

## **The Act Amending the Restriction of the Use of Tobacco Products Act (Official Gazette of the Republic of Slovenia no. 60/2007) entered into force on 5 August!**

### **1. When exactly shall the amended act enter into force and what does it bring?**

The amended act shall enter into force on 5 August which means that as of midnight on that day, smoking will be prohibited in all closed public areas and working places. Smoking will also be prohibited in the places not counting as closed areas if they are part of the functional land of the premises on which the activities of education and training are carried out. After the enforcement of the rules to be issued by the Minister of Health in accordance with the law in the beginning of September, the owners and lessees or users of the public areas or working places will have the possibility to introduce special smoking rooms. The smoking rooms shall not be mandatory and will have to meet strict conditions that the Minister of Health will lay down in the Rules.

With the date of enforcement of the act, it will no longer be allowed to sell tobacco products to underage persons (younger than 18 years). Persons younger than 18 years shall not be allowed to sell tobacco products.

The amended act also introduces the printing of the telephone number of the 'stop smoking help line' on the packaging of tobacco products. The producers will have to arrange for the printing of this number on the packaging within 8 months of the entry into force of this Act. The number and its operation will be laid down in the rules also to be published in the beginning of September.

### **2. What is a closed area?**

A closed public or working place shall be a place with a roof and completely enclosed more than one half of the entire wall area. This means that closed areas are those areas that have a cover (ceiling, roof) and an enclosed area of at least one half of the total area of walls or side panels, regardless of the type of material these (roof, ceiling, side panels and walls) are made of and regardless of whether or not it is a temporary or permanent construction. Windows and doors are considered closed parts of the wall.

### **3. Does a tent count as a closed area and is a movable roof also considered a roof?**

A closed area shall be every area that is covered and has completely enclosed more than one half of the area of walls or side panels regardless of the type of material these are made of. This means that a tent is also a closed area if it has a roof and if more than one half of its sides are closed. A movable roof, regardless of the material it is made of, shall also be deemed a roof, if it is open.

**4. May the guests smoke on the terrace, yard or balcony of a catering facility?**

Yes they may, as long as such terrace, yard or balcony is arranged in such a way that they do not count as a closed area. For example, a closed terrace or yard shall be every area that is covered and has completely enclosed more than one half of the area of walls or side panels regardless of the type of material used for the roof, walls or side panels (e.g. linen, artificial materials, etc.).

**5. Is it allowed to smoke in the sanitary facilities of the public area or working place?**

Smoking is prohibited in all closed public facilities/areas, including the sanitary facilities.

**6. What counts as part of appurtenant functional land? Is this, for example, also the sidewalk near the building in which an educational activity is carried out? What evidence does the owner/lessee/manager of the premises need to prove that the functional land belongs to them?**

The Act stipulates that smoking is also prohibited in the places that, by definition do not count as closed areas if they are part of the functional land of the premises on which the activities of education and training are carried out. In practice, such premises are school yards, school playgrounds and other areas belonging exclusively to the educational institute, but not the public open areas such as sidewalks, parks, roads, public parking areas, even if they are near these institutes.

As regards evidence, these shall be the same as those the owners or lessees use to prove their entitlement to use individual premises (the lease agreement, the sales agreement and similar).

**7. Does the total area of an enclosed facility comprise only the space intended for the guests or the entire area of the catering facility, including the working places and the area in front of the catering facility which is, for example, part of the total area of a closed business and trading centre? Does the total area of a catering facility also include the sanitary facilities, warehouses and similar?**

Article 17 of the Act stipulates that the smoking room may not exceed 20% of the total area of the closed public and/or working place.

The total area of a closed catering facility also comprises the area belonging to the facility which is part of a broader enclosed area, such as for example a closed business and trading centre.

The Act treats the public areas separately, even if they are, as a rule, also working areas, which is why the limitations about the area of the smoking room must be treated separately. 20% of the total area of a public place means 20% of that area which is public and intended for the guests in a catering facility (dining room, bar, halls, guest restrooms and changing rooms). The area of the kitchen, warehouse and other auxiliary premises which are, hereunder, deemed as exclusively working areas, are treated separately. In view of the definition of a working area which comprises every closed space under control of an employer where work and services are performed for the employer, the determination of the

area of the working premises is based on the total area of the closed facility (the area of the public place that comprises, for example, the dining room, the bar, the guest restrooms, including the area of the kitchen, warehouse, etc.).

**8. Must the health institutions whose registered activities include the treatment of mentally ill patients arrange a special smoking room?**

The Act does not specify that there must be separate rooms for smokers in the psychiatric institutions and other providers of healthcare services for mentally ill patients, but only allows such rooms, which is why the decision on their introduction lies with the healthcare institution treating mentally ill patients.

**9. The Act allows smoking in separate smoking rooms of the accommodation facilities and other facilities that provide overnight stays. Does this mean that any common area of a hotel can be arranged as a room intended for smokers and is it allowed to serve food and drinks in such rooms?**

The Act stipulates exemptions where smoking is allowed which include special rooms in accommodation facilities and other facilities that provide overnight stays. These are rooms that accommodation facilities and other facilities that provide overnight stays offer to the individuals for living in or staying overnight in the scope of their room rental activity (e.g. hotels, student hostels, other hostels, etc.). This does not include common premises intended for smokers but merely allows the owner, lessee or manager of the accommodation facilities and other providers of overnight stays to determine a certain number of rooms in which smoking is allowed. The Act does not prohibit the provision of servicing the guests living or staying in such rooms. As regards the common areas, the same limitations shall apply as for all the other public and working places, which means that smoking is only allowed in the smoking rooms in which food and drinks are not served or consumed.

**10. How to act in the cases of a conflict of interests between a resident of an old people's home who is allowed to smoke in his/her room and the employee that cleans and maintains his/her room, takes care of such person and brings him/her food into the room, etc.? Is it allowed to establish a smoking room in an old people's home?**

As regards smoking in social care institutions, the Act stipulates that it is allowed in the rooms in which only smokers live. In order to prevent the employees working in these premises from being exposed to tobacco smoke, the house rules may stipulate that smoking is prohibited while such employees are present in the rooms.

As regards the establishment of smoking rooms, the rule shall apply that it is allowed to establish such rooms at the premises of the institution or home in which catering or other non-health activity is performed, since these are considered social care institutions. It needs to be said that smoking rooms are not stipulated as mandatory but as optional, should the owner, lessee or user decide to introduce them.

**11. What inscriptions should be put out in the facilities? (For example: special inscriptions on the doors or in the facility, etc.)**

The Act does not explicitly stipulate any inscriptions regarding the prohibition of smoking in catering facilities which is why the concrete arrangements concerning the prohibition of smoking in closed public and working places are left to the discretion of the employer, owner, lessee or manager of such premises. The Act merely stipulates the “inscription” about the sale of tobacco products in the form of a clearly visible sign saying that it is prohibited to sell tobacco products to persons under the age of 18 years at all places where it is possible to buy tobacco products.

**12. How to act if a customer lights a cigarette in a closed public area?**

It is urgent that the provider of activity is aware of the responsibility to ensure compliance with the prohibition of smoking in the premises they own, have leased or manage. Such person is expected to take all reasonable efforts to prevent or stop violations.

What exactly can an owner, lessee or manager of a closed public area do, if a customer lights a cigarette in a room where this is prohibited:

1. Deliver a clear message to the employees and the customers that it is prohibited to smoke in the facilities they own/lease/manage, for example by setting up signs saying that smoking is prohibited, even though such signs are no longer mandatory.
2. Make sure that all ashtrays are removed from the closed area and do not allow the use of any other vessels to dispose of the ashes and cigarette butts in such closed areas.
3. Inform all employees in the public area of the consequences of failure to comply with the law by giving them instructions to proceed as follows, should they find themselves in a situation when a person is smoking in a room where smoking is prohibited:
  - warn such person kindly but decisively that they are violating the law and that they should stop smoking in a room where this is not allowed;
  - explain that if the lessee, owner or manager of a facility fails to ensure compliance with the law prohibiting smoking, they shall also be fined severely;
  - warn the persons that continue smoking that they may refuse to provide services for them and ask such persons to leave the room and smoke elsewhere, where this is allowed (a smoking room, outside the closed public/working place);
  - in the case of a violent response on the part of the smoker, they shall proceed as prescribed for all the cases of violation of the law and order or violence.

**13. What can an individual do if someone lights a cigarette in a closed room, where this is prohibited?**

An individual who has noticed that someone lighted a cigarette in a closed room, where smoking is prohibited, can address the owner/lessee/manager of the public or working place who must comply with the provision on the prohibition of smoking in a closed public or working place. If the person still continues smoking, the individual may report the violation to the competent inspectorate. The assurance and compliance with the provisions on the prohibition of smoking in public areas shall be supervised by the Health Inspectorate of the Republic of Slovenia and the compliance with the provisions on the prohibition of smoking in working places by the Labour Inspectorate of the Republic of Slovenia.

**14. Will the companies that bought special smoking rooms be able to use these in the period between the enforcement of the Act and the determination of detailed conditions for smoking rooms?**

The Act allows smoking in the smoking rooms for which the following conditions are prescribed:

- the room must be arranged so as to prevent any flow of tobacco smoke contaminated air into another room,
- the room must not be used as a passage to other rooms and may not exceed 20% of the total area of the public and/or working place,
- the room must be intended for smoking exclusively,
- no food or drinks may be brought into such room.

More detailed conditions shall be laid down by the Minister of Health within 30 days of the enforcement of the Act, i.e. by 4 September.

The companies will be able to use special smoking rooms which meet the terms and conditions stipulated by the Act in the period between the enforcement of the Act and the determination of detailed conditions for smoking rooms.

The draft rules that will define more detailed terms and conditions is presented on the website of the Ministry of Health and shall be in public discussion by 15 August.

**15. Will the employees be allowed to smoke in the smoking rooms as established in some companies (rearranged offices)?**

In principle, yes, if such rooms meet the requirements laid down for smoking rooms by the Act. Nevertheless, there are serious doubts that a room which was originally meant to be an office could be arranged so as to prevent any flow of tobacco smoke contaminated air into another room.

**16. How to act if the smokers in the smoking room violate the provisions stipulated by law?**

The employees or the owner/lessee/manager of a closed public or working place shall make it perfectly clear to such persons that the smoking room is intended for smoking only and that no food or drinks may be taken into it. If the owner/lessee/manager of the public or working place fails to ensure the fulfilment of conditions stipulated by Article 17 of the Act for the smoking rooms, they shall be fined.

**17. What about the sale of tobacco products in the catering facilities (will it still be possible or not)?**

The Act does not intervene in the area of the sale of tobacco products except in the part that requires that both buyers and sellers of tobacco products must be older than 18 years. Therefore, it will still be possible to sell tobacco products in the catering facilities, taking into account the specified limitations.

**18. How should the seller of tobacco products act if they believe that an underage person is trying to buy tobacco products?**

The Act stipulates that the seller of tobacco products may ask any person they believe to be underage to present an official document proving their age, such as personal ID card, passport or driving licence. If the person refuses to show such identification, they must not be sold tobacco products.

**19. Is smoking allowed on an open terrace or yard of a catering facility where food is served?**

Smoking is allowed on terraces and yards of catering facilities where food is served provided that these are arranged in such a way that they do not count as a closed area in accordance with the act.

**20. Is smoking allowed in the sanitary facilities, lobbies or vestibules of the public area or working place?**

Smoking is prohibited in all closed public areas and working places that count as a closed area in accordance with the act, including the sanitary facilities, lobbies and vestibules.

**21. Is smoking allowed in underpasses, passages or in front of the catering facilities located in such underpasses and passages?**

If the underpass or passage corresponds to the definition of a closed area, then smoking in such underpass as well as in front of the catering facilities located there is not allowed.

**22. Is smoking prohibited in front of hospitals and health centres? Is smoking allowed on a balcony of a building in which healthcare activity is performed?**

The act does not prohibit the use of tobacco products in the open air in front of hospitals and health centres. Furthermore, the act does not prohibit smoking on the balconies of healthcare institutions if these are arranged in such a way that they do not count as closed areas in accordance with the act. Smoking is merely prohibited in the places not counting as closed areas under the applicable act if they are part of the functional land of the premises on which the activities of education and training are carried out.

The responsible person of the healthcare institution or the provider of activity may decide and prohibit smoking also on the balconies and parts of the functional land of the healthcare institution; in such case, they shall themselves be responsible for the supervision of compliance with such prohibition.

**23. Does the act prohibit smoking in open air sports stadiums?**

The act does not prohibit smoking on sports areas that do not count as closed in accordance with its provisions; however, the owner, lessee or manager of such areas may decide to prohibit smoking there. In such case, they shall themselves be responsible for assuring compliance with such prohibition.

**24. Does the act prohibit smoking in the passages, staircases, lifts and common areas of condominiums?**

The act prohibits smoking in all closed public areas and working places which do not include the passages, staircases, lifts and common areas of condominiums. The residents of a condominium may resolve this matter in the framework of the house rules which may stipulate that smoking is prohibited in the common areas and on staircases.

**25. Is it allowed to smoke herbal cigarettes or water pipes in a closed public area?**

The Restriction of the Use of Tobacco Products Act gives the following definition of tobacco products at the beginning of the document: "Tobacco products means products containing tobacco, including genetically modified tobacco, and made for the purposes of smoking, sniffing, sucking or chewing." This means any product that contains any percentage of tobacco.

The act thus covers the prohibition of smoking the above-mentioned tobacco products in all closed public areas and working places, with the exemptions allowed by the act. The Restriction of the Use of Tobacco Products Act does not regulate products that do not contain tobacco.