



Position Statement

Smokefree outdoor dining and drinking areas in Victoria

December 2016

Recommendation:

Quit Victoria, Cancer Council Victoria, the Heart Foundation (Victoria) and AMA Victoria recommend as a priority that the *Tobacco Act 1987 (Vic)* be further amended to require outdoor drinking areas to be smokefree with allowance for designated outdoor smoking areas in certain licenced premises.

1. Summary

Despite progress made in reducing smoking rates in Victoria, tobacco remains the leading avoidable cause of cancer and a leading cause of cardiovascular disease, killing 4,000 Victorians each year.

These tragic and avoidable outcomes demonstrate more needs to be done in tobacco control in Victoria. While smoking will be banned in outdoor dining areas from 1 August 2017, we recommend that **both** dining and drinking be covered by smokefree laws. Queensland's model represents current Australian best practice in this area. Adopting a model similar to that currently in place in Queensland is the next key step towards reducing the harm caused by tobacco in Victoria.

Our proposed model (**Attachment 1**) – which makes minor adjustments to Queensland's model - seeks to:

- protect the public from secondhand smoke (particularly hospitality staff)
- support smokers to quit and stay quit
- further denormalise smoking in social settings, particularly to reduce young people's exposure to role-modelling of smoking behaviour and to reduce cues to smoke.

In developing our proposed model, we have been guided by a number of practical issues and stakeholder views. These include:

- ease of enforcement for hospitality staff and local government enforcement officers
- the desire of councils to avoid smokers congregating outside venues
- meeting community expectations about access to smokefree outdoor dining **and** drinking areas
- ensuring outdoor areas cannot be designated for drinking and smoking only (as in NSW, and as will be the case under the new Victorian model due to come into effect on 1 August 2017)
- multi-year public opinion surveys that show both overwhelming support for smokefree dining and support for smokefree dining and drinking with allowance for limited designated outdoor smoking areas (DOSAs) in some licenced premises.

Community support for DOSAs is steadily decreasing, reflecting a preference for totally smokefree venues. While a future goal could be to have completely smokefree areas, our proposed model of making provisions for DOSAs strikes a balance between practical considerations and measures to create a healthier Victoria.

It is critical to public health, practical enforcement as well as equal and fair access that both outdoor dining **and** drinking areas be covered by smokefree requirements. Only two jurisdictions – Tasmania(1) and NSW(2) – currently have smokefree laws that only apply when food is being served. As of 1 August 2017, Victoria will adopt a similar model to that in place in Tasmania and NSW.(3) This means that outdoor areas that only serve drinks (but not food)¹ can be entirely dedicated to smoking. Or if a venue does serve food in its outdoor area, the entire outdoor space can become a smoking area once the kitchen closes and everyone has finished their meal.

In both these scenarios, there is no smokefree outdoor area available to non-smokers, families, and people particularly susceptible to the harms of secondhand smoke like pregnant women, babies and children, and people with respiratory health conditions. These scenarios also leave staff exposed to secondhand smoke and put them in a difficult position of having to explain to customers where and when smoking can occur in their particular venue. They also do not meet community expectations for smokefree outdoor areas.

Alternatively, like in Queensland,(4) the ACT,(5) WA(6) and the NT,(7) smokefree laws that cover areas where food **and/or** drinks are being served mean that there can always be a safe outdoor area for non-smokers and families to enjoy a meal and drinks outside - as well as a designated area for smoking. This arrangement also protects staff from secondhand smoke exposure because designated smoking areas can be made a no-service area (like in Queensland,(8) the ACT,(9) the NT(10) and Tasmania (11)). It is also a far more practical arrangement for staff and enforcement officers because it helps avoid scenarios where the smoking status of an area changes during different periods of the day and evening. **Attachment 1** contains a full summary of our proposed model for smokefree outdoor dining and drinking in Victoria.

¹ Aside from pre-packaged food or uncut fruit in Victoria.

2. Why smokefree outdoor drinking and dining is important

Laws banning smoking in workplaces and other public places serve two primary purposes. First, they help to protect the population against the negative health effects of secondhand smoke.(12) Secondly, they help to de-normalise smoking in a variety of contexts, such as in social situations.(12-15) Smokefree policies are also likely to decrease smoking cues for those trying to quit and former smokers (16, 17) as well as decrease consumption among current smokers.(18-20)

2.1 Health effects of secondhand smoke exposure

- Secondhand smoke may bring on acute health events like asthma, wheezing, nasal, throat and sinus irritation.(21) Approximately two million Australians suffer from asthma. Asthma was the underlying cause in 416 deaths in Australia in 2010.(22)
- Exposure to secondhand smoke increases the risk for chronic, and even fatal, health conditions that include cardiovascular disease, heart disease, and lung cancer.(23)
- The 2010 report of the US Surgeon General advised that even low levels of exposure to secondhand smoke can lead to an increased risk of cardiovascular disease and acute cardiac events.(23)
- Children are particularly vulnerable to secondhand smoke due to their higher breathing rates per body weight, greater lung surface relative to adults(24) and under some circumstances, an inability to remove themselves from a smoky environment.
- The health effects in children from secondhand smoke exposure can include wheezing, lower respiratory tract infections, asthma, decreased lung function, middle ear disease and increased risk of sudden infant death syndrome.(24, 25)

2.2 Secondhand smoke exposure in outdoor dining and drinking areas

- Secondhand smoke levels can exceed prescribed air quality standards in dining and drinking areas, particularly when enclosure increases (i.e. roofs and walls), when the number of ignited cigarettes increase, when the measurement is taken nearby a smoker / smoking area, and when there is little wind movement.(26-30)
- The level of smoke particles near ignited cigarettes in outdoor areas can, under certain conditions, reflect that of smoke particles in enclosed areas.(26)
- Hospitality staff working a typical eight-hour shift in outdoor areas where smoking is permitted could be exposed to secondhand smoke levels that exceed the annual average benchmark of the Australian Environmental Protection Measure for Ambient Air Quality.(31)

2.3 Link between smoking and drinking

- Recent Australian research reinforces extensive evidence that alcohol consumption is a stimulus that markedly increases tobacco consumption, prompts relapse to smoking amongst those trying to quit and decreases quitting intentions. Smokers report smoking more when they drink, are around other smokers and are in venues that allow smoking. Nearly every smoker in the study attempting to quit associated licensed premises with failed quit attempts.(32)
- Restrictions on smoking in drinking areas, as well as dining areas will help to break the dangerous connection between alcohol and smoking. Ideally smoking would be banned completely within licensed premises but if DOSAs are allowed, the evidence shows that ensuring they are not 'socialising' spaces within licensed premises, that they are out of sight of other areas (impervious walls) and that the majority of outdoor spaces are smokefree will provide the best environment to support those trying to quit and decrease consumption amongst existing smokers.(32)

2.4 De-normalising smoking

- Smokefree policies reinforce that smoking is not a desirable social behaviour. They can assist those trying to quit and help prevent relapse amongst former smokers by decreasing both cues to smoke and opportunities to smoke. (16, 17) They also decrease consumption among current smokers.(18-20)
- Social disapproval of smoking and changing norms can have a strong impact on quitting intentions and behaviours within social groups of smokers. Groups of interconnected people quit smoking together, and the closer the person is to the smoker (eg. a spouse) the greater the influence they have on the person quitting.(33)
- Limiting tobacco use in public, reducing areas for opportunities to smoke and reshaping public opinion on smoking can all help to prevent smoking experimentation and smoking uptake among youth.(13-15, 34)
- Young people's exposure to other smokers can lead to the uptake of adolescent smoking, as they perceive that tobacco use is socially acceptable.(35, 36)
- Children and young people underestimate the addictive nature of tobacco and are at risk of becoming addicted before being old enough to be fully informed about its harmful effects.(37)
- Most people who smoke, start smoking before the age of 18. Young people who smoke are likely to continue to do so for up to 25 years.(38)
- In its systematic review of all the scientific evidence concerning the effectiveness of smokefree policies, the World Health Organization International Agency for Research on Cancer reported there was 'strong' evidence that such policies reduce tobacco use among youth.(12)

3. Community support for smokefree outdoor dining and drinking

Smoking bans at outdoor dining and drinking areas and other smokefree outdoor areas are well supported by Victorians, as indicated in surveys conducted by Cancer Council Victoria. A 2014 Cancer Council Victoria survey found 73% of Victorian adults disapprove of smoking in outdoor dining areas. The survey also reported that 71% of Victorian adults thought smoking should be banned in licensed bars, pubs and clubs but with an allowance for a designated outdoor smoking area.(39)

In April / May 2013, an on-line survey conducted on behalf of Cancer Council Victoria, obtained responses from 574 Victorians aged 18+ on their views on outdoor smokefree areas. The results were as follows:

- Smokefree laws help protect the public from the dangers of second hand smoke (85% agreed)
- People have the right not to be exposed to something that is hazardous to their health (85%)
- Smokers have a right to smoke but should do it in designated smoking areas (79%).

Specifically in relation to smokefree outdoor dining areas, responses were:

- When smoking is allowed in areas where I'm eating and drinking, it stops me from fully enjoying my meal (81%)
- I'd be more likely to go to outdoor drinking and dining areas if they were smokefree (65%).

Following the results of the survey, the AMA, Asthma Foundation, and the National Heart Foundation (Vic) joined with Cancer Council Victoria and Quit Victoria to launch a campaign called 'Keep Fresh Air Fresh'. The campaign resulted in over 6,800 Victorians making a submission to the former government's consultation on smokefree outdoor areas to request the proposed bans be extended to include a ban on smoking in outdoor drinking and dining areas. This number included more than 200 Victorian cancer specialists and 20 Victorian thoracic specialists.(40)

In March 2014, the City of Melbourne completed a six-month smokefree trial at Causeway Lane. After receiving support from the majority of traders, visitors and residents surveyed in the review, Causeway Lane became the city's first permanently smokefree outdoor dining area. Additional areas in the City of Melbourne that have since been designated as smokefree (again, following overwhelming support from a majority of trader and community member survey respondents) include Howey Place, Block Place and Equitable Place (from 1 April 2015).(41, 42) Smoking bans commenced in the QV Melbourne precinct and Goldsbrough lane from October 2015. A 12 month trial of smoking bans between 6am and 8pm in City Square also commenced in October 2015. A decision is yet to be made on whether a 24-hour ban is considered appropriate.(43)

Evaluations of the smokefree areas piloted and proposed by the City of Melbourne demonstrate strong support for smokefree bans. For example:

- Interviews conducted with businesses in Causeway Lane prior to the smokefree pilot indicated that the majority of those businesses would support the proposed pilot.(44) During the pilot all but one of the business operators in Causeway Lane supported the continuation of the ban and some businesses also expressed the view that the bans should be wider reaching including all Melbourne food outlets. Support for the ban was strong among patrons, implying its continuance would be well received. (45)
- Responses to the Howey Place, Equitable Place and Block Place community engagement process indicated overwhelming support for the expansion of smokefree bans in general (87% of businesses and 92% of community) and for smoking bans in the three proposed locations (90% of businesses and 92% of community).(42)
- Community consultation on expanding smokefree areas in City Square, QV Melbourne and Goldsbrough Lane demonstrated that the majority of individuals and businesses engaged supported the expansion.(46) Overall for the three sites, 85% of survey participants supported or were neutral towards a smoking ban and a further 89% of people who provided feedback online were supportive. Property owners and managers were also generally in favour of a ban.(47)

4. No negative economic impact on business

Predictions of a downturn in hospitality trade are often cited in opposition to the implementation of smokefree policy, yet there is substantial evidence to show that loss of revenue is never actually realised or short-lived at worst when a smokefree policy is introduced. Examples of research findings are below:

- In July 2006, Queensland became the first state to implement a smoking ban that covered 100% of al fresco dining areas and a majority of drinking areas. According to research conducted after the commencement of this ban, 30% of Queenslanders surveyed said they were visiting outdoor dining and drinking venues more often following the ban, compared with 9% who said they were visiting outdoor eating and drinking areas less often as a result of the new tobacco laws. This represents a net gain of 20% percent of Queenslanders visiting alfresco venues more often as a result of the ban.(48)
- A 2014 Cancer Council Victoria Survey found that slightly more than one in five Victorians (22%) stated that they would visit cafes or restaurants more often if a ban was enforced. A majority of Victorians (72%) reported that a ban on smoking in outdoor dining areas would make no difference to the frequency at which they visit cafes or restaurants. Only 5% of Victorians predicted that they would dine out less often after a ban.(49)
- Research undertaken by the City of Melbourne on the trial in Causeway Lane indicated that while early in the implementation period some café businesses believed they had lost business as a result of the ban, in all but one case owners believed this business was recovered across the pilot ban period. An overwhelming majority of café businesses interviewed wanted to see a continuation of the ban. (45)
- Survey responses from the Howey Place, Equitable Place and Block Place community engagement process indicated that the proposed smoking bans would not decrease use of the laneways. Very few people

surveyed indicated their use of the laneways would decrease if a smoking ban was introduced. In each case just under half expected their use of the particular laneway would stay the same and a sizeable proportion indicated their use of the laneway would increase if smoking bans were in place.(42)

This evidence from the implementation of bans in outdoor dining and drinking areas is consistent with a comprehensive body of evidence about the impact of indoor smoking bans on business. A 2003 review of 100 economic studies assessing the impact of indoor smokefree law on trade found there was no impact, or no lasting negative impact on trade as a result of the bans.(50) In a systematic review of all the scientific evidence concerning the effectiveness of smokefree policies, the World Health Organization International Agency for Research on Cancer found that there was “sufficient” evidence (the highest category of scientific certainty) that such policies do not cause a decline in business.(12)

5. State and territory comparison

4.1 Victoria

In the *Tobacco Act 1987 (Vic)* (“the Tobacco Act”), smoking is prohibited in enclosed workplaces (“enclosed” is defined as “an area, room or premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are: permanent or temporary; open or closed”). At the moment, smoking is additionally prohibited in an outdoor dining or drinking area only if there is a “roof and walls in place” and “the total actual area of the wall surfaces exceeds 75% of the total notional wall area”.(51)

The Act defines an outdoor dining or drinking area (under section 3) as “any of the following outdoor areas *that is predominantly used for the consumption of food or drinks or both* - (a) a balcony or verandah; (b) a courtyard; (c) a rooftop; (d) a marquee; (e) a street or footpath; (f) any similar outdoor area”.

Interpretation of these definitions in the Act can lead to ‘quasi’ outdoor areas that are substantially enclosed by walls and overhead cover.

4.1.1 Victoria’s new smokefree outdoor dining laws - 1 August 2017

On 13 October 2016, the Victorian Parliament passed the *Tobacco Amendment Act 2016 (Vic)* (‘the Victorian Amendment Act’). The Victorian Amendment Act amends the Tobacco Act to change the current position so that smoking will be prohibited in any public ‘outdoor dining area’ where food is served on a commercial basis, regardless of whether there is ‘a roof and walls in place’ or whether the ‘total area of the wall surface exceeds 75% of the total notional wall area’.(53, 54)

Smoking will also be prohibited outdoors at food fairs (such as the Night Noodle Market and Queen Victoria Night Market), and at certain organised events.(53)

Under the new laws, an area will not be considered an ‘outdoor dining area’ if only drinks and/or ‘snacks’² are served. This means that smoking will still be permitted in an outdoor area where only drinks and snacks are served unless the area has a roof and walls in place, and the total area of the wall surface exceeds 75% of the total notional wall area.(55)

If any part of an outdoor drinking area is within 4 metres of an outdoor dining area, the outdoor drinking area and the outdoor dining area must be separated by a wall that is at least 2.1 metres high. This is the case regardless of whether the outdoor drinking area and the outdoor dining area are operated by the same occupier.(56)

As noted above, these changes will come into effect on 1 August 2017.(57)

² Under the new laws, the term ‘snack’ is defined as pre-packaged, shelf-stable foods (provided they are sealed in the container/package in which the manufacturer intended them to be sold and don’t require any intervention by the provider before being eaten), and fruit (unless the fruit has been cut up for consumption).

The new laws are an improvement on the current position. However, Cancer Council Victoria, the Heart Foundation (Victoria) and AMA Victoria believe that it is critical to public health and practical enforcement that both outdoor dining **and** drinking areas be covered by smokefree requirements.

Under the new Victorian laws, outdoor areas that only serve drinks and snacks can be entirely dedicated to smoking. In addition, it appears that if a venue serves food in an outdoor area, the entire outdoor space could become a smoking area once the kitchen closes and meals are no longer being consumed. In both these scenarios, there may be no smokefree outdoor area available to non-smokers, families, and people particularly susceptible to the harms of secondhand smoke like pregnant women, babies and children, and people with respiratory health conditions. Furthermore, the new laws fail to adequately protect hospitality staff from the dangers of secondhand smoke exposure.

The fact that a single outdoor area can be smokefree at certain times of the day, and a smoking area at other times, is also likely to create confusion among patrons and problems with enforcement.

Importantly, we note that the new laws fail to address the clear link between alcohol consumption and smoking (discussed further above in section 2.3).

4.2 Other Australian jurisdictions

[See Table 1](#) for an overview of the current smokefree outdoor drinking and dining legislation in each Australian jurisdiction.

Table 1: Overview of current smokefree outdoor dining and drinking legislation in Australian jurisdictions

Jurisdiction	Smokefree outdoor dining and drinking	Smokefree dining only	DOSA permitted
Vic	Smoking is: <ul style="list-style-type: none"> Prohibited only where an area has a roof AND walls in place and the wall area exceeds 75% of the total notional wall area (s 5C) Permitted in all other outdoor drinking and dining areas (s 5A(2)(b)). 	✘	N/A
ACT	✓ 9 December 2010	✘	✓ (certain liquor licenced premises only)
NSW	✘	✓ 6 July 2015	✓
NT	✓ 2 January 2011	✘	✓ (liquor licenced premises only)
Qld	✓ 1 July 2006	✘	✓ (certain liquor licenced premises only)
SA	✘	✓ 1 July 2016	✓
Tas	✘	✓ 1 March 2012	✓
WA	✓ 22 September 2010	✘	✓ (liquor licenced premises only)

6. Recommendation

The recommendation in this position statement has been developed with a focus on affording protection to all Victorians from exposure to secondhand smoke and role-modelling of smoking behaviour in outdoor settings.

Quit Victoria, Cancer Council Victoria, the Heart Foundation (Victoria) and AMA Victoria recommend as a priority that the *Tobacco Act 1987 (Vic)* be further amended to require outdoor drinking areas to be smokefree with allowance for designated outdoor smoking areas in certain licenced premises.

Attachment 1 contains our proposed model.

Attachment 1 - Summary of Quit Victoria's proposed features for outdoor dining and drinking areas and designated smoking areas.

A. Outdoor dining and drinking

We propose that smoking be prohibited in all public outdoor areas where food (including snacks) or beverages are made available and/or consumed as part of a commercial, charitable or community business or enterprise. Based on a review of existing smokefree dining and drinking laws in states and territories, we consider that Victoria's model should include the following features:

- Coverage of both dining and drinking (QLD,(4) ACT,(5) WA,(58) NT(59)).
- Broad defining physical characteristics based on (a) a patron's "reasonable expectation" of being able to consume food or drink at the place **or** (b) a place being bound by a fence (QLD(60), NT(61)). The provision of seating and/or tables should **not** be a defining physical characteristic of a smokefree dining and drinking area.
- No limitation on venue types to which smoking bans apply. Consideration should be given to whether it should be stated that the bans apply to businesses of a "commercial, charitable or community nature" - for the purpose of clarifying that bans apply to all types of venues (QLD,(62) ACT,(63) NT(64)).
- Smoking bans applicable both where food is sold as well as where food is provided/ distributed for free (NT,(65) ACT(66)).
- Buffers between smokefree and designated smoking areas take the form of a wall impervious to smoke (an option in Tas,(67) QLD,(68) ACT,(69) NT(70)).
- There should be no entrance point directly into a DOSA from the inside of a venue. This is to prevent smoke drifting from an outside area to an inside area. Entrances to DOSAs should be via a smokefree outdoor area. If the entry point needs to be via an outdoor dining and drinking area (eg, through a gap in the impervious wall), the entry point should be surrounded by a four metre buffer area comprised of two metres from the dining and drinking area and two metres from the smoking area(71). Smoking, drinking and eating should be prohibited in such buffer areas (QLD,(72) ACT(73)) as well as staff service, in order to protect patrons and staff from secondhand smoke exposure.
- Should smokefree buffer areas be proposed as an alternative option to impervious walls, buffer areas should be at least four metres wide (NSW,(74) ACT(73)). Smoking, drinking and eating should be prohibited in such buffer areas (should they be permitted) (QLD,(72) ACT(73)) as well as staff service.
- Smoking permitted in designated outdoor smoking areas only. No alternative to DOSAs should be available to either premises that are permitted to have a DOSA or other premises (eg, café's, restaurants).

B. Designated outdoor smoking areas

Venues with one of the following types of licence could be permitted to create a DOSA:

- 1) *Club licence*
- 2) *General licence*
- 3) *On premises licence*

The following should be mandatory features of a DOSA:

- No children permitted (ACT (75)).
- No service or consumption of food (QLD,(76) ACT,(77) NSW,(78) Tas(79)) (including pre-packaged snack foods and fruit) and no service at any time in the designated outdoor smoking area (QLD,(76) ACT,(77) Tas(80)).
- No entertainment offered or directly accessible (e.g. live music, gaming machines, television screens) in the designated outdoor smoking area (QLD,(81) ACT(82)).
- The DOSA should not exceed 30% of the entire licensed outdoor area, (50% in QLD,(83) ACT,(84) WA,(85) NT(86)) this is generous considering less than 15% of the Victorian population are smokers. Consideration should be given to phasing out DOSAs (i.e. eventually 100% smokefree outdoor area) to minimise exposure to secondhand smoke and ensure as much protection as possible for hospitality staff and patrons.
- The DOSA can have no more than 50% coverage by a ceiling/roof (in order to better ensure smoke can drift up and out of the smoking area rather than remain).
- The smokefree outdoor area should be separated from the DOSA by a *smoke impervious wall* (an option in Tas,(67)QLD,(87) ACT,(69) NT(70)).
- There should be no entrance point to a DOSA from the inside of a venue. This is to prevent smoke drifting from an outside area to an inside area. Entrances to DOSAs should be via a smokefree outdoor area. If the entry point needs to be via an outdoor dining and drinking area (ie, through a gap in the impervious wall), the entry point should be surrounded by a four metre buffer area comprised of two metres from the dining and drinking area and two metres from the smoking area.(71) Smoking, drinking and eating should be prohibited in such buffer areas (QLD,(72) ACT(73)) as well as staff service, in order to protect patrons and staff from secondhand smoke exposure.

Note: Most Australian states and territories have provided the option of two to four metre wide no-smoking “buffer zones” which separate designated smoking areas from no-smoking areas (QLD,(88) ACT(89), NT(90)). However a smoke-impervious wall is likely to offer more substantial protection to staff and patrons by minimising smoke-drifting into no-smoking areas. An impervious wall also more clearly delineates the smoking and no-smoking areas.

- Specifications should be made in terms of the composition of the smoke impervious wall e.g. the wall *must* be impervious to smoke (no lattice or shrubbery). The height at least 2.1 metres high (based on average adult breathing height of generally 1.5 metres) and calculated from the highest point of the floor / ground. A single entry/exit point to the DOSA should also be specified, with the entry / exit point being no wider than one metre.

Note: Consideration should also be given to requiring these premises to maintain a Smoking Management Plan for the purpose of supporting compliance and enforcement. The Plan would detail the specifications of the designated outdoor smoking area (e.g. size, location), specifications of smoke impervious walls / barriers between smoking and non-smoking areas, and outline the approach the premises has taken to ensure secondhand smoke exposure to staff and patrons is minimised (e.g. through staff education on what is permitted / not permitted in designated smoking area and strategies to respond to non-compliance) (see QLD,(91) ACT,(92) NT(93)).

8 References

1. **Tas:** See section 67B(1)(k) and the definitions of “outdoor dining area” and “solid food” under the *Public Health Act 1997* (Tas).
2. **NSW:** See section 6A(1)(j) and the definition of “commercial outdoor dining area” under section 4A of the *Smoke-free Environment Act 2000* (NSW).
3. See Part 3 of the *Tobacco Amendment Act 2016* (Vic).
4. **QLD:** Section 26X and the definition of “outdoor eating and drinking place” under section 26W of the *Tobacco and Other Smoking Products Act 1998* (QLD).
5. **ACT:** Sections 9A and 9B of the *Smoke-Free Public Places Act 2003* (ACT).
6. **WA:** See section 107B and the definition of “outdoor eating area” under the *Tobacco Products Control Act 2006* (WA).
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9. **ACT:** Section 9H of the *Smoke-Free Public Places Act 2003* (ACT).
10. **NT:** Regulations 15B(3) and 15B(5) of the *Tobacco Control Regulations* (NT).
11. **Tas:** Subsections 3A(1)(b) and 3A(2) (definition of “service”) of the *Public Health Act 1997* (Tas); See also A Guide to Smoke Free Dining in Tasmania. Available from: http://www.dhhs.tas.gov.au/data/assets/pdf_file/0010/87517/Smoke_free_dining_guide.pdf
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22. Australian Institute of Health and Welfare. Asthma. Canberra: Australian Government; 2013 [cited 2014 21 July]; Available from: <http://www.aihw.gov.au/asthma/>.
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56. See section 5C(1A) of the *Tobacco Act 1987* (as inserted by section 4 of the *Tobacco Amendment Act 2016*).
57. See section 2 of the *Tobacco Amendment Act 2016*.
58. **WA:** Section 107B and the definition of “outdoor eating area” under the *Tobacco Products Control Act 2006* (WA).
59. **NT:** Section 7(1)(l) and the definition of “outdoor eating and drinking area” under section 5B of the *Tobacco Control Act* (NT).
60. **QLD:** Section 26W(1)(c) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
61. **NT:** Section 5B(1)(c) of the *Tobacco Control Act* (NT).
62. **QLD:** Section 26W(1)(b) and the definitions of “on-site food service” and “food service” under the *Tobacco and Other Smoking Products Act 1998* (QLD).
63. **ACT:** See the definition of “food or drink service” under s 9A(4) of the *Smoke-Free Public Places Act 2003* (ACT).
64. **NT:** Section 5B(1)(b) and the definition of “on-site food service” under section 5B(7) of the *Tobacco Control Act* (NT).
65. **NT:** Section 5B(1) and the definition of “provide” under section 5B(7) of the *Tobacco Control Act* (NT).
66. **ACT:** See the definitions of “outdoor eating and drinking place” (s 9A(1)) and “provide” (s 9A(4)) of the *Smoke-Free Public Places Act 2003* (ACT).
67. **Tas:** Section 67B(1)(l) of the *Public Health Act 1997* (Tas).
68. **QLD:** Section 26ZA(7)(a) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
69. **ACT:** Section 9F(6)(a) of the *Smoke-Free Public Places Act 2003* (ACT) and regulation 13 of the *Smoke-Free Public Places Regulation 2005* (ACT).
70. **NT:** Regulation 15B(4)(a) of the *Tobacco Control Regulations* (NT).
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72. **QLD:** Section 26ZA(7)(b) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
73. **ACT:** Section 9F(6)(b) of the *Smoke-Free Public Places Act 2003* (ACT).
74. **NSW:** Section 4A(1)(b) of the *Smoke-free Environment Act 2000* (NSW).
75. **ACT:** Section 9H(1)(a) of the *Smoke-Free Public Places Act 2003* (ACT).
76. **QLD:** Section 26ZB(2)(a)-(b) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
77. **ACT:** Section 9H(1)(b)-(c) of the *Smoke-Free Public Places Act 2003* (ACT).
78. **NSW:** Section 4A(1)(5) of the *Smoke-Free Environment Act 2000* (NSW).



79. **Tas:** See the definition of “outdoor smoking area” under section 3A of the *Public Health Act 1997* (Tas). See also *A Guide to Smoke Free Dining in Tasmania*. Available from: <<http://www.dhhs.tas.gov.au/_data/assets/pdf_file/0010/87517/Smoke_free_dining_guide.pdf>>.
80. **Tas:** See the definition of “outdoor smoking area” and “serviced” under section 3A of the *Public Health Act 1997* (Tas). See also *A Guide to Smoke Free Dining in Tasmania*. Available from: <<http://www.dhhs.tas.gov.au/_data/assets/pdf_file/0010/87517/Smoke_free_dining_guide.pdf>>
81. **QLD:** Section 26ZB(2)(c)-(d) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
82. **ACT:** Section 9H(1)(d)-(e) of the *Smoke-Free Public Places Act 2003* (ACT).
83. **QLD:** Section 26ZA(5) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
84. **ACT:** Section 9F(4)(b) of the *Smoke-Free Public Places Act 2003* (ACT).
85. **WA:** Section 107B(4) of the *Tobacco Products Control Act 2006* (WA).
86. **NT:** Regulation 15B(2) of the *Tobacco Control Regulations* (NT).
87. **QLD:** Section 26ZA(7)(a) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
88. **QLD:** Section 26ZA(7) of the *Tobacco and Other Smoking Products Act 1998* (QLD).
89. **ACT:** Section 9F(6) of the *Smoke-Free Public Places Act 2003* (ACT).
90. **NT:** Regulation 15B(4)(b) of the *Tobacco Control Regulations* (NT).
91. **QLD:** Sections 26ZB(4) and 26ZC of the *Tobacco and Other Smoking Products Act 1998* (Qld).
92. **ACT:** Section 9J of the *Smoke-Free Public Places Act 2003* (ACT).
93. **NT:** Regulations 15B(3)(f) and 15B(6) of the *Tobacco Control Regulations* (NT).