

Protocol and Review Chart for Smoke Free Legislation Review

Purpose

The purpose of this protocol is to explain the **Smoke Free (SF) Summary Charts** and the methodology used for interpreting the legal provisions summarized in the charts.

Contents and Structure of the Charts

The SF charts will include the following information: 1) citations to the sources of law that regulate smoking in public places, workplaces, and public transport and their effective dates; 2) an assigned Regulatory Status Code signifying how the listed place is regulated; 3) explanation of the code assigned, including any analysis and interpretation of relevant provisions; 4) comments on whether relevant provisions align or do not align with FCTC Article 8 and its Guidelines and how this affects the scope, strength, and/or impact of the country's law; and 5) recommended legislative action where appropriate. ***Reviewer instructions regarding Comments and Regulatory Status Codes are found within the chart.***

The SF charts are divided into the following sections:

- **Law Sources, Effective Date, and Short Title.** Lists citations to applicable laws regulating smoking in public places, workplaces, and public transport, provides the effective date of each law listed as a source, and shows either the short title provided in the law or an abbreviated title for easy reference.
- **Key Terms.** Shows definitions of key terms copied from the relevant law.
- **Smoke Free Status of Indoor Public Places, Workplaces, and Public Transport.** The categories of indoor public places, workplaces and public transport addressed in FCTC Art. 8 and the FCTC Art. 8 Guidelines are listed along with a Regulatory Status Code assigned to designate the status of their regulation. Structured comments analyzing and interpreting the law are also provided.
- **Smoke Free Status of Outdoor Places.** If the law requires any outdoor or quasi-outdoor spaces to be smoke free or to restrict smoking in some way, the specific places are listed. Structured comments analyzing and interpreting the law are also provided.
- **Duties/Penalties.** Assigned codes representing available penalties and corrective action requirements for violations are shown, along with which entities are liable for the penalties. Structured comments analyzing and interpreting the law are also provided.
- **Enforcement Authorities.** Identifies which government authorities are responsible for inspections and enforcement. Structured comments analyzing and interpreting the law are also provided.
- **Sub-National Legislation.** Where applicable and available, the status and website links to sub-national smoke free laws are given.

COUNTRY NAME: FILL IN
REVIEW CHART: Smoke Free

Reviewers (for internal use only):
Review Completed: MONTH, YEAR

● **LAW SOURCES, EFFECTIVE DATE, AND SHORT TITLE**

Law Source(s)	Effective Date of Law (Month, Day, Year)	Law Short Title or Abbreviation
<p><i>ALL applicable laws (legislation, regulations, decrees, resolutions, and any other enactment that has legal force and effect) that govern public smoking are listed. These may be tobacco control laws, transportation laws, public health laws, and any other applicable legal enactment.</i></p> <p><i>Where a law has been amended, this is indicated by “(as amended)”.</i></p> <p>Law sources include:</p> <ol style="list-style-type: none"> 1. Name of the first statute, regulation, decree, etc. with full citation and URL link, if available in national language. 2. Name of the first statute, regulation, decree, etc. with full citation and URL link, if available in English. 	<p><i>The date the law took effect is provided. If the law does not give a specific effective date, but says, for example, that the law takes effect upon publication in the Gazette, the date the law was Gazetted is provided, if known.</i></p> <p><i>Where a law has been amended, the amending laws and their enactment dates are given, if known. This is shown by (as amended by law no. ___ of ___ or name and date).</i></p>	<p><i>If a short title is provided in the law, this is shown as the short title. If there is no short title provided in the law, an acronym or convenient abbreviation (e.g., Act 5.672) is created and listed here.</i></p>

	<i>Where there are different effective dates of different provisions of the law, only the date the law took effect is provided here.</i>	

• **KEY TERMS**

Key Term	Defined?	Aligns with FCTC and FCTC Guidelines definitions?	Definition Provided in the Law	Citation (Law, Art. No.)	Comments
<p><i>Note: Definitions from the FCTC/ FCTC Guidelines are shown under each term.</i></p>	<p>Yes No</p> <p><i>Yes= The term or a similar term is defined in an applicable law.</i></p> <p><i>No = No definition for the term is provided.</i></p>	<p>Yes No N/A</p> <p><i>Yes= The term or a similar term is defined in accordance with the FCTC and/or Guidelines.</i></p> <p><i>No = The term or a similar term is not defined in accordance with the FCTC and/or Guidelines.</i></p> <p><i>N/A = The term is not necessary or</i></p>	<p><i>The definition from the law is copied. Where it is not feasible to copy the definition, a summary of the definition is provided.</i></p>	<p><i>The short title of the applicable law and regulations, along with any article(s) and, if applicable, sub-article(s) is given.</i></p>	<p>Reviewer comments address:</p> <p><i>(1) whether the definition in the law aligns with the relevant FCTC and FCTC Art. 8 Guidelines definition;</i></p> <p><i>(2) how any significant differences between the definition in the law and that provided in the FCTC or FCTC Art. 8 Guidelines, or lack of definition, impacts the coverage, comprehensiveness, and/or clarity of the law’s substantive provisions; and</i></p> <p><i>(3) recommended legislative action, if any.</i></p>

		<i>does not impact the coverage, comprehensiveness and/or clarity of the law's substantive provisions.</i>			
Indoor or enclosed Any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, walls or sides, and regardless of whether the structure is permanent or temporary.(FCTC Article 8 Guidelines para. 19)					
Public place An area, permanent or temporary, that					

<p>is accessible to the general public or for collective use by the general public regardless of ownership or right of access. (FCTC Art. 8 Guidelines para. 18)</p>					
<p>Public transport</p> <p>Any vehicle used for the carriage of members of the public, usually for reward or commercial gain. (FCTC Article 8 Guidelines para. 22)</p>					
<p>Second hand smoke (or similar term)</p> <p>The smoke emitted from the burning end of a cigarette or from other tobacco products usually in combination with the smoke exhaled by the smoker.</p>					

(FCTC Art. 8 Guidelines para. 15)					
<p>Smoking or smoke</p> <p>Being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled. (FCTC Art. 8 Guidelines para. 17)</p>					
<p>Workplace</p> <p>An area, permanent or temporary, in which a person performs duties of employment or work, regardless of whether the work is done for compensation or on a voluntary basis, and includes private offices, common areas, and</p>					

<p>any other area which generally is used or frequented during the course of employment or work. (FCTC Art. 8 Guidelines para. 20)</p>					
<p>Tobacco product</p> <p>Any product entirely or partly made of the leaf tobacco as a raw material which is manufactured to be used for smoking, sucking, chewing or snuffing. (FCTC Art. 1(f))</p>					
<p>Other significant definitions provided in the law <i>[Add as many rows as necessary]</i></p>					

- **SMOKE FREE STATUS OF INDOOR PUBLIC PLACES, WORKPLACES, AND PUBLIC TRANSPORT**

Regulatory Status Codes

The following codes are used to show the smoke free status of the listed places. The selected listed places represent places that are commonly identified in many countries' laws. They are not a comprehensive list of all places that should be covered under the law.

SF= 100% Smoke free: Smoking is completely prohibited throughout the entire premises of the listed place. "Smoking rooms" and/or "smoking areas" are not permitted.

SR= Smoking is Restricted: Smoking is restricted in some way in the specified place or category of places. Restrictions could take one of the following forms: (1) smoking is restricted , under the national law, to "smoking rooms", "smoking areas", and/or during specified times in the specified place or category of places; (2) under the national law(s), smoking is restricted or prohibited in some types of places within the category, but not in all types of places within the category; or (3) where a country regulates public smoking primarily at the sub-national level, smoking is restricted or prohibited in the specified place or category of places in some sub-national jurisdictions but not in other sub-national jurisdictions.

SNR= Smoking is Not Restricted: Smoking is allowed throughout the entire premises of the specified place or category of places.

U = Uncertain: The smoke free status of the place is uncertain due to lack of clarity in the law or inability to obtain all relevant laws.

N/A= Not Applicable: The listed place does not exist in the country.

Place	Regulatory Status SF SR SNR U N/A	Citation (Law, Art. No.)	Comments <i>Reviewer comments address:</i> (1) a summary description of applicable legal provisions; (2) an analysis of the regulatory status of the listed place including: (a) an explanation of the analysis and interpretation to arrive at the particular Regulatory Status Code assigned. Where the Regulatory Status Code of the listed place is not clear from the text of the law, an explanation of how the text was interpreted to arrive at the particular Regulatory Status Code assigned. (Note that further guidance on interpretation is provided below for certain listed places); (b) where SR (Smoking is Restricted) or SR+ is assigned, a description of the nature of the restriction (e.g., smoking allowed in separately designated smoking areas or rooms, some type of ventilation is required, etc.); and (c) a comment on how common smoking is in the listed place in the country in order to give an idea of how the law is applied in practice, where possible; (3) an analysis of whether the law aligns with FCTC Art. 8 and the FCTC Art. 8 Guidelines and where it does not, how this affects or can affect the law's impact; and (4) recommended legislative action, if any.
All indoor workplaces			

All indoor public places			
All public transport			

<p>1. Government facilities</p> <p><i>Any public place or workplace that is owned or operated by the government.</i></p> <p><i>If the SR code is assigned because some but not all government workplaces are required to be 100% smoke free indoors, comments explain which are required to be 100% smoke free and which are not required to be 100% smoke free.</i></p>			
<p>2. Hospitals</p>			
<p>3. Residential health care facilities - public areas</p> <p><i>These places are different from hospitals, which are addressed in #</i></p>			

<p>2. Examples of these types of facilities include psychiatric residential care facilities, long-term care facilities (e.g., nursing homes) or end-of-life care facilities (e.g., hospice care).</p>			
<p>4. Residential health care facilities - patient rooms</p> <p><i>Note that patient/resident rooms, while of a residential nature, are within workplaces so workplace provisions in the law may be relevant to interpretation if the law is not clear about how patient rooms are treated.</i></p>			
<p>5. Non-residential health care facilities</p> <p><i>Examples include medical, dental, and other outpatient clinics.</i></p>			
<p>6. Child care facilities/ preschool</p>			

<p><i>Any place where a worker provides for the care of another person's child, typically for a fee. Home-based child care businesses are included in this definition.</i></p> <p><i>Any direct or indirect exception for home-based child care services is noted in comments.</i></p>			
<p>7. Primary and secondary schools</p> <p><i>Includes all primary through secondary level schools (e.g., age 5 through 17 or 18 years of age).</i></p>			
<p>8. Universities/ vocational facilities</p> <p><i>Includes all post-secondary education facilities.</i></p>			
<p>9. Shops</p> <p><i>Includes individual shops of all kinds and common indoor areas such as those in retail shopping centers/malls.</i></p>			

<p><i>If the SR code is assigned because some but not all stores are required to be 100% smoke free indoors, comments explain which stores are or are not.</i></p>			
<p>10. Cultural facilities</p> <p><i>Includes places such as performance spaces (live or recorded), museums, exhibition halls, libraries, etc.</i></p> <p><i>If the SR code is assigned because some but not all cultural facilities are required to be 100% smoke free indoors, comments explain which facilities are or are not required to be smoke free.</i></p>			
<p>11. Indoor stadiums/ arenas</p>			
<p>12. Restaurants</p> <p><i>Where a different smoking rule is applied to bars or pubs located within restaurants, this</i></p>			

<i>is noted in comments.</i>			
13. Bars/pubs/ nightclubs			
14. Casinos			
<p>15. Hotels/lodging - public areas</p> <p><i>This includes any part of the hotel/lodging facility that is not a guest room. It does not include bars/restaurants/casinos that might be located within a hotel because they are dealt with as a separate category.</i></p> <p><i>Note that hotels are workplaces.</i></p>			
<p>16. Hotels/lodging - guest rooms</p> <p><i>Where the law does not address hotels at all (and they are not addressed under a larger category like "public places" or "workplaces"), the code "SNR" is given.</i></p> <p><i>If hotels are 100% Smoke Free either because they are specifically mentioned</i></p>			

<p><i>in the law, or because they are "public places" or "workplaces", but the law does not address hotel rooms explicitly, then the code "U" is given.</i></p> <p><i>Where the law addresses hotel rooms, either by designating a percent of rooms where smoking is allowed, or provides for ventilation requirements, or states that guest rooms may be designated as smoking, the code "SR" is given.</i></p>			
<p>17. Prisons/detention facilities - public areas</p>			
<p>PUBLIC TRANSPORT</p>			

<p>18. Trains, buses, and other shared ground transportation (other than taxis)</p>			
<p>19. Taxis (for-hire vehicles)</p>			
<p>20. Commercial aircraft</p> <p><i>This includes aircraft of all kinds.</i></p>			
<p>21. Commercial watercraft</p> <p><i>This includes watercraft of all kinds.</i></p>			

<p>22. Public transport facilities</p> <p><i>This category includes indoor or enclosed waiting rooms, train stations, bus terminals, and airports, for example.</i></p>			
<p>24. Other places</p> <p><i>List any other unusual places addressed in the law.</i></p>			
<p>Private offices</p> <p><i>Include this category under "Other places."</i></p>			

- **SMOKE FREE STATUS OF OUTDOOR PLACES**

1. Does the law require any outdoor or quasi-outdoor spaces to be smoke free or restrict smoking in any way? Examples of such places include within a specified distance of doorways, outdoor patios of bars or restaurants, parks/beaches, outdoor stadiums, and outdoor markets.

Yes _____

No _____

2. If Yes, please fill out the chart below.

List Outdoor Place	Citation (Law, Art. No.)	Comments <i>Reviewer comments address:</i> <i>(1) Where a listed place is not required to be 100% smoke free, a summary description of any restrictions on smoking is given; and</i> <i>(2) A comment on how common smoking is in the listed place in the country is made whenever this is considered when interpreting the law.</i>
<i>[Add Outdoor Places in additional rows as needed.]</i>		

● **DUTIES/PENALTIES**

Duty	Duty? Yes No Uncertain	Sanction (multiple possible) F = Fine L = Business license suspension or revocation J = Jail N = None O = Other (e.g., publication of the violation/violator)	Citation (Law, Art. No.)	Comments <i>Reviewer comments address:</i> <i>(1) Description of the fine amounts, if any;</i> <i>(2) Description of other available relevant penalties and corrective action requirements (e.g., publication of the names of violators and the nature of their offences with associated costs levied against the violator as provided in FCTC Art. 8 Guidelines para. 32-34); and</i> <i>(3) recommended legislative action, if any.</i>
<p>25. Duty imposed upon business owners/ employers/supervisors to post signs</p> <p><i>Comments should specifically address:</i></p> <p><i>(1) Does the law or regulation specify size and text of signs?</i></p>				

<i>(2) Does signage provide phone number or other way to report violations?</i>				
26. Duty imposed upon business owners/ employers/supervisors to remove ashtrays				
27. Duty imposed upon business owners/ employers/supervisors to take steps to require a person to stop smoking (e.g., warn, discontinue service, call authorities)				
28. Duty imposed upon smokers- not to smoke where prohibited				
29. Other duties imposed on business owners/employers/supervisors or smokers				

● **ENFORCEMENT AUTHORITIES**

Authorized Agency <i>Agency/agencies authorized to inspect/enforce the law are listed in the rows below.</i>	Jurisdiction <i>Places over which the agency has authority.</i>	A Duty to Enforce is Placed on the Agency? Yes No Uncertain <i>Where the law is clear that the authority is accompanied by a duty to carry out enforcement.</i>	Citation (Law, Art. No.)	Comments <i>Reviewer comments address:</i> <i>Whether the specified agency or agencies, if any, have inspection authorities and duties.</i>
<i>[Add rows as needed.]</i>				

SUB-NATIONAL LAWS

- 1. Are sub-national jurisdictions permitted to have smoke free laws? If yes, are they allowed to be more stringent than national law?**
[yes/no/uncertain]
- 2. If yes, do one or more sub-national jurisdictions have smoke free laws more stringent than national law?**
- 3. A brief comment on the extent of sub-national legislation**
- 4. Link to website containing sub-national laws, if available.**