

Decrees, orders, circulars

GENERAL TEXTS

MINISTRY OF HEALTH AND SOLIDARITY

Circular of December 12, 2006, concerning the campaign for tobacco control in social and medical-social establishments ensuring intake and accommodation mentioned in paragraphs 6, 7, 8 and 9 of section I of Article L. 312-of the Code of Social Action and Families

NOR : SANA0625146C

Paris, December 12, 2006.

From the Minister of Health and Solidarity to the Regional Prefects, regional offices of health and social affairs, Ladies and Gentlemen Departmental Prefects, departmental offices of health and social affairs

Date of implementation: starting February 1, 2007.

Reference Texts:

Article L. 3511-7 of the Code of Public Health;

Decree n°2006-1386 of November 15, 2006, setting the conditions for the implementation of the prohibition of smoking in places subject to common use (specifically, Articles R. 3511-1 to R. 3512-2 of the Code of Public Health).

Circular DGS n°2006 concerning the prohibition of smoking in places subject to common use (Annex 3).

Decree n°2006-1386 of November 15, 2006, stating the conditions for the implementation of the prohibition of smoking in places subject to common use, institutes a number of measures intended to put into practice the provisions of Article L. 3511-7 of the Code of Public Health. The purpose of this circular is, on one hand, to specify the conditions for the implementation of the ban on smoking in social and medical-social establishments, ensuring the intake and accommodation mentioned in section I of Article L. 312-1 of the Code of Social Action and Families, being advised that the word, “establishment” refers to any common place where social and social medical care are administered. It seeks, on the other hand, to inform that guests or residents are allowed to consume tobacco in their rooms, since their rooms are considered to be a private space.

Accordingly, pursuant to the terms of Article R. 3511-1 of the Code of Public Health introduced by the Decree of November 15, 2006, enclosed and covered places in the establishments indicated above that are given over to common use, are subject to a total ban on smoking. This ban applies also to medical and paramedical professionals (whether they are paid by the establishment or are working as independent contractors), as well as to administrative and technical staff. It extends to guests, residents and those around them, as well as to any other person on the premises of the establishment. Non-compliance with this ban will subject offenders to the penalties stated in Article R. 3512-1 of the Code of Public Health. Furthermore, in its Article 1 (Art. R. 3511-2 of the Code of Public Health), the aforementioned decree enunciates the principle whereby the ban on smoking does not apply in areas given over to smokers

Unofficial Translation

within the places mentioned in Article R. 3511-1 and created, as the case may be, by the person or agency in charge of such places. It is specified that persons or agencies in charge of establishments are in no way obliged to undertake to arrange or maintain an area given over to smokers. However, in the event that there is an area reserved for smokers, persons or agencies in charge of establishments are indeed obliged strictly to comply with the requirements set forth in Article R. 3511-3 of the Code of Public Health, including Article 1 of the decree of November 15, 2006. Moreover, a preventive health warning, in accordance with a template defined by administrative order, must be posted at the entrance to the reserved area. It is finally noted that that, pursuant to Article R. 3511-8, under no circumstances will minors under the age of sixteen be authorized to enter into areas reserved for smokers.

Finally, although managers and people in charge of establishments are bound to ensure the individual and collective protection of guests or residents, the ban on smoking does not extend to their rooms. Indeed, their rooms are private spaces. Nonetheless, to guard against the risk of fire, the operating regulations for the establishment shall determine recommendations to be adhered to concerning the authorization to smoke in rooms, and shall impose a strict ban on smoking in bed.

In the case of shared rooms, it shall be incumbent upon the people in charge of establishments to take the necessary measures, to the extent possible, to see to it that consumers of tobacco among guests or residents are grouped together. In cases where, in the same room, one of the occupants is opposed to tobacco consumption, then no authorization to consume tobacco can be granted to the other person, or to other occupants.

In any case, the establishments addressed by this circular must, through all means available, inform future guests or residents ahead of time of the rules that apply therein with regard to tobacco consumption.

This circular is to be published in the *Journal officiel* of the French Republic.

Done in Paris, December 12, 2006.

XAVIER BERTRAND