

Guidance sheet for implementation of the 'Smokefree Rules' under Tobacco Control Laws

1. Section (4) of the 'Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003' prohibits smoking in public places. Any violation of this act is a punishable offence with fine **up to Rs. 200 (the amount can be between Rs. 1/- to Rs. 200/-)**. However, the hotel with 30 rooms or more, Restaurants having seating capacity of 30 persons or more and airport may create a separate smoking area or space.

2. "Public Place" as defined in the Act and the rules **means any place to which the public has access whether as of right or not and includes all places visited by general public and includes**

- | | |
|-----------------------------|---|
| ➤ Auditorium , | ➤ Hookah Bars (where smoking taken place) |
| ➤ Hospital Buildings, | ➤ Railway Stations, |
| ➤ Health Institutions, | ➤ Bus Stops, |
| ➤ Amusement Centres, | ➤ Workplaces, |
| ➤ Restaurants, | ➤ Shopping Malls, |
| ➤ Hotels, | ➤ Cinema Halls, |
| ➤ Public Offices, | ➤ Refreshment Rooms, |
| ➤ Court Buildings, | ➤ Discotheques, |
| ➤ Educational Institutions, | ➤ Coffee House, |
| ➤ Libraries, | ➤ Pubs, |
| ➤ Public Conveyances, | ➤ Bars, |
| ➤ Open Auditorium, | ➤ Airport Lounge |
| ➤ Stadium, | |
| ➤ Clubs | |

But public place does not include open space e.g. Parking space, roads, open market places, parks, private homes etc.

3. The provisions relating to 'Prohibition of Smoking in Public Places' were given effect to rules were given effect to from 1st May 2004. Recently, these provisions were reviewed and a comprehensive rule '**Prohibition of Smoking in Public Places Rules, 2008**' have been notified on 30th May 2008. These rules have come into effect from **2nd October 2008**. The salient features of these rules are :

- It is the duty of the owner, proprietor, manager or supervisor or in-charge of affairs of public place:
 - ❖ To keep the area under his jurisdiction smoke-free.
 - ❖ Display the board as per the specification given in **Figure - 1**. These boards shall be displayed at

- All entrances and other conspicuous places inside the building
 - If there are more than one entrance then at all entrances.
 - If there are more than one floor, at each floor including the stair case and entrance to the lift at each floor.
 - ❖ Notify and display the name of a person to whom a complaint may be made, in case someone is found violating the law. **(specimen figure - 2).**
 - ❖ Ensure that no ashtrays, matches, lighters or other things designed to facilitate smoking are provided.
- If the owner, proprietor, manager or supervisor , or in-charge of affairs of the public place fails to act on the report of such violation, he shall be fined equivalent to the number of individual offences.
- All Hotels, Restaurants and Airports being public places, have to be smoke-free. However, owner, proprietor, manager or supervisor or in-charge of affairs of the hotels having 30 or more rooms and restaurants having seating capacity of 30 or more and the manager of the airport may provide a separate smoking area /space as per the following specifications.
- ❖ Physically separated and surrounded by full height walls on all four sides.
 - ❖ Having an entrance with automatically closing doors normally kept in close position;
 - ❖ Has an airflow system -
 - That is exhausted directly to the outside and not mixed back into the supply to the other parts of the building.
 - That is fitted with an exhaust ventilation system which is non re-circulating in nature or an air cleaning system or a combination of two, in such a manner that air does not permeate into non smoking areas.
 - ❖ Has a negative air pressure in comparison with the remainder of the building.
- The smoking area /space shall not be established at the entrance or exit of the hotel, restaurant or airport and shall be distinctly marked as '**smoking area**' in English and one Indian language as applicable.
- The smoking area/space should be used only for the purpose of smoking and no other service(s) shall be allowed.
- The owner, proprietor, manager or supervisor or in-charge of affairs having 30 or more rooms may designate separate smoking rooms in a manner as provided:
- ❖ All rooms designated as smoking rooms shall form a separate section in the same section or wing. In case there is more than one floor/wing, these rooms shall be in one floor or wing as the case may be;

- ❖ All such rooms shall be distinctly marked as smoking rooms in English or one Indian language;
- ❖ The smoke from such room shall not be ventilated outside and does not permeate in non smoking areas of the hotel including lobbies and corridors.

4. Action to be taken by State Government:

The department dealing with Health in the state government shall be primarily responsible for implementing the provisions of these rules in coordination with other central/state government departments and various other stakeholders.

The secretary in-charge of Health shall take following steps.

I. Wide Publicity:

- ✓ Give wide publicity to the provisions of the rules; also put it on the official website of the Department.
- ✓ Ensure that all offices, Institutions, autonomous organization, including hospitals, Educational Institution/ Medical/Dental/ Nursing Colleges etc. under the Health/Medical Education Department and any public sector undertaking, follow the rules i.e. display of boards, identification of persons to whom a complaint of violation is to be reported.

II. Communication to all:

- ✓ Communications to all state government departments, institution etc. in the state.
 - To ensure that attached/subordinate office, Autonomous organization & PSU's under the respective department(s) comply with the law;
 - That those in-charge or responsible for any public place implement the smoke-free rules;
 - That all departments identify the person(s) to whom any complaint regarding violation(s) may be reported.

(A fact sheet indicating the steps to be taken by an organization is annexed)

- ✓ Send communications to all the heads of central government departments in the state like Railways, Customs and Central Excise, Defense Establishments, AG Office, Doordarshan, All India Radio, CPWD, Airports Authority, etc. for implementing the provisions of the rules.
- ✓ Send specific communications to Secretaries of Education Dept, Tourism dept, Transport Dept, Municipal Corporations as under:
 - To **Education Secretary** (and /or Medical Education secretary) to make all the school, colleges including Medical, Dental, Nursing, Paramedical Colleges, universities including deemed universities to display the boards as per specification and follow the other provisions of the rules so as to make their premises 'smoke-free'. in

respect of school's, ' Tobacco Free School' policy may be implemented and also to include 'tobacco control' in the curriculum at all levels.

- To **Transport Secretary** for ensuring that the boards are displayed in all public conveyances under govt and private sector and also at the bus stops & bus terminals.
 - To **head of the Municipal Corporations** to ensure that the provisions of the Act is implemented in the area under his jurisdiction.
 - To **Tourism Secretary**
 - ▶ To Inform all concerned in charge of places commonly frequented by tourists that they have to follow the rules and ensure that those places are smokefree.
 - ▶ To ensure tourist are duly informed-through portals/websites, brochures and pamphlets about the provisions of the rule.
 - ▶ To provide smoke free environment in all hotels/restaurants as laid down in the Rules
 - ▶ To inform that hotels/restaurants having thirty or more rooms/ or seating capacity of thirty or more may create a designated smoking area / space as per the specifications.
 - ▶ To ensure that the boards as per the requirement are prominently displayed in all tourist spots including in hotels/restaurants/pubs/bars/coffee shops etc.
- ✓ Communicate to all district collectors the details of the provisions of the rules and action to be taken.

III. Sensitisation and Training :

- ✓ Sensitize, train and empower the law enforcers i.e. Police, Food & Drug Inspectors and other the authorized officers, as notified by the central Govt vide notification dated 30th May, 2008.
- ✓ Sensitize and train the representatives of Hotels/ Restaurants, Private workplaces, shopping malls, cinema theaters, Industry / factories about the provisions of the rules and set up a mechanism for monitoring implementation. The officers of different depts. who are notified under the rules may be given appropriate training in respect to implementation issues, dealing with violations, challaning mechanism, recovery , accounting of fines & depositions of fines etc.

IV Establish a Coordination Mechanism at State level:

- ✓ Establish a coordinating mechanism by way of setting a state level task force/steering committee under the chairmanship of Principal Secretary/Secretary Health with representatives of all the major departments of State/Central Govts, (e.g. Police, Customs/Excise, Food, Welfare, Labour, Industry, Agriculture, Transport, Education etc) other

stakeholder and Civil Society. Also to establish Distt. Level committee under the chairmanship of District Collector with Chief Medical Officer (Dist Nodal Officer for Tobacco Control) as member Secretary.

5. Way forward for Enforcement:

- I. Give wide publicity to the provisions under the rules using all available channels of communication and State IEC division
- II. The State Govt. may also consider notifying additional authorized officers for implementing the provisions of the rules.
- ~~III.~~ Set up flying squads for monitoring, enforcement and compliance.
- IV. Setting up toll-free help line / online reporting system may also be considered.
- V. Establish a mechanism for issue of challan or compounding of offence.
- VI. Involve Civil Society at appropriate levels i.e. from raising awareness to reporting violations to appropriate authority.

The options available, based on the experience of a few States are:

- **OPTION - 1: to empower the authorized officers to compound the offence and impose appropriate fine upto Rs. 200 on the violators and recover the fine on the spot. A specimen copy of the receipt is at figure - 3**
- **OPTION - 2: to permit the authorized officers to issue challans with the direction that the offender pays the fine at the designated court or treasury on any given/fixed day(s) as may be decided by the State Government. The state government may also constitute mobile courts/special magistrates. The specimen copy of challan is at figure - 4.**

Or combination of both the options as may be decided by the State Government.

- ✓ **The Health Department has to print the numbered receipt book (s) and challan book(s) for distribution to various authorized officers for ensuring proper accounting of fines imposed on the offenders. The challan may contain two part, one to be issued to the offender and the other to be retained by the authorized officer who has to deposit the fine and the book to the health department.**
- ✓ **There are different models of channelising the funds collected through fine.**
- ➤ **OPTION - 1: create a separate head of account as has been done by Gujarat Government under the department of**

Health in which the fine collected by various agencies/officers are deposited. This will enable Deptt. of Health to use the fund for tobacco control activities. The head under which the fine is to be credited may be indicated at the bottom of the receipt itself.

- **OPTION - 2: the fine collected by various agencies may be deposited to a miscellaneous account of department of Health. In case the states have a separate account for National Tobacco Control Programme in the Health Society, the funds may be deposited in this account.**

It is necessary for the state government to lay down detailed guidelines for ensuring accountability for the amount collected as fine.

6. Other Measures:

- ✓ Highlight successes and failures of every department/organization.
- ✓ Provide for non-monetary incentives such a commendation letters, etc.
- ✓ Mainstream the Rules and regulations in regular training/Orientation of officers and staff working in any 'Public place'.
- ✓ Encourage the vast majority of non smokers, to recognize their right to life and healths - through media campaigns, school curriculum etc.
- ✓ Take stock of situation, review and solve problems by holding regular meetings of State / District level Monitoring Committees.

ANNEXURE

**Steps for Enforcement by Dept /Institutions
Fact Sheet**

- | |
|---|
| <ul style="list-style-type: none">✓ Display boards as per specifications in non smoking areas.✓ Notify and display the name of a person to whom a complaint may be made, in case someone is found violating the law.✓ Train and inform the persons within the institutions responsible for implementing the act, including their duties, responsibilities under the law. The consequence of non-compliance is clearly spelt out. Also, train the enforcers about the mechanism of issuing |
|---|

challan /compounding of offences and imposing fine.

- ✓ Educate the staff about the provisions of the smoke-free rules.
- ✓ Constitute a core group/task force for regular monitoring, surprise checks to and ensure monitoring & compliance.
- ✓ The funds collected by compounding the offence may be deposited in the account as specified by the department of Health

Figure - 1


Design of the signage	Specification of the board
 <p data-bbox="113 801 683 890">No Smoking Area - Smoking Here is an Offence</p>	<ol style="list-style-type: none">1. The board shall be of a minimum size of 60 cm by 30 cm of white background2. It shall contain a circle of no less than 15 cm outer diameter with a red perimeter of no less than 3 cm wide with a picture, in the centre, of a cigarette or beedi with black smoke and crossed by a red band.3. The width of the red band across the cigarette shall equal the width of the red perimeter.4. The board shall contain the warning "No Smoking Area – Smoking Here is an Offence", in English or one Indian language, as applicable.

Figure - 2; Specimen

If you find anybody smoking please report to
Name:.....
Designation:
Telephone no:.....

Figure - 3 : Prototype of a receipt

Ministry of Health & Family Welfare
NIRMAN BHAVAN, NEW DELHI

RECEIPT

Receipt No. **851** Date :

Received Rs.(in words)

.....

from Shri S/o

R/o

.....on account of compounding fees.

For offence committed by him at (Name of the Place) under the provisions of the Cigarettes and other tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003.

Signature of the Offender Signature of the Authorized officer

Figure - 4: Prototype of a challan

Book No. Serial No.....

The 'Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003'

1. Name and Address of the accused person
.....
2. Scene of the offence with date, time and place.
.....
3. Particulars of offence under Act/ Rules.
.....
4. Where as you are hereby prosecuted for the offense described above, you are required to attend the court of **name & address**
place& **time**AM on **(date)** answer the said charges unless otherwise ordered by the court.

Signature/left thumb impression of the accused

Signature of the witness

Name and address of the issuing authority.