclosed areas at a place of employment as areas where smoking is allowed if the passage of smoke into non-smoking areas is minimized;
 - (b) designate one or more worksites or parts of a place of employment as areas where smoking is allowed if the design of the worksite or part of the place of employment or of the mechanical ventilation of the area to be designated will ensure that:
 - (i) no worker will be exposed to second-hand tobacco smoke; and
 - (ii) second-hand tobacco smoke from the area to be designated will not contaminate other areas of the place of employment; or
 - (c) designate a vehicle supplied by the employer or contractor as an area where smoking is allowed.
- (6) Where a place of employment is an institution, a public place or a private dwelling, an employer, contractor or owner shall:
 - (a) restrict worker exposure to second-hand tobacco smoke to the extent that is possible; and
 - (b) inform workers of the risk to workers' health from second-hand tobacco smoke.
- (7) An employer, contractor or owner shall post signs to indicate clearly the areas of a place of employment in which smoking is permitted.