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**HEALTH**

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HE301\*

Health Act 1911

**Health (Smoking in Enclosed Public Places)  
Amendment Regulations (No. 2) 2005**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Health (Smoking in Enclosed Public Places) Amendment Regulations (No. 2) 2005*.

**2. Commencement**

These regulations come into operation on 1 November 2005.

**3. The regulations amended**

The amendments in these regulations are to the *Health (Smoking in Enclosed Public Places) Regulations 2003*\*.

[\* *Published in Gazette 14 November 2003, p. 4703-20.*  
*For amendments to 9 August 2005 see Western Australian Legislation Information Tables for 2004, Table 4, p. 175, and Gazette 28 January 2005.]*

**4. Regulation 3 amended**

Regulation 3 is amended in the definition of “non-smoking area” by deleting “item 2 or 4, of Schedule 1;” and inserting instead —

“ Schedule 1 item 4; ”.

**5. Regulation 5 amended**

Regulation 5(2), (3) and (5) are repealed and the following subregulations are inserted instead —

“

(2) Despite subregulation (1), regulation 4(1) applies to an enclosed public place that is located in premises

referred to in regulation 7(1) unless the place is the one in which smoking is allowed under regulation 7(1).

- (3) Despite subregulation (1), regulation 4(1) applies to an enclosed public place, other than the International Room, that is located at Burswood Casino.

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#### 6. **Regulation 7 replaced**

Regulation 7 is repealed and the following regulation is inserted instead —

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#### 7. **If more than one exempt place in premises, smoking restricted to one place**

- (1) If premises comprise more than one enclosed public place of a kind referred to in Schedule 1 item 1, 2, 3, 4 or 5, smoking is prohibited in all but one of those places at any one time.
- (2) Despite subregulation (1), and without affecting regulation 5(1) in respect of Schedule 1 item 6, smoking is prohibited in all the enclosed public places at Burswood Casino except the International Room.

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#### 7. **Regulation 8 repealed**

Regulation 8 is repealed.

#### 8. **Schedule 1 replaced**

Schedule 1 is repealed and the following Schedule is inserted instead —

“

### **Schedule 1 — Exempt places**

[r. 5(1)]

<b>Enclosed public place</b>	<b>Conditions</b>
1. Bar or lounge area adjoining (but not including) a dining area	1. The bar or lounge area is not a subject of a restaurant licence.  2. Meals are not served or consumed in the bar or lounge area except at a bar counter.  3. The bar or lounge area has adequate ventilation.  4. There is no other separately enclosed public place within the premises in which the bar or lounge area is located that comprises another bar or lounge area.

Enclosed public place	Conditions
2. Bar or lounge area not adjoining a dining area	1. The bar or lounge area is not a subject of a restaurant licence. 2. Meals are not served or consumed in the bar or lounge area except at a bar counter. 3. The bar or lounge area has adequate ventilation.
3. Allocated room in restaurant	1. The allocated room is a separate and enclosed room within an area that is a subject of a restaurant licence. 2. Meals are not served or consumed in the allocated room. 3. The allocated room has adequate ventilation. 4. There is only one allocated room in the area referred to in condition 1. 5. The allocated room is not, or does not form part of, the main access way to the area referred to in condition 1.
4. Cabaret or nightclub	1. The cabaret or nightclub has adequate ventilation. 2. 80% of the floor space of the cabaret or nightclub is set aside as a non-smoking area.
5. Covered area	1. One or more of the windows, doors or retractable coverings referred to in paragraph (c)(ii) of the definition of "covered area" in regulation 3 are open so that the covered area is not substantially enclosed.
6. International Room at Burswood Casino	1. The room has adequate ventilation.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.