



Reference: 20150803-1936  
2/19/2

Enquiries: L Coleridge-Zils

Circular: 0001/2016

Expiry date: None

To: Deputy Directors-General, Chief Directors, Directors (Head Office and district offices), Deputy Directors, IMG Heads, Circuit Team Managers, Heads of education institutions and Chairpersons of governing bodies

*Brief summary: This circular introduces the new Western Cape Education Department Smoking Policy, 2015.*

**Subject: Western Cape Education Department Smoking Policy, 2015**

1. This circular repeals Circular 0046/2003 and Circular 0002/2004 in their entirety.
2. The Provincial Minister responsible for education in the Western Cape, acting in terms of the provisions of the Tobacco Products Control Act, 1993 (Act 83 of 1993), has approved the Western Cape Education Department Smoking Policy, 2015.
3. Amendments to legislation relating to smoking in public places has been effected since the Western Cape Provincial Administration Smoking Policy was approved in 2002. A new smoking policy was therefore developed for the Western Cape Education Department. The Western Cape Education Department Smoking Policy, 2015, contains some of the provisions of the Western Cape Provincial Administration Smoking Policy, published in 2002, as well as certain updates of amendments to the Tobacco Products Control Act, 1993 (Act 83 of 1993).
4. Paragraph 4.1 of the Western Cape Provincial Administration Smoking Policy stipulates that the smoking of tobacco products is prohibited in all workplaces of the Western Cape Provincial Administration. This provision includes education institutions .
5. All workplaces under the jurisdiction of the Western Cape Education Department are hereby declared smoke-free environments, in terms of paragraph 5.1 (a) of the Western Cape Education Department Smoking Policy, 2015. Notices and signs indicating areas where smoking is not permitted must be clearly displayed and must

carry the following warning: "ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED."

6. Certain areas within the workplace could be declared designated smoking areas in terms of paragraph 5.1 (b) of the policy. The identification of such areas within the workplace must be in line with the stipulations of the Western Cape Education Department Smoking Policy, 2015, and notices and signs indicating areas where smoking is permitted must be clearly displayed.
7. The implementation of this policy will be monitored by the Chief Directorate: Districts in conjunction with departmental health and safety representatives or committees, at Head Office, district offices and education institutions, appointed in terms of sections 17 and 19 of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).
8. It is important to note that the attached Western Cape Education Department Smoking Policy, 2015, does not replace the Western Cape Provincial Administration Smoking Policy, but should be read in conjunction with it.
9. This policy is applicable with immediate effect and Chief Directors, Directors at Head Office and district offices and heads of education institutions are requested to bring the content of this circular to the attention of all members of staff, governing bodies and school communities.

**SIGNED:** PA VINJEVOLD

**HEAD: EDUCATION**

**DATE:** 2015-12-03



**Western Cape  
Government**

Education

Directorate: Policy Co-ordination

## **WESTERN CAPE EDUCATION DEPARTMENT SMOKING POLICY, 2015**

<b>Contents</b>	<b>Page</b>
1. Definitions	2-3
2. Legislative Framework	3
3. Purpose	3-4
4. Scope	4
5. Policy provisions	4-6
6. Designated outdoor smoking areas on school premises	6
7. Implementation	6-7
8. Advertising, sponsorship and promotion	7
9. Disciplinary and grievance procedures	7
10. Repeal	7
11. Review	8

## **Appendice**

### Western Cape Provincial Administration Smoking Policy

#### **1. Definitions**

In this policy, any word or expression to which a meaning has been assigned in the Act bears that meaning assigned to it and unless the context otherwise indicates, —

**“advertisement”** means —

any commercial communication or action brought to the attention of any member of the public in any manner with the aim, effect or likely effect of —

- (a) promoting the sale or use of any tobacco product, tobacco product brand element or tobacco manufacturer’s name in relation to a tobacco product;
- or
- (b) being regarded as a recommendation of a tobacco product;

**“workplace”** means —

- (a) any indoor, enclosed or partially enclosed area in which employees perform the duties of their employment and includes any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common areas frequented by such employees during the course of their employment; but
- (b) excluding any private dwelling and any portion of an area mentioned in (a) specifically designated by the employer as a smoking area and which complies with the prescribed requirements as set out in paragraph 4.2 of the Western Cape Provincial Administration Smoking Policy.

## **2. Legislative framework**

Constitution of the Republic of South Africa, 1996

Tobacco Products Control Act, 1993 (Act 83 of 1993)

Occupational Health and Safety Act, 1993 (Act 85 of 1993)

Notice relating to the Smoking of Tobacco in Public Places published in

Government Gazette 35198 dated 30 March 2012, Government Notice 264

Western Cape Provincial Administration Smoking Policy approved by Provincial Cabinet in terms of Resolution 318 of 2002

## **3. Purpose**

3.1 The purpose of this policy is to —

- (a) declare all public buildings or premises under the jurisdiction of the Western Cape Education Department smoke-free areas in terms of paragraph 4.1 of the Western Cape Provincial Administration Smoking Policy.
- (b) guarantee compliance with section 24(a) of the Constitution of the Republic of South Africa, 1996, the provisions of the Tobacco Products Control Act, 1993 (Act 83 of 1993), the Occupational Health and Safety Act, 1993 (Act 84 of 1993) and other relevant legislation.
- (c) guarantee that non-smokers can work in a smoke-free environment whilst taking into account the needs of those who smoke.

- (d) ensure that where special provision has been made by means of a designated room for smoking, normal work performance is not affected by the utilisation of the room outside of official breaks.
- (e) ensure that where there is no designated room available, reasonable measures are in place to protect the rights of non-smokers.
- (f) ensure that learners receive education in a healthy environment and employees work in a healthy working environment.
- (g) encourage schools to promote a healthy education environment.

#### **4. Scope**

- 4.1 This policy is applicable to all employees at Head Office, education districts, education institutions of the Western Cape Education Department.
- 4.2 This policy should be read in conjunction with the Western Cape Provincial Administration Smoking Policy.

#### **5. Policy provisions**

- 5.1 In order to protect employees, learners at education institutions and persons visiting public places from smoke in the workplace, the employer has one of two options:
  - (a) The employer could declare the entire workplace, which would include –
    - (i) all offices, workrooms and conference venues;
    - (ii) education institution buildings, which include administration blocks, personnel assembly rooms, classrooms, laboratories, auditoria; and sick-bays;
    - (iii) halls, corridors, lobbies, stairwells, elevators, cafeteria or places where food or refreshments are served and washrooms;
    - (vi) official transport and school transport;

- (v) venues where learners assemble, areas on the education institution premises where outdoor events take place (sport facilities), playgrounds on education institution premises or child care facilities; and
- (vi) other common areas frequented by employees during the course of their employment, by learners at an education institution and by persons visiting the education institution or workplace,

smoke-free environments. This would mean that there would not be any designated smoking areas at all. Employees and visitors would therefore only be allowed to smoke outside these areas; or

- (b) The employer could declare certain areas as designated smoking areas within the workplace, but would have to ensure that such areas are completely separated from other areas of the workplace.

5.2 No person shall smoke any tobacco product in offices occupied by officials of the Western Cape Education Department or within a **10 meter distance** from any window, ventilation inlet, doorway to or entrance into any premises or education institution under the jurisdiction of the Western Cape Education Department.

5.3 The person in control of a place or area contemplated in sub-paragraph 5.2, shall display the prescribed signs in order to inform any person who enters or who is in or on such place or area of any prohibition of smoking.

5.4 The Head of Department must ensure that –

- (a) employees and learners may object to smoking in the workplace or at schools in contravention of the Tobacco Products Control Act, 1993 (Act 83 of 1993) without retaliation of any kind;
- (b) employees or learners, who do not want to be exposed to tobacco smoke in the workplace, education institution or at school, are not exposed;

- (c) it is not a condition of employment, expressly or implied, that any employee is expected to work in any portion of the workplace where smoking is permitted;
- (d) employees are not required to sign any indemnity for working in any portion of the workplace where smoking is permitted.

## **6. Designated outdoor smoking areas on education institution premises**

- 6.1 The head of an education institution may designate part of an outdoor area of the education institution premises as an area in which smoking is permitted.
- 6.2 Smoking shall be permitted in that area only and in no other part of the education institution premises.
- 6.3 A notice must be displayed in the designated smoking area stating that –
  - (a) the area is a designated outdoor smoking area for employees only; and
  - (b) no learners and persons under 18 years old may be present in the area.
- 6.4 A designated outdoor smoking area shall not be adjacent to an entrance to the education institution, school building or areas on the premises mentioned in subparagraph 5.1(b)

## **7. Implementation**

- 7.1 Personnel may not smoke outside of tea and lunch breaks.
- 7.2 All directors and other supervisors must ensure that smoking is limited to tea and lunch breaks in the case of office-based employees and to the stipulated breaks at education institutions in the case of school-based employees.
- 7.3 A deviation from the norm will only be allowed when a director, head of an education institution or a supervisor has given approval to an employee to smoke outside of official times, as stipulated in subparagraph 7.2. This is only permitted

when an employee was unable to utilise the official times as a result of work commitments such as meetings or playground duty.

- 7.4 The Western Cape Education Department's managerial efficiency and operational requirements, as well as the level of productivity and the required work output of personnel concerned, may not be compromised by concessions made as stated in subparagraph 7.3.

## **8. Advertising, sponsorship and promotion**

- 8.1 No person shall advertise or promote, or cause any other person to advertise or promote on buildings, offices or premises occupied by the Western Cape Education Department, education institutions, a tobacco product through any direct or indirect means, including through sponsorship, event, service, physical establishment, programme, project, bursary, scholarship or any other method;
- 8.2 A manufacturer or importer of a tobacco product may make a charitable financial contribution or make a sponsorship available, provided that such contribution or sponsorship is not for the purpose of advertisement.

## **9. Disciplinary and grievance procedures**

- 9.1 Every employee who is of the opinion that any person, to whom this policy applies, has breached these provisions, may use the official grievance procedures.
- 9.2 Disciplinary measures may be instituted against employees who do not comply with requirements of this policy.

## **10. Repeal**

This policy repeals:

Circular 0046/2003 dated 6 March 2003; and  
Circular 0002/2004 dated 19 December 2003

## **11. Review**

This policy must be reviewed when the need arises or in the case of changed circumstances such as pronouncements by legislation and/or regulations and budgetary constraints.

# WESTERN CAPE PROVINCIAL ADMINISTRATION

## SMOKING POLICY



WESTERN CAPE PROVINCIAL ADMINISTRATION

# SMOKING POLICY

## 1. PREAMBLE

- 1.1 Section 24(a) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) provides that everyone has the right to an environment that is not harmful to his/her health or well-being. The Tobacco Products Control Act, 1993 (Act 83 of 1993) (the Act), as amended by the Tobacco Products Control Amendment Act, 1999 (Act 12 of 1999), read with Notice R975 of 2000 (Regulation Gazette 6895, Government Gazette 21610 of 29 September 2000) (the Notice) provides for, among others, the protection of employees and the public from the harmful effects of tobacco smoke in public places, including places of work.
- 1.2 The Western Cape Provincial Administration (the Administration) as a responsible employer and public service provider, is fully committed to implement practical policy measures in line with the letter and spirit of the Act and the Notice.

## 2. PURPOSE

To provide guidelines to heads of department on the practical implementation of the Act and the Notice so as to ensure compliance therewith, with due consideration to departmental conditions and constraints.

## 3. AUTHORISATION

This policy is mandated by clause 8 of the Notice, which specifically provides that all employers shall have a written policy on smoking in the workplace.

## 4. POLICY PROVISIONS

### 4.1 Prohibition of smoking

Smoking of tobacco products is prohibited in all workplaces of the Administration, subject to the Act, the Notice and further policy provisions.

### 4.2 Designation of smoking areas

- 4.2.1 Heads of department may (on request or in terms of any other internal procedure) in writing permit smoking in those places of work, or part(s) thereof, which are wholly or partly occupied/utilised by employees of his/her department. Such smoking is, however, limited to areas that are designated as smoking areas in terms of clause 3 of the Notice.
- 4.2.2 In designating all smoking areas, heads of department must ensure that the areas comply with the following conditions as set out in clause 3 of the Notice:
- The designated smoking area does not occupy more than 25% of the total floor area of the public place.

- The designated smoking area is separated from the rest of the public place by a solid partition and an entrance door on which the sign "SMOKING AREA" is displayed, written in black letters, at least 2 cm in height and 1,5 cm in breadth, on a white background.
- The ventilation of the designated smoking area is such that air from the smoking area is directly exhausted to the outside and is not re-circulated to any other area within the public place.
- The message "SMOKING OF TOBACCO PRODUCTS IS HARMFUL TO YOUR HEALTH AND TO THE HEALTH OF CHILDREN, PREGNANT AND BREASTFEEDING WOMEN AND NON-SMOKERS. FOR HELP TO QUIT PHONE (011) 720 3145" is displayed at the entrance to the designated smoking area, written in black letters, at least 2 cm in height and 1,5 cm in breadth, on a white background.
- Notices and signs indicating areas where smoking is permitted and where it is not permitted must be permanently displayed and signs indicating that smoking is not permitted must carry the warning: "ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED AND MAY BE LIABLE TO A FINE".

4.2.3 Before any area is finally designated as a smoking area, a head of department must obtain a written advice from the Department of Transport and Public Works, Chief Directorate Works, that the particular area complies with the structural and signage requirements of the Notice.

4.2.4 The furnishing of designated smoking rooms will be at the sole discretion of the head of department, whose decisions in this regard will be guided by the availability of funds and departmental priorities. As a minimum, however, appropriate ashtrays must be available. (The latter should also apply to open air smoking areas to avoid littering.)

#### 4.3 **Restaurants/canteens**

4.3.1 Smoking on provincial premises utilised as restaurants, canteens and the like is not permitted.

#### 4.4 **Signage of provincial premises**

4.4.1 The Department of Transport and Public Works, Chief Directorate Works, in consultation with each head of department, is responsible for the proper signage of all provincial premises in accordance with the provisions of the Act and the Notice.

#### 4.5 **Smoke breaks**

4.5.1 Concessions to employees to leave their places of duty to smoke during official hours (smoke breaks) is the prerogative of the head of department.

4.5.2 The head of department may delegate this responsibility to appropriate managerial/supervisory levels to ensure that local conditions and constraints are duly considered.

4.5.3 The department's managerial efficiency and operational requirements, as well as the level of productivity and the required work output of the officials concerned, may not be compromised by such concessions.

#### 4.6 **Smoking in official vehicles**

4.6.1 Smoking in official vehicles will be regulated by the relevant prescripts of the Department of Transport and Public Works, Transport Branch.

#### 4.7 **Sale and advertising/promotion of tobacco products**

4.7.1 The sale or supply of tobacco products on any premises of the Administration must be in accordance with Regulation R976 of 2000 (Government Gazette 21610 of 29 September 2000).

4.7.2 No provincial property may be utilised to advertise/promote tobacco products, subject to paragraph 4.7.1.

4.7.3 No employee in his/her official capacity may directly or indirectly promote tobacco products or encourage the use thereof.

### 5. **MONITORING AND ENFORCEMENT OF THE POLICY**

#### 5.1 **Monitoring**

5.1.1 The implementation of this policy will be monitored by departmental health and safety representatives/committees appointed in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.

#### 5.2 **Enforcement**

5.2.1 Every employee who is of the opinion that any person (to whom this policy applies) has breached these policy provisions, has the right to utilise the official grievance procedures.

5.2.2 Any employee who breaches this policy should be dealt with in accordance with the official disciplinary procedures.

### 6. **SCOPE OF APPLICATION**

6.1 This policy is applicable to all employees of the Administration, as well as visitors of employees and members of the public who are required to enter places of work in the course of service delivery.

6.2 This policy is also applicable to Members of the Provincial Cabinet who occupy offices in premises of the Administration.

## 7. DEFINITIONS

7.1 Terminology in this policy is used within the context of the definitions contained in the Acts and notices identified in this policy.

7.2 For purposes of this policy -

7.2.1 "employees" include persons employed by the Administration in a permanent, temporary or contract capacity on a full or part time basis;

7.2.2 "provincial premises" include all buildings (or part(s) thereof) owned or rented by the Administration, but exclude buildings that are primarily utilised as private dwellings; and

7.2.3 the official residence of the Premier will be deemed as a "private dwelling".

## 8. IMPLEMENTATION

This policy has been approved by the Provincial Cabinet in terms of Resolution 318 of 2002 and comes into operation with effect from 1 October 2002.