

Decree n° 82478 dated May 29, 1992 setting the conditions for the application of the ban on smoking in places intended for public use

Decree n° 82478 dated May 29, 1992 setting the conditions for the application of the ban on smoking in places intended for public use and modifying the Public Health Code (second part : Decrees before the State Council)

NOR : SANP9201055D

The Prime Minister, in consultation with the Minister of Health and Humanitarian Action, In light of the Code of Public Health ; In light of the Labor Code ; In light of the Criminal Code, and particularly its Article IL 25 ; In light of Law no. 76-16 dated July 9, 1976 concerning the campaign against tobacco use, modified by Law no. 91-32 dated January 10, 1991, concerning the campaign against tobacco use and alcoholism, and particularly its Article 16 ; In light of the modified decree of March 22, 1942 on the police, the criminal investigation authorities and the use of national and local railroads ;

Having informed the Council of State,

Hereby Decrees :

SECTION 1

GENERAL PROVISIONS

→ **Art. 1.** – The ban on smoking in places intended for public use provided for by Article 16 of the law of July 9, 1976 noted above, applies to all enclosed or covered places used by the public or which constitute places of work . It is also applicable to mass transit and, with regard to schools, grammar schools, and public or private high schools, in uncovered places frequented by students throughout the duration of their presence.

→ **Art. 2.** – The ban on smoking does not apply to areas that, unless it is impossible, have been designated for smokers, within the places indicated in Article 1 of this Decree. These areas are selected by the person or agency, private or public, under whose authority such places are determined, taking into account their volume, layout, conditions for use, airing and ventilation and the need to ensure the protection of non-smokers.

→ **Art. 3.** – Without impairment to the specific provisions of Section 2 of this decree, the areas designated for smokers are either specific places or delimited areas.

These places or areas must observe the following standards:

a) Minimum ventilation volume of 7 liters per second and per occupant, in places where ventilation is taken care of by mechanical or natural means via air ducts; b) Minimum volume of 7 cubic meters per occupant for places where the ventilation is ensured by access to the outdoors.

An edict issued by the Minister of Health jointly, if need be, with another competent Minister, can establish higher limits for certain places on the basis of their conditions for use.

→ **Art 4.** - I. – Subject to the application of the following articles: in the establishments mentioned in Articles L 231-1 and L 231-1-I of the Labor Code, it is forbidden to smoke in enclosed and covered places intended for the gathering of employees, as well as places of greeting and reception, group dining areas, meeting rooms and class rooms, rooms and areas for resting, areas assigned for leisure, cultural and athletic activities, restrooms and medical facilities.

II. – The employer shall establish, following consultation with the occupational health physician, the committees of health, safety and working conditions, or, failing this, staff representatives a) for the places mentioned in the foregoing section I, a plan of allocation of space that can, if needed, be specially set aside for smokers; b) For work places other than those indicated in the foregoing section I, a plan for the arrangement or allocation of space intended to ensure the protection of non-smokers. This plan is to be updated as needed every two years.

→ **Art. 5.** – The decision to make spaces available for smokers is subject to an assessment, if applicable, by the

competent offices representing personnel in matters of health, safety and working conditions, as well as the occupational health physician. This assessment is to be renewed at least every two years.

→ **Art. 6.** – Signage on display is to provide a reminder of the principle of forbidding smoking in the places noted in Article 1 of this decree, and to indicate the areas designated as smoking areas.

→ **Art. 7.** – The provisions of this decree are to be applied without impairment to the legislative and regulatory provisions concerning health and safety, particularly that of Section 3, Book 2 of the Labor Code.

SECTION 2

SPECIFIC PROVISIONS FOR CERTAIN PLACES INTENDED FOR PUBLIC USE AND FOR PUBLIC TRANSIT

→ **Art- 8.** – On the premises of public or private institutions of learning, as well as any place used for instruction, specific rooms reserved for the instructors may be made available to instructors and staff who smoke.

Furthermore, on the premises of high schools, when such premises are different from those of grammar schools, and at public or private institutions where higher instruction and professional training are offered, rooms, not to include class rooms, study rooms or meeting rooms, can be made available for smokers.

→ **Art- 9.** – In public places used for the reception and accommodation of minors of less than sixteen years of age, the latter shall not be admitted to designated smoking areas.

→ **Art- 10.** – Article 74-1 is added to the Decree of March 22, 1942 noted above, to read as follows:

« Ar. 74-1. – In bus stations and train stations, waiting rooms or areas can be designated for smokers. « With the exception of urban mass transit services and those in the region of Ile-de-France, in trains with seating, places can be reserved for smokers, limited to 30 out of 100 places. In areas that cannot be altered, the places reserved for smokers are to be located in different carriages. « In carriages of trains that have sleeping accommodations, the ban on smoking shall not apply to one of the two platforms for each carriage. « In all cases provisions must be made for the need to ensure the protection of non-smokers.»

→ **Art. 11.** – In French commercial aircraft or those operated in accordance with French regulations, except for domestic flights that are less than two hours long, places can be reserved for smokers as long as the seating arrangement makes it possible to guarantee the protection of non-smokers.

→ **Art. 12.** – On board commercial ships and river transport vessels operated in accordance with French regulations, including stationary boats frequented by the public, an arrangement of places, potentially adjustable, can be provided to make space available to smokers, within a limit of 30 per 100 in lounge, rest and recreation areas, as well as public cabins.

→ **Art. 13.** – In commercial establishments where food and drink are consumed on site, with the exception of railroad bar cars, an arrangement of places, potentially adjustable, can be provided to make space available to smokers.

SECTION 3

SANCTIONS

→ **Art. 14.** Anyone who smokes in one of the places indicated in Article 1 of this decree, outside of a designated smoking area, will be subject to the fine provided for 3rd Class Infractions.

- a) Anyone who may set aside for smokers an area that is not in accordance with the provisions of this decree; or
- b) Anyone who fails to respect the standards for ventilation stipulated in Article 3 of this decree; or c) Anyone

who fails to post the signage called for in Article 6 of this decree, shall be subject to the fine provided for 5th Class Infractions.

→ **Art. 15.** A paragraph is added to Article 80-2 of the Decree of March 22, 1942 noted above, to read as follows: «Anyone who smokes outside a designated smoking area shall be subject to the fine provided for 3rd Class Infractions. »

SECTION 4

FINAL PROVISIONS

→ **Art. 16.** - I. - Decree n° 77-1042 dated September 12, 1977 concerning the prohibition of smoking in certain places intended for public use where such practice could have dangerous consequences to health, as well as the 7th sub-paragraph of the first paragraph of Article 74 of the Decree of March 22, 1942, noted above, are rescinded.

II.- In the third paragraph of Article 1 of the Decree of March 22, 1942, noted above, the words: « Articles 6, 73, 74 » are replaced by the words: « Articles 6, 73, 74, 7-I... ».

→ **Art. 17.** – Starting on January 1, 1993

I. – A book 3 is to be inserted into the Code of Public Health (second part: Decrees before the Council of State) entitled: “Campaign Against Social Blights.”

II.- Section 8 of this book is entitled: « Campaign against the use of tobacco» and includes a first Chapter entitled: « Banning of smoking in places intended for public use.»

This chapter includes Articles R- 355-28-1 to R- 355-28-13.

III. - Articles 1 to 9 and 11 to 14 of this decree are to become respectively Articles R. 355-28-I to R- 355-28-13 of the Code of Public Health.

IV. – In Article R- 355-28-3, the words : « from Section 2 of this decree » are replaced by: « from Articles R- 355-28-8 to R- 355-28-12, and from Article 7-I of the modified Decree of March 22, 1942 on the police, the criminal investigation authorities and the use of national and local railroads »; in Article R- 355-28-13, the words : « to the provisions of this decree » are replaced by : « to the provisions of this chapter and of Article 7-I of the modified Decree of March 22, 1942 on the police, the criminal investigation authorities and the use of national and local railroads ».

→ **Art. 18.** – The Minister of State, Minister of National Education and Culture, the Minister of State, Minister of the Civil Service and Administrative Reform, the Guardian of the Seals, Minister of Justice, the Minister of the Interior and Public Safety, the Minister of Defense, the Minister of Economy and Finance, the Minister of the Budget, the Minister of Equipment, Transportation and Housing, the Minister of Industry and Foreign Trade, the Minister of Labor, Employment and Vocational Training, the Minister of Agriculture and Forestry, the Minister of Social Affairs and Integration, the Minister of Health and Humanitarian Action, the Minister of Postal Services and Telecommunications, the Minister of Youth and Sports, the Acting Minister of Commerce and Crafts, the Acting Minister of Tourism, the Secretary of State for Technical Instruction, the Secretary of State for Communication, the Secretary of State for Road and River Transportation, and the Secretary of State for Maritime Affairs are charged, each in their respective domains, with the execution of this decree, which is to be published in the Official Journal of the French Republic, and which is to enter into force on the first day of the sixth month following its publication in the Official Journal.

Done in Paris, May 29, 1992.