

IRELAND

Public Health (Tobacco) (Amendment) Act 2004

Section 16 – The Principal Act is amended by the substitution of the following section for section 47:

- (1) Subject to subsection (7), the smoking of a tobacco product in a specified place is prohibited.
- (2) A person who contravenes subsection (1) shall be guilty of an offence.
- (3) Where in relation to a specified place there is a contravention of subsection (1), the occupier, manager and any other person for the time being in charge of the specified place concerned shall each be guilty of an offence.
- (4) In proceedings for an offence under this section, it shall be a defense for a person against whom such proceedings are brought to show that he or she made all reasonable efforts to ensure compliance with this section.
- (5) The Tobacco (Health Promotion and Protection) Regulations 1995 (S.I. No. 359 of 1995) are revoked.
- (6) This section has been enacted for the purposes of reducing the risk to and protecting the health of persons.
- (7) This section shall not apply to—
 - (a) a dwelling,
 - (b) a prison,
 - (c) subject to paragraph (d), a place or premises, or a part of a place or premises, that is wholly uncovered by any roof, whether fixed or movable,
 - (d) an outdoor part of a place or premises covered by a fixed or movable roof, provided that not more than 50 per cent of the perimeter of that part is surrounded by one or more walls or similar structures (inclusive of windows, doors, gates or other means of access to or egress from that part),
 - (e) a bedroom in—
 - (i) a premises registered under Part III of the Tourist Traffic Act 1939 in a register established and maintained under that Part,
 - (ii) a premises for the time being specified in a list published, or caused to be published, under section 9 of the Tourist Traffic Act 1957, or
 - (iii) any other premises in which a person carries on business, being a business that consists of or includes the provision, in those premises, of sleeping accommodation to members of the public,
 - (f) a room that, in furtherance of charitable objects, is used solely for the provision of living accommodation,

(g) in premises owned or occupied by a person whose main objects are the provision of education, a room that, in furtherance of those objects (other than objects relating to the provision of primary or secondary education), is used solely for the provision of living accommodation,

(h) a nursing home,

(i) a hospice,

(j) a psychiatric hospital, or

(k) the Central Mental Hospital.

(8) In this section—

- ‘college’ means a university, institute of technology or other establishment at which third level education is provided;
- ‘health premises’ means any hospital, sanatorium, home, laboratory, clinic, health care centre or similar premises required for the provision of services under the Health Acts 1947 to 2001 provided and maintained by a health board under section 38 of the Act of 1970;
- ‘hospice’ means an institution—
 - (a) for the maintenance of, and
 - (b) in which palliative care is provided to, persons (a majority of whom are over 18 years of age) who suffer from illnesses or diseases which are active, progressive and advanced in nature and which are no longer curable by means of the administration of existing or available medical treatments, but does not include—
 - (i) an institution in which a majority of the persons being maintained are being treated for acute illnesses, or
 - (ii) a maternity home within the meaning of the Registration of Maternity Homes Act 1934;
- ‘nursing home’ has the same meaning as it has in the Health (Nursing Homes) Act 1990, except that it includes—
 - (a) an institution to which paragraph (a), (e) or (g) of section 2(1) of that Act applies, and
 - (b) a premises in which a majority of the persons being maintained are members of a religious order, or priests or clergy of any religion;
- ‘place of work’ has the same meaning as it has in the Safety, Health and Welfare at Work Act 1989; ‘prison’ means a place of custody administered by the Minister for Justice, Equality and Law Reform, and includes—
 - (a) Saint Patrick’s Institution,
 - (b) a place provided under section 2 of the Prisons Act 1970,
 - (c) a place specified under section 3 of the Prisons Act 1972, and
 - (d) any part of a Garda Síochána station used for the detention of persons;
- ‘psychiatric hospital’ means—
 - (a) a mental institution within the meaning of the Mental Treatment Acts 1945 to 1966, or
 - (b) an approved centre under the Mental Health Act 2001; ‘Saint Patrick’s Institution’ has the same meaning as it has in the Criminal Justice Act 1960;
- ‘school’ has the same meaning as it has in the Education Act 1998;

- ‘specified place’ means—
 - (a) a place of work,
 - (b) an aircraft, train, ship or other vessel, public service vehicle, or a vehicle used for the carriage of members of the public for reward other than a public service vehicle, insofar as it is a place of work,
 - (c) a health premises, insofar as it is a place of work,
 - (d) a hospital that is not a health premises, insofar as it is a place of work,
 - (e) a school or college, insofar as it is a place of work,
 - (f) a building to which the public has access, either as of right or with the permission of the owner or occupier of the building, and which belongs to, or is in the occupation of—
 - (i) the State,
 - (ii) a Minister of the Government,
 - (iii) the Commissioners of Public Works in Ireland, or
 - (iv) a body established by or under an Act of the Oireachtas, insofar as it is a place of work,
 - (g) a cinema, theatre, concert hall or other place normally used for indoor public entertainment, insofar as it is a place of work,
 - (h) a licensed premises, insofar as it is a place of work, or
 - (i) a registered club, insofar as it is a place of work.’’.