

# **SMOKING REGULATIONS IN THE WORKPLACE**

## **1. Introduction**

The ban on smoking in the workplace comes into effect on Monday March 29<sup>th</sup> 2004. This bulletin outlines the new legislation that prohibits and restricts smoking in a place of work. It also gives practical advice and guidelines on the implementation of the new regulations and outlines some proactive measures that school authorities may adopt to assist their staff to stop smoking.

The prohibition on the consumption of tobacco products in designated areas is not new to schools. In 1996 legislation was passed which prohibited smoking in any part of a primary or secondary school (including the school yard), save that smoking was permitted where specific facilities were provided for staff to smoke (e.g. Smoking room).

This new legislation now extends to the school premises and therefore from Monday 29<sup>th</sup> March the smoking ban extends to inside the school premises.

## **2. The Legislation**

The Public Health (tobacco) Act 2002 is the most comprehensive piece of anti-tobacco legislation ever enacted in the State. It repeals the Tobacco (Health Promotion and Protection ) Regulations 1995, which extended a prohibition of smoking to a range of primarily public facilities, and the Tobacco Products (Control of Advertising, Sponsorship and Sales promotion) Act, 1978.

### **2.1 Provisions under The Act**

- The establishment of the Office of Tobacco Control;
- The registration of sellers of tobacco products.
- A prohibition on sponsorship and certain marketing practices by manufactures and importers of tobacco;
- The Prohibition or restriction of tobacco smoking in certain places.

### **2.2 The Place of Work**

Under Section 47 of the Act, the Minister “may, by regulations, prohibit or restrict the smoking of tobacco products in (...) a place of work”. The workplace, for the purposes of this Act, is as defined under the Safety, Health and Welfare Act, 1989: “ any place, land or other location at, in, upon or near which work is carried on whether occasionally or otherwise”.

Given that smoking has been banned since 19967 in any part of a school except the specific facilities within, the new legislations indicates that the whole area inside the school boundary is a smoke free area and should continue to be designated as such. Therefore, in the case of schools the new legislation extends to smoking rooms that had been previously designated in schools. There is no

provision in this legislation for a smoking room facility in an institution such as a school.

### **2.3 Students**

The new legislation also covers students. Schools will have rules already in place regarding smoking by students in the school. As well as the sanctions applied by the school in this regard students may be reminded that they could also incur the penalties referred at 2.4 below.

### **2.4 Enforcement and penalties**

Section 47 (3) of the Public Health (Tobacco) Act 2202 states that “any person” (including an employee) found to be in contravention of the new regulations will be “guilty of an offence”. Section 47 (4) states that “the occupier, manager and any other person for the time being in charge of the place” will be held accountable”.

Offences can incur fines of up to €3,000 for persons who infringe these new regulations by smoking in a prohibited area. The owner/manager of a premises or in the case of schools the Board of Management/Manager may also be liable for such penalties for failure to enforce the regulations.

However, a school authority should note that it shall be a defence for an employer against whom such proceedings are taken to show that he or she made “all reasonable efforts” to ensure compliance with any such regulations.

Enforcement in bars, restaurants and other public areas is likely to be undertaken by environmental health officers.

### **2.5 Policies and Procedures**

#### **(a) Policy on smoking**

Schools like all places of work are now required to have a policy on smoking and on the procedures to be used to deal with infringements of the legislation by employees. A sample policy is outlined in **Appendix One**.

#### **(b) Briefing on the new regulations**

To avoid breaches of the smoking regulations, all school personnel should be briefed on the requirements under the new legislation. School authorities are advised to inform and consult with personnel on the new smoking rules over a reasonable period of time, to allow people to become accustomed to the new regulations and to facilitate smokers who may need to adjust their smoking habits. This procedure will ensure that all personnel are aware of the policies and procedures in place where there is a contravention of the smoking ban.

**(c) Infringements**

Infringements by staff will be dealt with under local disciplinary procedures. These procedures are further outlined in the Policy at **Appendix One**.

**(d) Signage**

“No Smoking” signs should be Conspicuously displayed so that the signs are clearly visible to all employees and visitors while in the premises. All such signs should include the name of the person (Principal) to whom a complaint should be made in the event of non-compliance.

A “No Smoking” sign should be permanently displayed in a conspicuous position at each entrance to the school premises, at service counters, in toilet facilities and staff rooms. “No Smoking” signs should contain the international “No Smoking” symbol and be durable.

**(e) E-cigarettes**

E-cigarettes produce a vapour as opposed to smoke and are therefore not included in the prohibition under the 2003 legislation. In spite of this the Board of Management has taken the decision to ban the smoking of e-cigarettes within the entire school boundary with no exceptions.

**Appendix One: Model Smoke-Free Workplace**

**School Name: St. Mary's Secondary School, Macroom**

**Rationale**

*Exposure to second-hand smoke/Environmental Tobacco Smoke (ETS) also known as passive smoking is a cause of disease, including lung cancer and heart disease, in third parties. Neither the simple separation of smokers and non-smokers within the same airspace nor the provision of ventilation can eliminate exposure the ETS and the consequent health effects of such exposure. This policy has been developed to protect all employees, service users, customers and visitors from exposure to ETS, to ensure compliance with legal obligations and to ensure a safe working environment.*

**Policy**

It is the policy of St. Mary's Secondary School, Macroom that all of its workplaces are smoke-free and that all employees have a right to work in a smoke-free environment. Smoking (including the smoking of e-cigarettes) is prohibited within the entire school boundary with no exceptions. This policy applies to all employees, consultants, contractors, customers and visitors. In the school context this also applies to students and parents.

**Implementation**

Overall responsibility for policy implementation rests with the Board of Management. All staff have an obligation to adhere to, and facilitate the implementation of this policy. The person in charge (Principal) shall inform all existing employees, consultants and contractors of the policy and their role in the implementation and monitoring of the policy. All new and prospective employees, consultants and contractors shall be given a copy of the policy on recruitment/induction by the Principal. Students and parents will be informed of this policy.

**Infringements**

Infringements by staff will be dealt with under local disciplinary procedures. Infringements by customers, clients etc., will be dealt with in accordance with the procedure set out below. Employees, consultants, contractors, customers and visitors who contravene legislation prohibiting smoking in the workplace are also liable to a criminal prosecution with an associated fine.

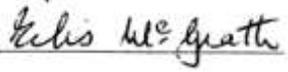
**Procedure if a person smokes in contravention of Section 47 of the Public Health (Tobacco) Acts that prohibits smoking in the workplace.**

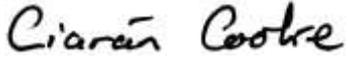
1. Draw the person's attention to the "No Smoking" signs and advise that they are committing an offence by smoking on the premises.
2. Advise the person that it is also an offence for the Board of Management to permit anyone to smoke in contravention of the law.

3. Advise the person that the school has a smoke-free policy to ensure a safe working environment for employees and students.
4. If the person continues to smoke advise that they are in breach of school rules and that disciplinary sanctions will have to be implemented.
5. Violation of the smoke free policy will invoke disciplinary procedures.
6. Violation of the smoke free policy by non-school personnel (e.g. visitors, contractors, suppliers) should be dealt with in accordance with the DES Circular18/99 Guidelines on Violence in Schools.

**Ratified by the Board of Management of St. Mary's Secondary School March, 2006**

Amended: 21/04/15 (regarding e-cigarettes)

Signed:   
Chairperson Board of Management

Signed:   
Principal

Date of next review: As required