

1997

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Health and Community Care)

**Smoke-Free Areas (Enclosed Public Places)  
(Amendment) Bill 1997**

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**A BILL**

FOR

**An Act to amend the *Smoke-Free Areas (Enclosed  
Public Places) Act 1994***

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

**Short title**

- 5     1. This Act may be cited as the *Smoke-Free Areas (Enclosed Public Places) (Amendment) Act 1997*.

**Commencement**

2. This Act commences on 6 June 1997.

**Principal Act**

- 10     3. In this Act, "Principal Act" means the *Smoke-Free Areas (Enclosed Public Places) Act 1994*.<sup>1</sup>

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87012 1997/067 (T12/1997)

## Interpretation

4. Section 3 of the Principal Act is amended by inserting the following definition:

“ ‘Tribunal’ means the Administrative Appeals Tribunal.”.

## 5 Insertion

5. After section 21 of the Principal Act the following section is inserted:

### Transitional exemption (6/6/97-9/11/98)—licensed premises

“22. (1) In this section—

10 ‘licensed premises’ means—

- (a) premises licensed under the *Liquor Act 1975*, being premises where liquor is served; or
- (b) premises licensed under the *Casino Control Act 1988*;

15 ‘transitional premises’ means that part of the public area of licensed premises that excludes any area primarily used—

- (a) as a restaurant;
- (b) as a bar area within or adjacent to an area primarily used as a restaurant, being a bar area that is not separately enclosed;
- (c) for a cabaret or similar activity; or
- 20 (d) for any other purpose or activity in relation to which gaming or the consumption of alcohol is incidental, including entertainment (other than an area primarily used as a nightclub or for a similar activity), sports, recreation or the holding of meetings.

25 “(2) Subject to this section, during the period commencing on 6 June 1997 and ending at the expiration of 9 November 1998, subsections 5 (1) and (2) do not apply in relation to smoking on transitional premises in a single area that—

- 30 (a) a reasonable person would consider to be clearly defined, whether by the display of signs or otherwise;
- (b) takes up no more than ~~25%~~ <sup>one third</sup> of the floor area of the transitional premises;
- (c) if reasonably practicable, is at least 1.5 metres, at its nearest point, from any bar on the relevant licensed premises, and from any other

area in which persons engaged to work in the relevant licensed premises are required to work on a regular basis; and

- 5 (d) if reasonably practicable, does not include any area through which persons must pass to gain reasonable access to the normal facilities of other parts of the relevant licensed premises.

10 “(3) If the Minister is satisfied on reasonable grounds that there have been persistent contraventions of this Act as it relates to transitional premises, being premises on which there is an area referred to in subsection (2), whether by the occupier of the premises or by persons present on the premises, or both, the Minister may, by written notice to the occupier, declare that subsections 5 (1) and (2) are to apply in relation to smoking in that area on and after a date specified in the notice, being a date later than the date on which the notice is given to the occupier of the premises.

15 “(4) Where a declaration is made under subsection (3) in relation to an area on transitional premises, subsections 5 (1) and (2) apply in relation to smoking in that area on and after the date specified in the declaration.

“(5) Application may be made to the Tribunal for a review of a decision to make a declaration under subsection (3).

20 “(6) A notice under subsection (3) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.”

### Schedule

25 6. Item 2 of Part II of the Schedule to the Principal Act is amended by omitting from the first column “(other than a lobby, hall, stairway, elevator or dining area)” and substituting:

“other than—

- (a) a common area consisting of a lobby, hall, stairway, elevator or dining area; or
- (b) any area in premises that are licensed premises.”

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### NOTE

#### Principal Act

1. Reprinted as at 6 December 1994.