



## SMOKE-FREE GUIDE:

# No smoking within 4 metres of a pedestrian access point to a building

# GUIDANCE

### Introduction

This guide contains information regarding section 6A(1)(i) of the *Smoke-free Environment Act 2000*. Section 6A(1)(i) bans smoking within 4 metres of a pedestrian access point to a public building from 7 January 2013. The ban will be delayed for licensed premises, restaurants and cafés until 6 July 2015.

Smoking is already banned in enclosed areas of public places in NSW. The new law extends the smoking ban to 4 metres from an entrance used by pedestrians to get into or out of a building, but does not extend into the premises.

In public outdoor settings, such as immediately outside buildings where people congregate, people entering or exiting the building have limited opportunity to avoid second-hand tobacco smoke. Banning smoking in these types of areas is a key measure in reducing community exposure to second-hand tobacco smoke, tobacco related harm and the uptake of smoking in NSW.

For more information in relation to legislative requirements for smoke-free areas, please refer to the *Smoke-free Environment Act 2000* and *Smoke-free Environment Regulation 2007* online at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

### What is a public building?

A public building is any non-residential building, such as:

- ✓ professional, trade, commercial and other business premises;
- ✓ Local, NSW and Federal Government premises;
- ✓ shopping centres, malls and plazas;
- ✓ restaurants, cafés, hotels and clubs;
- ✓ schools, colleges and universities;
- ✓ community centres, halls and places of worship;
- ✓ theatres, cinemas, libraries and galleries;
- ✓ accommodation hotels and motels;
- ✓ fitness centres, bowling alleys and other sporting and recreational buildings; and
- ✓ childcare facilities.

### Is a residential building a public building?

Buildings used only for residential purposes such as private houses or multi-unit residential accommodation (such as boarding houses, buildings in caravan parks and residential accommodation in community or strata schemes) are not covered by the ban on smoking within 4 metres of a pedestrian access point to a building.

Buildings that have multiple uses, such as residential and commercial purposes, will be subject to the ban on smoking within 4 metres of the building pedestrian entrance or exit only at those entrances and exits which are used for non-residential purposes.

## What is a pedestrian access point?

A pedestrian access point to a building is defined in section 6A(2) of the *Smoke-free Environment Act 2000* as:

*An entrance to or exit from a building for use by pedestrians, but does not include:*

- (a) an entrance to or exit from a building that is used only for residential purposes (including a boarding house and a building in a caravan park), or*
- (b) an entrance to or exit from a building that is used partly for residential purposes and partly for other purposes if the entrance or exit concerned is used solely for entry to or exit from that part of the building that is used for residential purposes, or*
- (c) an emergency exit that is locked to entry.*

## What is the entrance to or exit from a building?

The entrance to or exit from a building is generally the doorway that leads to or from the building.

For example, a doorway that leads into an office building from a public street or the public entry into a library or art gallery.

## What if the premises have a courtyard or garden?

Sometimes premises will have a front courtyard between the building and the public street. Alternatively, premises may have a back garden or courtyard between the building and a public street.

Where such front or back courtyards or gardens exist, the entrance or exit will generally be the doorway into or out of the building itself.

However, if the courtyard or garden boundary is completely or substantially surrounded by a fence or a wall, (that is, generally only patrons would use the courtyard or garden) the entrance or exit may be the courtyard door or gate from the public street and smoking is banned within 4 metres of that entrance. For licensed premises, restaurants and cafés, this will apply from 6 July 2015.

## Can you smoke within 4 metres of an entrance to or exit from a balcony, verandah, terrace or rooftop?

Yes, provided these areas do not provide access to a place external to the premises and smoking is not otherwise banned under the *Smoke-free Environment Act 2000*.

## Will a person break the law if they pass by a public building while smoking?

No. The law creates appropriate defences to ensure that it will not be an offence to pass through a smoke-free area outside the entrance of a public building, while smoking.

## Will there be signage to indicate where smoking is not permitted?

The law does not require signs to be displayed to indicate that smoking is not permitted within 4 metres of a pedestrian entrance to or exit from a public building. This is due to the diverse range of public buildings that are captured under the law.

The law allows the Ministry of Health to work with Local Councils and other Government departments to develop signage appropriate to the different public buildings.

## How will this be enforced?

NSW Health is responsible for the administration and enforcement of the *Smoke-free Environment Act 2000*. NSW Health Inspectors are authorised to enforce the ban. Penalties of up to \$550 apply for anyone who fails to comply with the law.

## For more information

Please contact the Tobacco Information Line on **1800 357 412** or visit the NSW Health website: **[www.health.nsw.gov.au](http://www.health.nsw.gov.au)**

The Tobacco Information Line can be accessed by non-English speaking people via the Translating and Interpreting Service (TIS) on 13 14 50.



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