



# No smoking in commercial outdoor dining areas

## THE FACTS

The *Smoke-free Environment Act 2000* makes a number of outdoor public places smoke-free. From **6 July 2015** smoking is not permitted in a commercial outdoor dining area, being:

- ✓ a seated dining area
- ✓ within 4 metres of a seated dining area on licensed premises, restaurant or café
- ✓ within 10 metres of a food fair stall.

### **What does 'a seated dining area' mean?**

This is an area in which the business provides food and seating in the outdoor area where the food is being eaten. The food must have been served or packaged to be eaten straight away.

### **Are designated outdoor smoking areas allowed at licensed premises and restaurants?**

Yes. The new law does not prevent the creation of designated outdoor smoking areas in licensed premises and restaurants. However, such spaces cannot be located within 4 metres of the seated dining area on the premises and must meet all other requirements of the *Smoke-free Environment Act 2000*. The area must display appropriate signage (see the website for an order form when available) and business owners must take reasonable steps to ensure that eating does not occur in the area.

From 6 July 2015, smokers will not be able to smoke within 4 metres of a pedestrian entry to or exit from a licensed premises or restaurant. This '4 metre law' may affect existing designated smoking areas.

### **Why has this part of the *Smoke-free Environment Act 2000* been delayed until 2015?**

A staged approach has been taken to provide the community and businesses with plenty of time to adjust to the ban on smoking in commercial outdoor dining areas. This is a similar timeframe to the ban on smoking in enclosed public places which came into effect in July 2007.

### **Is signage needed to show where smoking is not allowed?**

Yes. Owners of licensed premises and restaurants must ensure that adequate 'no-smoking' signage is displayed in an outdoor dining area. This signage needs to meet specific wording requirements as outlined in the *Smoke-free Environment Regulation 2007*.

Licensed premises and businesses can order correct, free signage from NSW Health. See the website for the order form.

## Is it legal to smoke water-pipe in an outdoor dining area?

No. Smoking relates to any ignited tobacco product or non-tobacco smoking product and includes smoking from a cigarette, pipe, water-pipe or any other smoking device.

The smoke from a water-pipe, like all smoking products, endangers the health of smokers and of others exposed to it. Contrary to common myths, the nicotine and/or toxins in water-pipe smoke are not filtered out by the water in the pipe. Fruit flavouring does not make water-pipe smoking a healthier choice than cigarette smoking.

Water-pipe is also known as *nargila*, *argileh*, *hubble bubble*, *hookah*, *shisha* and *goza*.

## How will this be enforced?

NSW Health Authorised Inspectors can enforce the ban in commercial outdoor dining areas under the *Smoke-free Environment Act 2000*.

On the spot fines of \$300 may apply to individuals who smoke in a commercial outdoor dining area from 6 July 2015. Penalties of up to \$5,500 may apply to business owners if a person is found to be smoking in a commercial outdoor dining area.

## Why is this legislation in place?

There is no safe level of exposure to second-hand tobacco smoke. This is the smoke which smokers exhale after inhaling from a lit cigarette and the smoke emitted from a burning cigarette.

Research has shown individuals in typical public outdoor dining areas may be exposed to high levels of second-hand tobacco smoke.

In adults, breathing second-hand tobacco smoke can increase the risk of heart disease, lung cancer and other lung diseases. It can worsen the effects of other illnesses such as asthma and bronchitis. Exposing ex-smokers to other people's tobacco smoke increases the chance of relapsing to smoking.

For children, inhaling second-hand tobacco smoke is even more dangerous. This is because children's airways are smaller, and their immune systems are less developed. These differences make children more likely to suffer health problems due to second-hand smoke such as bronchitis, pneumonia and asthma.

Creating smoke-free outdoor areas, such as smoke-free commercial outdoor dining areas, can support those who have quit and make smoking less visible to children and young people.

## How does this affect Local Council bans on smoking in outdoor areas?

Many NSW councils, under the provisions of the *Local Government Act 1993*, have introduced their own smoking bans. Where these bans are in place, they can continue to be enforced by Local Council rangers.

**NOTE:** This fact sheet provides general guidance on complying with the *Smoke-free Environment Act 2000*. Please refer to the exact wording of the Act and associated regulations concerning points of law. Business owners may need to seek independent legal advice on your specific business circumstances.

## For more information

Learn more about smoke-free laws or report a breach at [health.nsw.gov.au/smokefree](http://health.nsw.gov.au/smokefree).

Call the Tobacco Information Line on **1800 357 412**.

Non-English speaker? Call the Translating and Interpreting Service on 13 14 50.



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