



## **PLEASE NOTE**

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For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER S-4.2

### SMOKE-FREE PLACES ACT

#### INTERPRETATION AND APPLICATION

1. In this Act	Definitions
(a) “Chief Inspector” means the Chief Inspector appointed pursuant to section 13(1);	Chief Inspector
(b) “designated smoking area” means an area of a public place or workplace that is designated for smoking under section 8;	designated smoking area
(c) “designated smoking room” means a room that is a designated smoking area;	designated smoking room
(d) “eating establishment” means an establishment where ready-to-eat food is prepared for sale or sold to the public, and includes <ul style="list-style-type: none"><li>(i) restaurants,</li><li>(ii) lunch counters,</li><li>(iii) snack bars,</li><li>(iv) canteens at road sides or recreational facilities,</li><li>(v) cafeterias,</li><li>(vi) banquet facilities,</li><li>(vii) catering outlets and services,</li><li>(viii) delicatessens,</li><li>(ix) bakeries,</li><li>(x) food vending outlets,</li><li>(xi) food take-out establishments, and</li><li>(xii) a grocery store that contains a snack bar or other place where food is served;</li></ul>	eating establishment
(e) “employee” means <ul style="list-style-type: none"><li>(i) a person employed in a workplace by an employer, or</li><li>(ii) a person in a workplace for any purpose in connection therewith;</li></ul>	employee
(f) “employer” means a person who employs one or more employees, or who contracts for the services of one or more employees, and includes a constructor or contractor;	employer
(g) “inspector” means <ul style="list-style-type: none"><li>(i) a person who is appointed as an inspector, or as the Chief Inspector, under subsection 13(1), or</li><li>(ii) a person deemed under the regulations to be an inspector by virtue of his or her office under another enactment;</li></ul>	inspector

licensed premises	(h) “licensed premises” means premises for which a liquor license to sell liquor issued under the <i>Liquor Control Act</i> R.S.P.E.I. 1988, Cap. L-14 is in effect;
long term care facility	(i) “long-term care facility” means a nursing home or community care facility for which a license issued under the <i>Community Care Facilities and Nursing Homes Act</i> R.S.P.E.I. 1988, Cap. C-13 is in effect;
Minister	(j) “Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;
owner	(k) “owner” means an owner of a public place or workplace and includes a person who has, or who appears to have, responsibility for and control over the activities of the public place or workplace;
public place	(l) “public place” means a place that is open to members of the public, and includes <ul style="list-style-type: none"> <li>(i) the part of <ul style="list-style-type: none"> <li>(A) an office building, or</li> <li>(B) a retail store or other commercial establishment,</li> </ul> that is open to members of the public,</li> <li>(ii) the part of a building in which health services are provided and that is open to patients or members of the public,</li> <li>(iii) the part of a day care centre, nursery school or kindergarten that is open to children or members of the public,</li> <li>(iv) the part of an educational institution or educational facility that is open to students or members of the public,</li> <li>(v) the part of an eating establishment that is open to members of the public, whether or not the eating establishment is a licensed premises,</li> <li>(vi) the part of a licensed premises that is open to members of the public, whether or not the licensed premises is an eating establishment or part of an eating establishment, or</li> <li>(vii) a vehicle or the enclosed areas of a vessel, where the vehicle or vessel is designed or used for carrying passengers for compensation;</li> </ul>
second-hand smoke	(m) “second-hand smoke” means a mixture of smoke from an ignited tobacco product and smoke exhaled by the smoker;
smoke	(n) “smoke” where used as a verb means to smoke, hold or otherwise have control over an ignited tobacco product;
tobacco product	(o) “tobacco product” means a product manufactured from tobacco and intended to be smoked; and

(p) “workplace” means any place, including a construction site, where an employee is engaged in work, and includes any cafeteria, corridor, lobby, restroom, elevator, escalator, stairwell or other common area within that place. 2002,c.25,s.1; 2003,c.44,s.1. workplace

2. Repealed by 2002,c.25,s.2.

“correctional centre”

3. Where a provision of an Act, a regulation or a bylaw of a municipality or city respecting smoking in a public place or workplace conflicts with a provision of this Act or the regulations made under this Act, the provision of this Act or the regulations made under this Act prevails, unless the conflicting provision imposes a more stringent requirement or restriction. 2002,c.25,s.3. Conflict with other Acts, regulations or bylaws

### SMOKING RESTRICTIONS

4. No person shall smoke in a public place or workplace except as permitted by this Act and the regulations. 2002,c.25,s.4. Prohibition respecting smoking

5. (1) A person may smoke in an indoor area of a long-term care facility if the owner, operator or person in charge of the facility permits smoking in that area of the facility. Exception — exempted facilities

(2) The owner, operator or person in charge of a facility referred to in subsection (1) shall not permit smoking in an indoor area of the facility unless the owner, operator or person in charge ensures that Prohibition in exempted facility

(a) the facility

(i) is equipped with a ventilation system as is required by the regulations and the ventilation system is in operation while smoking is permitted, and

(ii) has such air quality controls as are required by the regulations; and

(b) the area in which the smoking is permitted

(i) is not

(A) a common area, or

(B) a room ordinarily used or occupied by non-smoking residents of the facility, and

(ii) is identified by a sign as an area in which smoking is permitted. 2002,c.25,s.5; 2003,c.44,s.2.

6. A person may smoke in a designated smoking area in a public place or workplace. 2002,c.25,s.6. Exception — designated smoking area

7. The owner of a public place or workplace, or an employer at a workplace, shall ensure Duty of owner or employer

- (a) if the public place or workplace has no designated smoking areas, that persons refrain from smoking in the public place or workplace; or
- (b) if the public place or workplace has one or more designated smoking areas, that persons smoke only in the designated smoking areas. 2002,c.25,s.7.

#### DESIGNATED SMOKING AREAS

Outdoor designated smoking area at public place or workplace

**8.** (1) Subject to the regulations, an owner of a public place or workplace or an employer at a workplace may, in accordance with the regulations, designate an outdoor area in the public place or workplace for smoking by those persons who are permitted to use the area by the owner or employer, if the indoor non-smoking areas of the public place or workplace are structurally separated from the outdoor area by walls, ceilings, windows and doors that fully enclose the indoor non-smoking areas.

Designated smoking room in public place or workplace

(2) Subject to the regulations, an owner of a public place or workplace or an employer at a workplace may, in accordance with the regulations, designate an indoor area in the public place or workplace for smoking by those persons who are permitted to use the area by the owner or employer, if the area is a room that

- (a) is fully enclosed by walls, a ceiling, windows and doors;
- (b) is equipped with an independent ventilation system that provides negative air pressure for the room as required by the regulations; and
- (c) is not ordinarily used or occupied by non-smokers. 2002,c.25,s.8; 2003,c.44,s.3.

Places where smoking areas not permitted

**9.** (1) The owner of a public place or workplace shall not designate any area of such a place as a smoking area, and the employer at a workplace shall not designate any area of the workplace as a smoking area, if

- (a) the public place or workplace is a vehicle or the enclosed areas of a vessel, where the vehicle or vessel is designed or used for carrying passengers for compensation;
- (b) the area is in that portion of a public place or workplace that is, or is used as,
  - (i) a day care centre, nursery school or kindergarten,
  - (ii) an elementary, intermediate or secondary school,
  - (iii) a hospital,
  - (iv) the common or public area of a retail store or mall,
  - (v) a recreational facility, including a bowling alley, a fitness center, a gymnasium, a pool, or a skating, hockey or curling rink,
  - (vi) a taxi shelter, bus station or ferry terminal,
  - (vii) a movie theatre,

- (viii) a laundromat,
  - (ix) a library,
  - (x) an art gallery or museum, or
  - (xi) a video arcade; or
- (c) the area may not be designated as a smoking area under section 8 or the regulations, where the area is in a public place or workplace other than one referred to in clause (a) or (b).

(2) Notwithstanding subsection (1), an outdoor smoking area may be designated under section 8 for a hospital if the area is in the outdoor grounds of the hospital. Exception

(3) Subsection (1) does not apply to a hospital for the mentally ill or in respect of that portion of a hospital that provides a residence for persons requiring long-term health care. 2002,c.25,s.9; 2003,c.44,s.4. Application to a hospital for the mentally ill

**10.** Repealed by 2003,c.44,s.5. Designated smoking area, workplace

**11.** No owner or employer shall Employees not required to work in designated smoking room

- (a) require an employee to enter or work in a designated smoking room in a public place or a workplace; or
- (b) permit an employee to enter or work in a designated smoking room in a public place or workplace, except in the circumstances and in accordance with the requirements set out in the regulations. 2002,c.25,s.11.

## SIGNS

**12.** The owner of a public place or workplace or the employer at a workplace shall, in accordance with the regulations, post and keep posted at the public place or workplace those signs respecting smoking in a public place or workplace that may be required by the regulations, including Signs required

- (a) signs that indicate smoking is not permitted on the premises;
- (b) signs that indicate smoking is not permitted outside of a designated smoking area; and
- (c) signs that identify designated smoking areas. 2002,c.25,s.12; 2003,c.44,s.6.

## INSPECTORS, COMPLAINTS AND ORDERS

**13.** (1) The Minister shall appoint a Chief Inspector and may appoint one or more inspectors. Inspectors

(2) An inspector is accountable to the Chief Inspector. 2002,c.25,s.13. Accountability

- Powers of inspector **14.** (1) For the purpose of ensuring compliance with this Act and the regulations and any order made under this Act, an inspector may, on presentation, if required, of a certificate of identification signed by the Minister,
- (a) at any reasonable time, and without a warrant or notice, enter and inspect the public place or workplace, conduct tests and make such examinations as the inspector considers necessary or advisable;
  - (b) require the production of records, drawings, specifications, books, plans or other documents in the possession of the owner of a public place or the employer at a workplace that relate to
    - (i) the public place or workplace, or
    - (ii) the health and safety of any persons, including employees, at the public place or workplace,
- and remove them temporarily for the purpose of making copies;
- (c) require the production of documents or records that the inspector, on reasonable grounds, considers relevant to the investigation of a complaint, and remove them temporarily for the purpose of making copies;
  - (d) take photographs or recordings of the public place or workplace and any activity taking place in the public place or workplace;
  - (e) make any examination, investigation or inquiry as the inspector considers necessary to ascertain whether there is compliance with this Act and the regulations or any order made under this Act;
  - (f) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed, of any article, material, or thing to which the Act or the regulations, or an order made under this Act, apply;
  - (g) in an examination, inspection, investigation, inquiry or test, be accompanied and assisted by a peace officer or a person having special expert or professional knowledge of any matter;
  - (h) at any reasonable time seize and detain for such time as may be necessary anything by means of or in relation to which the inspector, on reasonable grounds, believes any provision of this Act or the regulations, or an order made under this Act, has been contravened;
  - (i) make inquiries of any person who is or was in a public place or workplace; and
  - (j) exercise such other powers as may be necessary or incidental to the carrying out of the inspector's functions pursuant to this Act or the regulations.
- Obstruction (2) No person shall obstruct or attempt to obstruct, or fail to cooperate with, an inspector in the exercise of his or her functions under this Act or the regulations. 2002,c.25,s.14.

**15.** (1) A complaint alleging that there has been a contravention of this Act or the regulations or a failure to comply with an order issued under this Act may be made by any person to the Chief Inspector. Complaints

(2) A complaint shall be made in a manner or in a form acceptable to, and shall provide the information required by, the Chief Inspector. Form of complaint

(3) The Chief Inspector may investigate or direct an inspector to investigate a complaint made under this section. 2002,c.25,s.15. Investigation

**16.** (1) Where an inspector has reasonable grounds to believe Order

(a) that either there has been a contravention of a provision of this Act or the regulations; or

(b) that both

(i) remedial action is necessary to ensure compliance with this Act or the regulations, and

(ii) less intrusive means of dealing with the matter are not likely to be sufficiently effective,

the inspector may issue an order requiring any person appearing to have responsibility to take such remedial action as may be specified in the order.

(2) An order made under subsection (1) Contents of order

(a) may be given orally or in writing to a person who is responsible for taking remedial action under the order;

(b) shall specify

(i) the reasons why it was made, and

(ii) the name of any person responsible for taking remedial action under the order;

(c) shall clearly specify what remedial action is required to be taken and the time within which that action must be taken; and

(d) shall indicate that a failure to comply with the order is an offence under section 19 of this Act.

(3) Where an inspector gives an oral order under subsection (2), the inspector shall, within 24 hours of giving the order, serve a written copy of the order to the person responsible for taking remedial action under the order. Confirmation in writing

(4) An inspector may, under this section, effect service of a written copy of an order on a person responsible for taking remedial action under the order Process for serving orders

(a) by causing the written copy of the order to be posted in a conspicuous place at the public place or workplace to which the order applies; or

(b) by leaving the written copy of the order with



- (i) the person responsible for taking remedial action under the order,
- (ii) an officer, director or agent of the owner of, or the employer at, the public place or workplace to which the order applies, if the owner or employer is not named in the order as a person responsible for taking remedial action under the order, or
- (iii) any person who appears to be in charge of the public place or workplace to which the order applies. 2002,c.25,s.16.

GENERAL

Discriminatory action against complainant

**17.** (1) No employer or union shall

- (a) take any discriminatory action against the employee;
- (b) threaten to take any discriminatory action against the employee;
- (c) impose any penalty on the employee; or
- (d) intimidate or coerce the employee,

because the employee has acted in accordance with or sought the enforcement of this Act, the regulations or an order of an inspector.

Discriminatory action

(2) In this section, “discriminatory action” includes the discipline, suspension or dismissal of an employee. 2002,c.25,s.17.

Liability of inspectors

**18.** (1) No action or other proceeding for damages lies or shall be instituted against an inspector or any other person involved in the administration of this Act or the regulations for anything done or omitted to be done in good faith pursuant to or in the exercise or intended exercise of any power or function under this Act or the regulations.

Liability of complainants

(2) No action or other proceeding for damages lies or shall be instituted against any person who, in good faith,

- (a) makes a complaint to an inspector under section 15; or
- (b) assists an inspector in the conduct of an investigation under this Act or the regulations. 2002,c.25,s.18.

Offence

**19.** (1) A person who contravenes a provision of this Act or the regulations or who fails to comply with an order of an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$500 and not more than \$2,000.

Continuing offence

(2) A contravention of this Act or the regulations or a failure to comply with an order of an inspector that is of a continuing nature constitutes a separate offence in respect of each day or part of a day that it continues. 2002,c.25,s.19.

Regulations

**20.** The Lieutenant Governor in Council may make regulations

- (a) respecting the designation of an area or room for smoking under section 8, including

- (i) establishing the method of effecting such a designation,
- (ii) providing for restrictions on
  - (A) the location of an outdoor area that may be designated as a smoking area, or
  - (B) the maximum size, capacity or area of a room that may be designated as a smoking room, and
- (iii) providing standards or requirements for the construction, design, equipment and location of a room that may be designated as a smoking room;
- (b) respecting signs concerning smoking in public places, workplaces and designated smoking areas and rooms, including
  - (i) providing for the posting of such signs,
  - (ii) providing for the content, dimensions, form and appearance of such signs,
  - (iii) requiring any owner or employer to ensure that such signs are unobstructed and are replaced in prescribed circumstances;
- (c) respecting the ventilation of a designated smoking area in a public place or workplace, including
  - (i) determining the required specifications of an independent ventilation system for a designated smoking room, and
  - (ii) requiring an owner or employer to ensure the operation of the independent ventilation system for a designated smoking room while smoking is occurring in the room.
- (d) respecting the ventilation and air quality controls required for a facility referred to in subsection 5(2);
- (e) defining a word or term used in the Act that is not otherwise defined in the Act;
- (f) regulating the entry into, and work in, a designated smoking room by employees, including establishing the circumstances, duration and requirements for such entry or work;
- (g) respecting the use and cleaning of designated smoking areas;
- (h) respecting the air quality of a designated smoking area in a public place or workplace, including
  - (i) setting standards of air quality for such areas, and
  - (ii) requiring any owner or employer to ensure compliance with those standards;
- (i) deeming persons to be inspectors by virtue of the office they hold under another enactment; and
- (j) respecting any other matters that the Lieutenant Governor in Council considers necessary and advisable to carry out the purposes and provisions of this Act. 2002,c.25,s.20; 2003,c.44,s.7.