

S.I. 2010 No. 101

Health Services Act
Cap. 44

**HEALTH SERVICES (PROHIBITION OF TOBACCO
SMOKING IN PUBLIC PLACES)
REGULATIONS, 2010**

Arrangement of Regulations

Regulation

1. Citation.
2. Interpretation.
3. Prohibition of smoking in a public place.
4. No smoking signs.
5. Power of public health inspectors.
6. Service of compliance notice.
7. Offences.
8. Defence.
9. Commencement.

SCHEDULE

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The Minister, in exercise of the powers conferred on him by section 10(1)(aa) of the *Health Services Act*, makes the following Regulations:

1. These Regulations may be cited as the *Health Services (Prohibition of Tobacco Smoking in Public Places) Regulations, 2010*. Citation.

2. For the purpose of these Regulations, Interpreta-
tion.

"inspector " means

- (a) an Environmental Health Officer in the Ministry of Health;
- (b) a Buildings Officer in the Environmental Protection Department; or
- (c) a public health officer;

"occupier" in relation to a public place, means a person who

- (a) holds possession of a public place or premises;
- (b) has the management or control of a public place; or
- (c) is otherwise in charge of a public place;

"public place" means a

- (a) building, place, structure or facility that is owned, controlled, managed or occupied by the Crown or a statutory board in Barbados;
- (b) place, site, building, factory, plant, work place or other structure that is fully or substantially enclosed;
- (c) library, museum, auditorium, historic or other site of archeological or national significance,

to which the public or a member or section of the public has access or is permitted to have access, with or without restriction to users and whether or not

- (i) on the payment of money; or
- (ii) by virtue of membership;

"smoke" means to smoke, hold or otherwise have control over an ignited tobacco product;

"substantially enclosed" means a place, site, building, factory, plant, work place or other structure that

- (a) is covered by a permanent or temporary roof or covering whether semi-porous or otherwise; and
- (b) has walls or other erections that prevent passage, and also has doors, windows or openings in the walls or other erections.

3. (1) No person shall smoke or be permitted to smoke in a public place. Prohibition of smoking in a public place.

(2) No occupier of a public place shall permit a person to smoke in a public place that is under the control or management of that occupier.

4. (1) Every occupier of a public place shall place, in at least two prominent positions within the public place, conspicuous signs, designed in the manner and setting out the information described in paragraph (2). No smoking signs.

(2) The signs referred to in paragraph (1) shall

(a) state "NO SMOKING PERMITTED", and shall be of the colour and type indicated in the diagram set out in the *Schedule*; Schedule.

(b) be of the minimum size of 35cm x 30cm; and

(c) be displayed in such a manner as to be protected, to the extent possible, from tampering, damage, removal or concealment.

5. (1) For the purpose of ensuring compliance with these Regulations, an inspector, on presentation of a certificate of identification signed by the Minister, may Power of public health inspectors.

(a) at any reasonable time, including any time that a public place is open to the public for the conduct of business, and without warrant or notice,

(i) enter and inspect a public place and make such examinations as the inspector considers necessary or advisable;

(ii) take samples of a substance reasonably suspected of being a product containing tobacco that is found in the public place either ignited or having the appearance of having been ignited;

- (b) make enquiries of any person who is or was in the public place; and
- (c) exercise other powers as may be necessary or incidental to the carrying out of the inspector's powers pursuant to these Regulations.

(2) An inspector, for the purposes of conducting an inspection referred to in paragraph (1), may be assisted by a person who, in the opinion of the inspector, has special knowledge of or expertise in any relevant matter.

(3) Where an inspector has reason to believe that a person is committing or has committed an offence under these Regulations, the inspector

- (a) may, where the offence is being committed, direct the person to cease the contravention;
- (b) may require the person to furnish his name and address; and
- (c) shall report the commission of the offence and the details in respect thereof to a member of the Police Force.

Service of
compliance
notice.

6. (1) Where, after an inspection of a public place, an inspector finds that the occupier has not complied with these Regulations, the inspector shall inform the Chief Medical Officer of this fact and may serve on the occupier a notice in writing signed by

- (a) the Chief Medical Officer; or
- (b) a person authorised by the Chief Medical Officer in that regard,

requiring the occupier to comply immediately or within such period of time as is specified in the notice.

(2) A notice served pursuant to paragraph (1) shall indicate the nature of the non-compliance with these Regulations and the location at which the non-compliance occurred.

7. (1) A person who smokes in any public place where a sign referred to in regulation 4(1) is displayed is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for a term of 12 months or to both such fine and imprisonment. Offences.

(2) Where an occupier permits a person to smoke in a public place in contravention of these Regulations, the occupier is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 12 months or to both such fine and imprisonment.

(3) An occupier is to be regarded as having permitted a person to smoke in a public place if the occupier knew or ought reasonably to have known that the other person was smoking in that place.

(4) Where an occupier

(a) contravenes regulations 4 or 6; or

(b) prohibits an inspector from performing his duties under regulation 5,

the occupier is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 12 months or to both such fine and imprisonment.

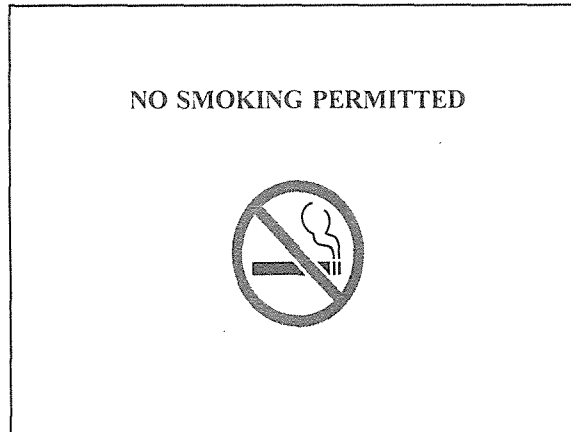
8. It is a defence to a charge under regulation 7(2) for the occupier to prove on a balance of probabilities that Defence.

(a) the occupier took reasonable steps and exercised due diligence in preventing the commission of the offence; or

(b) there were no lawful and reasonably practicable means by which the occupier could know of or prevent the commission of the offence.

9. These Regulations shall come into operation on the 1st day of October, 2010. Commence-
ment.

SCHEDULE

(Regulation 4)

Made by the Minister this 29th day of July, 2010.

DONVILLE INNISS
Minister responsible for Health.