

[Non-smokers' Health Regulations \( N-23.6 -- SOR/90-21 \)](#)

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Updated to December 31, 2001

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## **Non-smokers' Health Regulations**

SOR/90-21

Registration 14 December, 1989

### **NON-SMOKERS' HEALTH ACT**

#### **Non-smokers' Health Regulations (SOR/90-21)**

P.C. 1989-2463 14 December, 1989

Her Excellency the Governor General in Council, on the recommendation of the Minister of Labour and the Minister of Transport, pursuant to subsection 7(1)\* of the Non-smokers' Health Act\*\*, is pleased hereby to make the annexed Regulations respecting the health of non-smokers, as of the date of the coming into force of the said Act.

\* S.C. 1989, c. 7, s. 1

\*\* R.S., c. 15 (4th Supp.)

### **REGULATIONS RESPECTING THE HEALTH OF NON-SMOKERS**

#### **SHORT TITLE**

1. These Regulations may be cited as the *Non-smokers' Health Regulations*.

#### **INTERPRETATION**

**2.** In these Regulations,

"Act" means the *Non-smokers' Health Act*; (*Loi*)

"ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.; (*ASHRAE*)

"entity charter" [Repealed, SOR/95-344, s. 1]

"living accommodation" means separate living or sleeping quarters set aside by an employer for the accommodation of persons at a work place. (*local d'habitation*) SOR/95-344, s. 1.

## DESIGNATED SMOKING ROOMS AND DESIGNATED SMOKING AREAS

**3.** (1) An employer may designate as a designated smoking room any room in a work space under the control of the employer other than a private office if the room is

(a) enclosed by walls, a floor and a ceiling;

(b) clearly identified as a designated smoking room by a sign that meets the requirements set out in subsection 6(2);

(c) subject to subsection (2), ventilated in accordance with ASHRAE Standard 62-1989, *Ventilation for Acceptable Indoor Air Quality*; and

(d) equipped with ashtrays or non-combustible covered receptacles for the disposal of waste.

(2) The ventilation in a designated smoking room shall exhaust the air to the outside and shall not re-circulate the air within any work space.

(3) Paragraph (1)(c) and subsection (2) do not apply to designated smoking rooms on trains and ships.

**4.** Notwithstanding section (3), an employer may designate the following rooms or areas in a work space under the control of the employer as designated smoking rooms or designated smoking areas:

(a) any living accommodation;

(b) any motor vehicle, lighthouse, crane cab, caboose, locomotive or other room or area in the work space

(i) that is not incorporated within any other work space,

(ii) that does not share a ventilation system with any other work space, and

(iii) to which only one person normally has access during a shift; and

(c) any room on a ship to which only one person normally has access during a shift.

**5. (1)** Every employer shall ensure that all designated smoking areas in a work space under the employer's control are

(a) equipped with ashtrays or non-combustible covered receptacles for the disposal of wastes; and

(b) identified as a designated smoking area by a sign that meets the requirements set out in subsection 6(2) and is clearly visible to any person who approaches the area.

(2) Paragraph (1)(b) does not apply in respect of a room or area described in paragraph 4(b) or (c).

## NOTICE OF SMOKING RESTRICTIONS

**6. (1)** Every employer shall, by notice in writing or by posting clearly visible signs, inform all employees in a work space under the control of the employer

(a) that smoking is prohibited in all work spaces except in designated smoking rooms and designated smoking areas, if any; and

(b) of the location of all such rooms and areas.

(2) The signs referred to in subsection (1) shall be

(a) in writing; or

(b) substantially in the form of an appropriate symbol depicted in Schedule I, in the applicable colours referred to in that Schedule.

**7. (1)** Subject to subsection (2), where an employer is in control of a work space to which the public is admitted, the employer shall, by means of a clearly visible sign that meets the requirements set out in subsection 6(2) and that is posted at each entrance to the work space used by the public, inform the members of the public who enter the work space that, depending on the case,

(a) smoking is prohibited in the work space; or

(b) smoking is permitted in the work space only in designated smoking rooms or designated smoking areas.

(2) Where the work space referred to in subsection (1) is an aircraft, the employer shall orally inform all persons on board the aircraft that, depending on the case,

(a) smoking is prohibited on the aircraft; or

(b) smoking is permitted on the aircraft only in designated smoking areas. SOR/92-242, s. 1(F).

## TRAINS

8. An employer who operates a train that carries passengers may designate any bedroom, roomette or drawing room on a sleeping car or baggage crew car of the train as a designated smoking room.

9. (1) For the purposes of this section,

"corridor service" means a class of rail passenger transportation service provided at least once a day that links major cities between Quebec City and Windsor; (*service du corridor*)

"regional service" means a class of rail passenger transportation service linking small communities to one another or to major cities that provides at least three departures per week with many local stops; (*service régionale*)

"remote service" means a class of rail passenger transportation service providing rail access to small communities in remote areas that have no other year-round means of transport for at least a portion of the route served; (*desserte de localités éloignées*)

"tourism service" means a class of rail passenger transportation service provided on a seasonal basis that is primarily marketed as a tourist attraction; (*service touristique*)

"transcontinental service" means a class of rail passenger transportation service providing a connection between Halifax and Montreal with six departures per week and between Toronto and Vancouver with three departures per week. (*service transcontinentale*)

(2) An employer who operates a train used in providing a corridor service, regional service, remote service, tourism service or transcontinental service may designate any passenger seating area as a designated smoking area provided that

(a) not more than one third of the passenger seating accommodation on the train is so designated; and

(b) the passenger seating accommodation that is so designated is located on not more than one third of the passenger cars of the train.

## SHIPS

**10.** An employer who operates a ship may designate any area on the ship that is used by employees for leisure or recreational activities as a designated smoking area.

**11.** An employer who operates a passenger ship may

(a) designate any passenger cabin on the ship as a designated smoking room; and

(b) designate any area intended for the use of passengers on the ship, other than a passenger cabin, as a designated smoking area, if the total surface area of all areas so designated does not exceed 30 per cent of the total surface area of all enclosed areas on the ship that are intended for the use of passengers, excluding passenger cabins. SOR/91-605, s. 1; SOR/92-367, s. 1.

## AIRCRAFT

**12.** [Repealed, SOR/95-344, s. 2]

**13.** An employer who operates an aircraft that is registered as a private aircraft may, for any flight of the aircraft, designate any area on the aircraft or all of the aircraft as a designated smoking area.

**13.1** (1) For the purposes of this section,

"monthly quota" means

(a) in respect of a month that falls within the period from July 1, 1990 to June 30, 1991, 75 per cent of seat allocation,

(b) in respect of a month that falls within the period from July 1, 1991 to June 30, 1992, 50 per cent of seat allocation,

(c) in respect of a month that falls within the period from July 1, 1992 to June 30, 1993, 25 per cent of seat allocation, and

(d) in respect of a month that falls within the period from July 1, 1993 to June 30, 1994, 15 per cent of seat allocation; (*quota mensuel*)

"seat allocation" means the percentage of passenger seats, regardless of class, included within designated smoking areas that were designated by an employer in respect of all of the employer's specified international flights during May 1990, or, in the case of a Canadian air carrier who commenced offering specified international flights after May 1990, 20 per cent of all passenger seats on all such flights; (*contingent*)

"specified international flight" means, in respect of flights operated by a Canadian air carrier,

(a) any segment of a flight between Canada and a point outside Canada that has a scheduled duration of more than six hours,

(b) any segment of a flight that takes place wholly outside Canada, or

(c) any segment of a flight that takes place wholly within Canada if

(i) the flight originated outside Canada,

(ii) the only passengers on board the aircraft are those who boarded the aircraft outside Canada, and

(iii) smoking was permitted on board the aircraft during the immediately preceding segment of the flight. (*vol international déterminé*)

(2) Subject to subsection (3), an employer who operates an aircraft for hire or reward on a specified international flight may designate any area on the aircraft as a designated smoking area.

(3) No employer shall designate, in respect of all of the employer's specified international flights in any month, designated smoking areas that include within them, in total, a number of passenger seats that, when expressed as a percentage of the number of passenger seats on all of these flights, is greater than the employer's monthly quota.

(4) This section shall cease to have effect on June 30, 1994. SOR/90-70, s. 1; SOR/90-335, s. 1; SOR/91-605, s. 2; SOR/93-368, s. 1.

**13.2** (1) Subject to subsection (2), an employer who operates an aircraft for hire or reward between Canada and Japan may designate areas for smoking on the aircraft.

(2) An employer may not designate during any month, on aircraft operated between Canada and Japan, areas for smoking that include more than 15 per cent of the total number of passenger seats made available by the employer during that month for flights between Canada and Japan.

(3) This section shall cease to have effect on August 31, 1994. SOR/94-487, s. 1.

## TERMINALS

**14.** An employer who is in control of an airport passenger terminal or a marine passenger terminal may designate any interior portion of the terminal to which the public is admitted as a designated smoking area if the total surface area of the portions so designated does not exceed 30 per cent of the total surface area of all interior portions of the terminal to which the public is admitted.

## STATIONS

**15.** An employer who is in control of a railway passenger station or an interurban bus station may designate any interior portion of the station to which the public is admitted as a designated smoking area if

(a) the total surface area of all interior portions to which the public is admitted is not less than 112 m<sup>2</sup>; and

(b) the total surface area of the portions so designated does not exceed 30 per cent of the total surface area of all interior portions to which the public is admitted.

## FINES

**16.** The fine payable in proceedings under section 14 of the Act for an offence under a provision of the Act set out in column I of an item of Schedule II is the applicable fine set out in column II of that item.

## TICKETS

**17.** For the purposes of section 14 of the Act, a ticket shall be substantially in the form set out in Schedule III.

## INFORMATIONS

**18.** For the purposes of section 14 of the Act, an information shall be substantially in the form set out in Schedule III.

## SCHEDULE I

(s. 6)

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## SCHEDULE II

(Section 16)

## FINES UNDER SECTION 14 OF THE ACT

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Provisions

Item of the Act Fines-----  
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- 1. s. 4(1) or 5(3) \$50.00 for a first offence;  
\$75.00 for a second offence;  
\$100.00 for each subsequent offence.
  
- 2. s. 3, 4(2) or 5(4) \$500.00 for a first offence;  
\$1,000.00 for a second offence;  
\$5,000.00 for a third offence;  
\$10,000.00 for each subsequent offence.
  
- 3. s. 10 \$250.00 for a first offence;  
\$500.00 for a second offence;  
\$1,000.00 for each subsequent offence.

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**SCHEDULE III/ANNEXE III**  
*(Sections 17 and 18)/(articles 17 et 18)*

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