



Australian Capital Territory

# Smoking (Prohibition in Enclosed Public Places) Amendment Act 2005

A2005-6

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# Smoking (Prohibition in Enclosed Public Places) Amendment Act 2005

A2005-6

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An Act to amend the *Smoking (Prohibition in Enclosed Public Places) Act 2003*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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2004 089B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**1 Name of Act**

This Act is the *Smoking (Prohibition in Enclosed Public Places) Amendment Act 2005*.

**2 Commencement**

This Act commences on 1 December 2006.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended**

This Act amends the *Smoking (Prohibition in Enclosed Public Places) Act 2003*.

**4 New part 1A**

*insert*

**Part 1A Important concepts**

**5A Object**

The object of this Act is to promote public health by minimising the exposure of people in enclosed public places to environmental smoke.

**5B Meaning of *smoke***

- (1) For this Act, *smoke* means smoke from an ignited smoking product.
- (2) For this Act, a person *smokes* if the person—
  - (a) directly puffs smoke, whether or not the person uses a device designed for the inhalation of smoke by a smoker; or

(b) holds or has control over a smoking product while it is ignited.

**Examples of devices for par (a)**

- 1 a cigarette holder
- 2 a pipe (including a water pipe or bong)

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**5 Section 8, heading**

*substitute*

**8 Offence by occupier—person smoking in enclosed public place**

**6 Section 8 (1)**

*omit*

section 7 (1)

*substitute*

section 6

**7 Section 9**

*substitute*

**8A Offence by occupier—permitting smoke into enclosed public place from another part of premises**

The occupier of premises on which there is an enclosed public place commits an offence if the occupier fails to take reasonable steps to prevent smoke entering the enclosed public place from another part of the premises occupied by the occupier.

Maximum penalty: 10 penalty units.

**9 Offence by neighbouring occupier**

The occupier of premises commits an offence if the occupier fails to take reasonable steps to prevent smoke from the premises entering an enclosed public place on other premises.

Maximum penalty: 10 penalty units.

**8 Dictionary, definitions of *enclosed public place*, *occupier*, *public place* and *smoke***

*substitute*

***enclosed public place*** means a public place, or part of a public place, that is enclosed as prescribed by regulation.

**Examples of public places**

The following may be ***public places*** (see definition of ***public place***):

- 1 business premises, including professional, trade and commercial premises
- 2 a cinema or theatre
- 3 a club, hotel or motel
- 4 a community centre, hall or public library
- 5 government premises
- 6 a hostel or nursing home
- 7 a place of worship
- 8 a public transportation vehicle (including, a bus, taxi or boat)
- 9 a restaurant or cafeteria
- 10 a school, college or university
- 11 a shopping centre, mall or plaza
- 12 sporting or recreational premises

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

***occupier***, of premises or a part of premises (including an enclosed public place), means a person having the management or control, or otherwise being in charge, of the premises or part of the premises.

**public place** means a place to which the public or a section of the public has access, whether—

- (a) by payment, membership of a body or otherwise; or
- (b) by entitlement or permission.

**Examples**

The places, or parts of the places, mentioned in the examples for the definition of *enclosed public place* may be *public places*.

*smoke*—see section 5B.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 9 December 2004.

**2 Notification**

Notified under the Legislation Act on 22 February 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Smoking (Prohibition in Enclosed Public Places) Amendment Bill 2005, which originated in the Legislative Assembly as the Smoking (Prohibition in Enclosed Public Places) Amendment Bill 2004 and was passed by the Assembly on 17 February 2005.

Clerk of the Legislative Assembly

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