

S.I. No. 359 of 1995.

TOBACCO (HEALTH PROMOTION AND PROTECTION) REGULATIONS, 1995.

In exercise of the powers conferred on the Minister for Health by Section 2 of the Tobacco (Health Promotion and Protection) Act, 1988 (No. 24 of 1988), which said powers are delegated to me by the Health (Delegation of Ministerial Functions) (No. 2) Order, 1995, I, BRIAN O'SHEA, Minister of State at the Department of Health, hereby make the following Regulations:

PART I

General

1. These Regulations may be cited as the Tobacco (Health Promotion and Protection) Regulations, 1995.
2. (1) These Regulations shall come into operation on the 1st day of January 1996, except as provided for in sub-article (2) below.
(2) Paragraph 2 of the Second Schedule to these Regulations shall come into operation on the 1st day of May, 1996.
3. The Tobacco (Health Promotion and Protection) Regulations, 1990, (S.I. No. 39 of 1990) are hereby revoked.
4. In these Regulations—
"aerodrome" has the meaning assigned to it by Section 2 (1) of the Air Navigation and Transport Act, 1936 (No. 40 of 1936).
"harbour" means any dock, pier, wharf, jetty, boatslip, offshore terminal, installation or place intended or used for the accommodation, berthing or anchorage or for the shipping, unshipping or transshipping of goods.
"child care centre" means premises or part of a premises in which services for children are provided in accordance with the Child Care Act, 1991 (No. 17 of 1991).
"hospital" means premises in which a majority of the persons being maintained are being treated for acute ailments, or are receiving maternity care, by or under the control of medical or surgical specialists and includes a private hospital.
"nursing home" means a "nursing home" as defined in Section 2 of the Health (Nursing Homes) Act, 1990 (No. 23 of 1990).
"maternity home" means a maternity home as defined in Section 1 of the Registration of Maternity Homes Act, 1934 (No. 14 of 1934).
"centre for the mentally handicapped" means premises or part of a premises in which day services for persons with mental handicap are provided.
"centre for the physically handicapped" means premises or part of a premises in which day services for persons with physical handicap are provided.
"psychiatric hospital" means mental institutions within the meaning of the Mental Treatment Acts, 1945 to 1961.
"sports centre" means any premises purpose-built or adapted for the practice or playing of sports.
"taxi" means a small public service vehicle in respect of which a taxi licence has been issued.
"hackney cab" means a small public service vehicle in respect of which a hackney licence has been issued.
5. These Regulations may be enforced by officers of the Minister for Health and by officers of the health boards established under the Health Act, 1970 (No. 1 of 1970).

PART II

Prohibition on the Consumption of Tobacco Products

6. (1) A person shall not consume a tobacco product in a designated area described in Part I of the First Schedule to these Regulations which designated areas shall be identified clearly by appropriate notices.
(2) It shall be the responsibility of the owner, manager or other person in charge to ensure

that such areas are identified clearly by appropriate notices.

7. (1) A person shall not consume a tobacco product in a designated facility described in Part II of the First Schedule to those Regulations which designated facilities shall be identified clearly by appropriate notices.

(2) It shall be the responsibility of the owner, manager or other person in charge to ensure that the prohibition on the consumption of tobacco products in such facilities is indicated clearly by appropriate notices.

PART III

Restrictions on the Consumption of Tobacco Products

8. (1) The owner, manager or person in charge of a designated area or designated facility specified in paragraph 1 in the Second Schedule to these Regulations shall identify by means of appropriate notices the part or parts of such designated areas or designated facility within which the consumption of tobacco products is prohibited.

(2) In identifying the part or parts of the designated areas or designated facilities pursuant to sub-article (1) the owner, manager or person in charge shall comply with the criteria set out in paragraph 2 or 3 (as the case may be) of the Second Schedule to these Regulations.

(3) No tobacco products may be consumed in places within a designated area or a designated facility specified in the Second Schedule to these Regulations which places and designated facilities shall be identified clearly by appropriate notices.

(4) It shall be the responsibility of the owner, manager or other person in charge to ensure that the area, facility or place in which smoking is prohibited shall be clearly identified by appropriate notices.

PART IV

Applications of these Regulations

9. These Regulations shall not apply to prisons.

FIRST SCHEDULE

PART I

Prohibition on the Consumption of Tobacco Products in Designated Areas

1. The designated areas referred to in Article 6 of these Regulations are as follows:

- (i) subject to the provisions in sub-paragraph (iii) and (iv), of Paragraph 1 of the Second Schedule to these Regulations, the circulation space which shall include stairways, escalators, lifts, corridors, landings and concourse areas in all buildings, (other than hotels), which belong to, or are in the occupation of—
 - the State, or
 - a body, established by or under an Act of the Oireachtas,
- (ii) offices to which the public has access and conference/meeting rooms within buildings or premises which belong to, or are in the occupation of—
 - the State, or
 - a body, established by or under an Act of the Oireachtas,
- (iii) any part of a pre-school, creche, play-group, day nursery or other service which caters for pre-school children, in any part of a primary or secondary school (including the school yard), save that smoking may be permitted where specific facilities, other than classrooms or recreation rooms, are provided for staff to smoke,
- (iv) subject to the provisions of sub-paragraph (ii) of Paragraph 1 of the Second Schedule to these Regulations, any part of the buildings of third level educational institutions, save that smoking may be permitted in any licensed premises therein and in specific facilities — other than classrooms, lecture theatres or recreation rooms — which are provided for staff or students to smoke,

- (v) the kitchens and food preparation areas in hotels, restaurants, cafes, snack bars, retail and licensed premises in which food is stored or prepared for human consumption,
- (vi) the retail, storage and food preparation areas in supermarkets, grocery stores and butchers premises,
- (vii) the waiting rooms in railway stations,
- (viii) the waiting rooms in bus stations,
- (ix) the indoor spectator and games areas in sports centres,
- (x) the games areas in ten-pin bowling centres,
- (xi) the auditorium of a cinema,
- (xii) the auditorium of a theatre,
- (xiii) the auditorium of a premises which is purpose built or adapted or the holding of concerts for public entertainment,
- (xiv) specific areas (including playing areas and circulation space) within premises which are used for the playing of bingo and bridge,
- (xv) subject to the provisions of sub-paragraph (ii) of Paragraph 1 of the Second Schedule to these Regulations, in Art Galleries and Museums which belong to the State, save that smoking may be permitted where specific facilities are provided for staff to smoke,
- (xvi) subject to the provisions of sub-paragraph (ii) of Paragraph 1 of the Second Schedule to these Regulations, in public libraries, save that smoking may be permitted where specific facilities are provided for staff to smoke,
- (xvii) child care centres, save that smoking may be permitted where specific facilities are provided for staff to smoke,
- (xviii) hospitals, save that smoking may be permitted where specific facilities are provided for staff and patients to smoke,
- (xix) nursing homes, save that smoking may be permitted where specific facilities are provided for patients and staff to smoke,
- (xx) long-stay geriatric homes, save that smoking may be permitted where specific facilities are provided for patients and staff to smoke,
- (xxi) maternity homes, save that smoking may be permitted where specific facilities are provided for patients and staff to smoke,
- (xxii) centres for the mentally handicapped, save that smoking may be permitted where specific facilities are provided for staff and patients to smoke,
- (xxiii) centres for the physically handicapped, save that smoking may be permitted where specific facilities are provided for staff and patients to smoke,
- (xxiv) waiting rooms on the premises of doctors' and dentists' practices,
- (xxv) health premises, other than those listed in sub-articles (xvii) to (xxiv) above, and in sub-paragraph (i) of Paragraph 1 of the Second Schedule to these Regulations which provide health services to the public and which include health centres and retail pharmacies save that specific facilities may be provided for staff to smoke,
- (xxvi) the areas to which the public has access in banks, building societies and other retail financial agencies,
- (xxvii) the areas to which the public has access in hairdressing salons and barber shops.

PART II

Prohibition on the Consumption of Tobacco Products in Designated Facilities

1. The designated facilities referred to in Article 7 of these Regulations shall consist of the

following:

- (i) all public service vehicles owned or operated by Bus Éireann and by Bus Átha Cliath;
- (ii) privately owned transport vehicles used by the public which have a seating capacity for eight persons or more and which are engaged in the transport of persons for financial reward;
- (iii) the Dublin Area Rapid Transit and Arrow train systems operated by Iarnród Éireann;
- (iv) taxis and hackney cabs.

SECOND SCHEDULE

Restriction on the Consumption of Tobacco Products in Designated Areas and in Designated Facilities

1. The designated areas and the designated facilities referred to in Article 8 of these Regulations are as follows:

- (i) psychiatric hospitals,
- (ii) restaurants, canteens, cafes and snack bars,
- (iii) the seating area in the concourse area in the Arrivals and in the Departure Areas of Aerodromes,
- (iv) the seating area in the concourse area in the Arrivals and in the Departure Areas of Harbours,
- (v) subject to the provisions in sub-paragraph (iii) of Paragraph 1 of Part II of the First Schedule to these Regulations, all trains,
- (vi) aircraft and passenger ferries.

(2) In each of the designated areas specified in sub-paragraph (ii) of Paragraph 1 of this Schedule, the part, or parts of such seating area which must be clearly identified as areas in which smoking is prohibited shall be either—

- (i) at least one-half of the seating area; or
- (ii) where the chief executive officer of the relevant health board has confirmed in writing that he/she is satisfied that the ventilation or other system is adequate to prevent, as far as is practicable, the circulation of tobacco smoke into the area where smoking is prohibited at least one-quarter of the seating area. Such confirmation may only be issued following written application by the owner, manager or person in charge of the premises concerned and inspection of the said premises and its ventilation or other system by an officer of the health board, and shall be subject to review by the chief executive officer at any time he/she considers appropriate.

3. In each of the designated areas or designated facilities specified in sub-paragraphs (iii) to (vi) inclusive of Paragraph 1 of this Schedule, at least two-thirds of the seating area shall be clearly identified as areas in which smoking is prohibited.

Dated this 21st day of December, 1995.

BRIAN O'SHEA,
Minister of State at the Department of Health.

EXPLANATORY NOTE.

The purpose of these Regulations is to give effect to Section 2 of the Tobacco (Health Promotion and Protection) Act, 1988. The effect of the Regulation is:

- to revoke the Tobacco (Health Promotion and Protection) Regulations, 1990 and
- to further prohibit and/or restrict consumption of tobacco products in various public areas and facilities which are described in the Regulations.

The Regulations come into operation on 1st January 1996, with the exception of the specification of the minimum non-smoking proportion of seating in restaurants, canteens, cafes and snack bars, which comes into effect on 1st May, 1996.
