

Smoke-Free Public Places (Play Spaces) Declaration 2016 (No 1)*

Disallowable Instrument DI2016–250

made under the

Smoke-Free Public Places Act, s 90 (Declaration of smoke-free public place or event)

1. Name of instrument

This instrument is the *Smoke-Free Public Places (Play Spaces) Declaration 2016 (No 1)*.

2. Commencement

This instrument commences on 7 September 2016.

3. Declaration

I declare play equipment in play spaces managed by the ACT Government, and the area within 10 metres of such play equipment, to be a smoke-free public place.

4. Exemptions

(1) This instrument applies to a person in or on a stationary vehicle within the 10 metre radius of play equipment, but does not apply to a person in or on a vehicle that is travelling within the 10 metre radius of play equipment.

Examples for paragraph (1)

- (1) A person smoking in a truck that is travelling along a road that cross-sects the 10 metre smoke-free perimeter around play equipment is exempt from the operation of this declaration.
- (2) A person smoking while riding a bicycle along a path that cross-sects the 10 metre smoke-free perimeter around play equipment is exempt from the operation of this declaration.
- (3) A person smoking in a car entering or leaving a car park that is within the 10 metre smoke-free perimeter around play equipment is exempt from the operation of this declaration.
- (4) A person smoking in a car that is stationary in a car park that is within the 10 metre smoke-free perimeter around play equipment is subject to the operation of this declaration.
- (5) A person smoking in a motorhome that is parked in a car park that is within the 10 metre smoke-free perimeter around play equipment is subject to the operation of this declaration, irrespective of whether it is set up as a place for living or sleeping or not.

*Name amended under Legislation Act, s 60

(2) This instrument does not apply to a person at a residential premise.

Examples for paragraph (2)

- (1) This declaration will not apply to a person in a back yard that is within 10 metres of play equipment at a public play space.

(3) This instrument does not apply to play spaces that are not managed by the ACT Government.

Examples for paragraph (3)

- (1) Play equipment at private businesses such as shopping centres or child care centres equipment are exempt from the operation of this declaration.
- (2) Play equipment at residential premises or within unit complexes are exempt from the operation of this declaration.

(4) Public equipment that is not intended for children's play and amusement in play spaces managed by ACT Government is exempted from the meaning of *play equipment* for the purposes of this instrument. Accordingly, such equipment will only be smoke-free pursuant to this declaration if located within the 10 metre smoke-free perimeter of *play equipment* captured by this declaration.

Examples for paragraph (4)

- (1) Sporting facilities such as tennis courts or basketball hoops are not *play equipment* under this declaration.
- (2) Sports grounds such as football fields are not *play equipment* under this declaration.
- (3) Fitness stations are not *play equipment* under this declaration.
- (4) Skateparks designed for use by skateboarders, cyclists, scooters, rollerbladers and roller skaters are not *play equipment* under this declaration.

Lists of skatepark facilities, fitness stations and sports grounds in the ACT are available from Transport Canberra and City Services.

5. Definitions

In this instrument –

Play equipment includes outdoor structures specifically constructed in playgrounds and play spaces for children's amusement and recreation. For example slides, swings, tunnels, balance beams, spring animals, double rocker, speed gyro, hip-hop, talk tubes.

The definition of play equipment includes facilities, which are not necessarily structures, but are intended for children's play, recreation and amusement. Examples include stencilled or decorated paths specifically designed children to follow, climbing walls, hopscotch panels.

Playground is a play space characterised by one or multiple soft-fall areas.

Play space is an area of land on which children have play opportunities to address a broad range of play types and experiences. This definition includes playgrounds, and it is an area not necessarily restrained by a soft-fall edge or standard manufactured structures.

Public Place as defined by Section 3 of the *Smoke-Free Public Places Act 2003*.

Smoking as defined in Section 5B of the *Smoke-Free Public Places Act 2003*.

Smoking Product as defined in Section 3A of the *Tobacco and Other Smoking Products Act 1927*.

Vehicle means a vehicle under the *Road Transport (General) Act 1999*.

Meegan Fitzharris MLA
Assistant Minister for Health

26 August 2016

Andrew Barr MLA
ACT Chief Minister

30 August 2016