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Consolidation Act on Smoke-Free Environments

Act No. 512 of 06 June 2007 on Smoke-Free Environments, as amended by Act No. 532 of 26 May 2010, Act No. 607 of 18 June 2012, § 1 of Act No. 1726 of 27 December 2016 and § 4 of Act No. 1720 of 27 December 2018, is hereby promulgated.

Chapter 1

The purpose of the Act, scope of application, etc.

§ 1. The purpose of this act is to expand smoke-free environments for the purpose of preventing the harmful effects on health of second-hand smoke and to prevent people from becoming involuntarily subjected to second-hand smoke.

Subsection 2. The term "second-hand smoke" is understood to refer to the inhalation of the mixed air that occurs when the smoke from cigarettes, pipes, cigars, water pipes, cheroots, herbal cigarettes, and similar products are mixed with, and contaminate, the surrounding air.

§ 2. The act applies to

- 1) workplaces, including offshore installations,
- 2) institutions and schools for children and adolescents,
- 3) other educational institutions,
- 4) indoor facilities to which the public has access,
- 5) means of mass transportation and taxis, and
- 6) food service areas.

Subsection 2. Subsection 1 includes Danish vessels, Danish-registered aircraft and-foreign registered aircraft operated under a Danish operating license, regardless of whether the ship or aircraft is located outside Danish territory. The act does not, however, apply to ships based in the Faroe Islands or in Greenland, or to aircraft from airlines based in the Faroe Islands or in Greenland.

§ 3. The term "smoking area" as used in this act is understood to refer to a special facility with effective exhaust or ventilation options. The smoking area may not serve as a passageway, and it may not contain functions used by others.

Subsection 2. The term "smoking cabin" as used in this act is understood to refer to free-standing units with effective exhaust or ventilation options.

Chapter 2

General provisions

§ 4. In facilities, etc. covered by this act, it is not permitted to smoke indoors, unless otherwise stated in the other provisions of the act.

§ 5. The individual employer must draw up a written smoking policy that must be available to all employees in the workplace.

Subsection 2. The smoking policy must include the following, at minimum:

- 1) Information on whether and where smoking is permitted in the workplace.
- 2) Information on the consequences of violation of the workplace smoking policy.

Chapter 3

Workplaces, institutions, schools, etc.

Indoor workplaces

§ 6. It is not permitted to smoke indoors in workplaces, cf. § 4.

Subsection 2. It may be decided that smoking is permitted in cranes, company cars, and other commercial vehicles that only serve as a workplace for a single person at a time.

Subsection 3. The decision may be made to establish smoking areas and smoking cabins in which smoking may take place.

Subsection 4. Workplaces that have, or that establish, smoking areas or smoking cabins where smoking can take place must, by means of visible signage, announce that the air surrounding these may be harmful to health.

Subsection 5. The Danish Ministry of Health sets more specific rules on the issue, design, posting, etc., of signage in accordance with subsection 4.

Institutions and schools for children and adolescents

§ 7. In children's institutions, schools, boarding schools, continuation schools, institutions offering three-year upper secondary education to adolescents, accommodations and similar where enrollment predominantly includes children and adolescents under 18 years of age, smoking is not permitted on the grounds of the institution, cf., however, subsections 4-6.

Subsection 2. Institutions etc. that provide both a three-year upper secondary education for adolescents where enrollment predominantly includes persons under 18 years of age, cf. subsection 1, and an education where enrollment predominantly includes persons over 18 years of age, are covered by subsection 1, cf., however, subsection 3.

Subsection 3. Geographically independent departments of the institutions referred to in subsection 2, where enrollment predominantly includes persons over 18 years of age, are not covered by the prohibition in subsection 1.

Subsection 4. For placement sites intended for children and adolescents under 18 years of age that also serve as a residence for these youths, the decision may be made that it is permitted for adolescents to smoke outdoors on the grounds of the institution.

Subsection 5. For secured departments in 24-hour care centers and partially closed 24-hour care centers that also serve as a residence for adolescents under 18 years of age, it may be decided that it is permitted for adolescents to smoke outdoors on the grounds of the institution.

Subsection 6. Tied accommodations located on the grounds of the institutions referred to in subsection 1 are not covered by the prohibition in subsection 1. It is not, however, permitted to smoke when children and adolescents enrolled in the institution, etc. are present in the tied accommodations.

§ 8. (Repealed)

§ 9. (Repealed)

§ 10. Hospitals and similar institutions may, in fairly exceptional cases, allow patients and family members to smoke.

§ 11. In nursing homes, 24-hour care centers, public housing, and similar institutions, the individual resident may decide whether smoking is permitted in the room or the residential unit serving as the private home of the person in question.

Subsection 2. Residents may be ordered not to smoke in the room or the residential unit during the period when staff are present.

§ 12. In private homes where public service is received in the form of personal and practical help, provision of services may be made contingent on the residents' not smoking during the period when staff are present in the residential unit.

§ 13. In drop-in centers, shelters and similar services for vulnerable citizens, where there is only a single common room for users, it may be decided that smoking is permitted.

§ 14. (Repealed)

§ 15. In municipal day care and pooled arrangements, cf.

§§ 24 and 25 of the Social Service Act, smoking is not permitted in the day care home or in other facilities used for day care when children are being cared for.

Subsection 2. Facilities that are primarily intended as play- and common areas for children must remain smoke-free 24 hours a day.

§ 16. In workplaces in private homes, where the employer works in in the home, and where there is external labor involved, § 6 applies.

Subsection 2. If the work facility serves as a residency, it is permitted to smoke in the premises outside the working hours of external labor.

§ 17. It may be decided that smoking is permitted on ships in areas that serve as private accommodations for one person at a time.

Chapter 4

Public space etc.

§ 18. It is not permitted to smoke in indoor locations to which the public has access, cf. § 4.

Subsection 2. The decision may be made to establish smoking areas and smoking cabins in which smoking can take place.

§ 19. In hotel rooms, cabins, and similar locations where overnight guests are accommodated on a commercial basis, it may be decided that smoking is permitted for guests.

§ 20. Indoor smoking is not permitted in means of mass transport and taxis, cf. § 4.

Subsection 2. On passenger ships, the decision may be made to establish smoking areas and smoking cabins where smoking can take place.

Chapter 5

Service areas

§ 21. It is not permitted to smoke in service areas indoors, cf. § 4.

Subsection 2. The term "service area" is understood to refer to a facility with service of food or drink for consumption in or at the service area.

Subsection 3. The decision may be made to establish smoking areas and smoking cabins in which smoking can take place.

Subsection 4. Service may not be provided, or food and beverage may not be brought into smoking areas or smoking cabins at service areas. The individual service area may, however, allow guests to bring their own beverages into smoking areas and smoking cabins.

§ 22. It may be decided that smoking is permitted indoors in small pubs and establishments,

- 1) that hold a liquor license,
- 2) where actual food (in the proper sense of the word) is not served,
- 3) where the service area is smaller than 40 m² and
- 4) where there are tables and chairs in the service area.

Subsection 2. Small pubs and establishments located under the same roof as another service area fall under subsection 1 if there is an independent entrance to the pub from the street, and if it appears to the public to be an independent pub.

Chapter 6

Provisions on oversight

§ 23. The employer, owner, restaurateur, manager and leaseholder shall ensure that smoking only takes place in accordance with the rules of this act.

§ 24. Oversight of compliance with this act and the rules issued pursuant to this act is conducted by the Danish Labor Authority, cf. § 79 a in the Working Environment Act, the Danish Maritime Authority cf. § 20a of the Act on Safety at Sea, the Danish Ministry of Transport, Building and Housing cf. § 150 f of the Act on Aviation and the Danish Ministry of Employment, cf. § 66 a of the Act on Offshore Safety.

Chapter 7

Employee conditions

§ 25. An employee's violation of the smoking ban in a workplace is treated in accordance with the rules otherwise applicable for the given employees' employment.

Section 8

Provisions on penalties

§ 26. Penalty shall be imposed on any party that

- 1) violates § 5 or
- 2) violates an injunction issued in accordance with § 79 a, in the Working Environment Act, § 20 a, subsection 1, of the Act on Safety at Sea, § 150 f, subsection 1, of the Act on Aviation or § 66 a, subsection 1, of the Act on Offshore Safety.

Subsection 2. Fines shall be imposed on any employer, owner, restaurateur, manager, or leaseholder that allows smoking in violation of the rules in this act.

Subsection 3. Companies etc. (legal entities) may be subject to criminal liability according to the rules in chapter 5 of the Penal Code.

Chapter 9

Entry into force, revision, etc.

§ 27. This act enters into force on 15 August 2007.

Subsection 2. At the same time, Act No. 436 of 14 June 1995 on smoke-free environments in public places, means of transport, and similar is repealed.

§§ 28-32. (Omitted)

§ 33. The Danish Ministry of Health is presenting proposals for the revision of the act in the parliamentary year 2014-15.

§ 34. This act does not apply to the Faroe Islands or Greenland.

Act no. 532 of 26 May 2010 (Deferral of the date for revision of the act) contains the following provision of entry into force:

Danish Ministry of Health, 26 August 2019

MAGNUS HEUNICKE

§ 2

This act enters into force on 01 July 2010.

Act No. 607 of 18 June 2012 (Expansion of the Act's area of application, tightening of the act's penalty provisions etc.) contains the following provision for entry into force:

§ 2

This act enters into force on 15 August 2012.

Act No. 1726 of 27 December 2016 (Expansion of the ban on smoking in the institutions of the Danish prison and probation service etc.) contains the following provision for entry into force:

§ 3

This act enters into force on 01 April 2017.

Act No. 1720 of 27 December 2018 (Expanded application of orders on young people and parents, standardization of efforts for placement of adolescents vulnerable to delinquency and strengthening of security in partially closed and secured day care institutions) contains the following provision for entry into force:

§ 5

Subsection 1. This act enters into force on 01 January 2019.

Subsection 2. (Omitted)

/ Anja Gade Andersen