

Smoking in the workplace

Background Info –

The Tobacco Products Control Act provides for the protection of non-smokers - it **does not** provide any benefit or protection for smokers.

In addition, smoking in the workplace is not regulated by Labour Law but only by the above-mentioned Act. In terms of this Act, the employer is obliged to take steps to protect his non-smoking staff from the cigarette smoke of the smokers. There is **no obligation** whatsoever on the employer to provide smoke breaks, and indeed if the Company does provide smoke breaks it is entitled to insist that those employees must work in the time taken for 'smoke breaks' after hours, without additional remuneration, or the Company can total up the 'smoke breaks time' and deduct it from wages/salary at month end.

The Company is entitled to ban smoking completely in the workplace if they so wish and the Company can have a designated area of its choice to be the smoking area. This could be the roof of the building, or the car park, and the employer is under no obligation to provide an alternative smoking area in the event of inclement weather. In short, the employer is under no obligation to facilitate the addiction of the smoker to the drug nicotine, just as he is under no obligation to facilitate the addiction of any employee who may be addicted to alcohol, narcotics and so on. When you consider that there is no obligation on the employer to provide an alcoholic employee with 'drink breaks', why should there be an obligation on him to provide 'smoke breaks' to an Employee who is addicted to nicotine?

Salient points extracted from the Tobacco Products Control Act.

Section 3. Tobacco Products Control Act:

- 1) "*workplace*" falls within the definition of and is regarded as a "*public place.*"
- 2) An *employer*, owner, licensee, lessee or person in control of a public place may designate a portion of a public place as a smoking area, provided that-
 - a) the designated smoking area does not exceed 25% of the total floor area of the public place;
 - b) the designated smoking area is separated from the rest of the public place on which the sign "**SMOKING AREA**" is displayed, written in black letters, at least 2 cm in height and 1,5 cm in breadth, on a white background;
 - c) the ventilation of the designated smoking area is such that air from the smoking area is directly exhausted to the outside and is not re-circulated to any other area within the public place;
 - d) the message: "**SMOKING OF TOBACCO PRODUCTS IS HARMFUL TO YOUR HEALTH AND TO THE HEALTH OF CHILDREN, PREGNANT OR BREASTFEEDING WOMEN AND NONSMOKERS. FOR HELP TO QUIT PHONE (011) 720 3145**" is displayed at the entrance to the designated smoking area, written in black letters, at least 2 cm in height and 1,5 cm in breadth, on a white background; and
 - e) notices and signs indicating areas where smoking is permitted and where it is not permitted must be permanently displayed and signs indicating that smoking is not permitted must carry the warning: "**ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED AND MAY BE LIABLE TO A FINE**".

Section 6 , 7 , 8 , 9 : Tobacco Products Control Act.

6) An **employer**, owner, licensee, lessee or person in control of a public place **must ensure** that no person smokes anywhere other than in the designated smoking area in that public place.

7) An employer **must ensure** that-

- a) **employees** who do not want to be exposed to tobacco smoke in the workplace are protected from tobacco smoke in that workplace; and
- b) employees may object to tobacco smoke in the workplace without retaliation of any kind.

8) **Employers must have** a written policy on smoking in the workplace, and the policy must be applied within three months from the date of coming into operation of the Tobacco Products Control Amendment Act, 1999 (Act No. 12 of 1999).

9) **Any employer**, owner, licensee, lessee or person in control of any public place or part of a public place **may totally prohibit smoking in that place**.

Five Smoking Laws you should know

- i. You can't smoke in a car (yes, even your own) if one of the passengers is a child under 12.
- ii. The workplace owner can be fined up to R50,000 if there is a breach of the smoking laws on their premises.
- iii. The fine for any smoker lighting up in a non-smoking zone is R500.
- iv. Sweets and toys that resemble tobacco products are banned.
- v. You can't buy or sell tobacco products if you're under 18.

CJA COMMUNICATIONS SMOKING POLICY

Version 1- August 2015

Because we recognise the danger caused by exposure to environmental tobacco smoke, as well as the life-threatening diseases linked to the use of all forms of tobacco, it shall be the policy of CJA Telecommunications (Pty) Ltd to provide a tobacco-free environment for all employees and visitors. This policy covers the smoking of any tobacco product (including electronic cigarettes) and it applies to both employees and non-employees visitors of CJA telecommunications (Pty) Ltd and its affiliates.

Definition

1. No use of tobacco products will be allowed within the facilities of the company at any time.
2. The only designated smoking area is located at the south entrance of the premises.
3. The Company premises is 224 Battery Street Silverton.
4. No smoking will be allowed on the premises other than the dedicated smoking area.
5. All materials used for smoking in this area, including cigarette butts, packets and matches, will be extinguished and disposed of in appropriate containers.
6. If the designated smoking area is not properly maintained, smoking privileges can be cancelled at the discretion of management.
7. There will be no form of tobacco use in any company vehicle at any time.
8. There will be no tobacco use in personal vehicles when transporting people on official company business.

Procedure

1. Employees will be informed of this policy through signage at company facilities
2. Employees will also sign a policy register that they are aware of all Company policies including this "Smoking Policy"
3. Visitors will be informed of this policy through signs and it will be explained by their host.
4. The company will help employees who want to quit tobacco by helping them access recommended programs and materials
5. Any violation of this policy will be handled through the standard disciplinary procedure.
6. This policy may be amended from time to time at the discretion of management.