

**Ordinance on protection against secondhand smoke  
(Ordinance concerning secondhand smoke, OPTP)**

**818.311**

of October 28, 2009 (Status on May 1, 2010)

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*The Swiss Federal Council,*

In light of Arts. 2, sub-paragraph 3, and 6, sub-paragraph 1, of the federal law of October 3, 2008, concerning protection against secondhand smoke,<sup>1</sup>

*orders:*

**Section 1 General Provisions**

**Art. 1** Scope

This ordinance regulates:

- a. the prohibition of smoking in closed spaces accessible to the public or that serve as a workplace for several persons;
- b. requirements regarding smoking areas and their ventilation;
- c. requirements concerning smoking establishments and their ventilation;
- d. working conditions in smoking areas and smoking establishments;
- e. exceptions to the ban on smoking provided for correctional institutions as well as for establishments for permanent or long-term lodging.

**Art. 2** Prohibition of smoking

1 Except as provided by Arts. 4 to 7, it is prohibited to smoke in enclosed spaces accessible to the public or that serve as a workplace for several persons.

2 Workplaces for several persons are considered to be all places where workers engage in their activities on a permanent or temporary basis.

**Art. 3** Due diligence

The operator of a place where smoking is permitted must see to it that the persons in the contiguous rooms subject to a ban on smoking are not disturbed by the smoke.

RO 2009 6289

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<sup>1</sup> RS 818.31

## **Section 2                    Smoking areas and smoking establishments**

### **Art. 4    Requirements concerning smoking areas**

1 The operator or person in charge of managing an establishment shall see to it that the smoking area:

- a. is hermetically separated from other rooms by fixed construction elements, that it does not serve as a passageway to other rooms and that it has an automatically closing door;
- b. is endowed with adequate ventilation.

2 At each entry point, smoking areas must be clearly designated as such, in prominently visible places.

3 With the exception of articles and accessories for smokers, it is prohibited to provide services there that are not offered in the rest of the establishment.

4 The following conditions apply, moreover, to smoking areas in hotel and restaurant establishments:

- a. Their surface area is restricted to one third of the total area of the facility;
- b. Their opening hours do not exceed those of the rest of the establishment.

### **Art. 5    Requirements concerning smoking establishments**

1 Upon request, the competent cantonal authorities shall authorize a restaurant establishment to be operated as a smoking establishment if:

- a. The total surface area of the rooms accessible to the public, including the entrance area, dressing rooms and bathrooms, does not exceed 80 m<sup>2</sup>;
- b. The establishment is endowed with adequate ventilation.

2 At each entry point, smoking establishments must be clearly designated as such, in prominently visible places.

3 The following places may not be operated as smoking establishments:

- a. Places or establishments serving chiefly as restaurants in the workplace, such as staff cafeterias or canteens;
- b. Establishments whose main activity does not involve restaurant activity; except for establishments operated as part of a non-agricultural accessory activity pursuant to Art. 24b of the federal law of June 22, 1979, on land management.<sup>2</sup>

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<sup>2</sup> RS 700

**Art. 6** Occupation of workers in smoking areas and smoking establishments

1 Only employees who have given their consent in writing may work in smoking establishments and smoking areas of hotel and restaurant establishments.

2 Workers may be employed to test tobacco products in smoking areas as long as they have given their consent in writing to engage in such activity.

3 The special rules of protection of the federal law of March 13, 1964, on work<sup>3</sup> and provisions for its implementation apply to pregnant women, nursing mothers, and young people under the age of 18.

**Section 3 Special establishments**

**Art. 7**

1 The operator or person in charge of managing an establishment may provide that smoking be permitted in rooms of the following facilities:

- a. Correctional institutions and the like;
- b. Retirement homes, medical-social facilities and the like;
- c. Hotels or other establishments for accommodation.

2 Persons in an establishment indicated in sub-paragraph 1, letter a or b, may demand to be placed in a non-smoking room.

**Section 4 Final provisions**

**Art. 8** Amendment of the law in force

...<sup>4</sup>

**Art. 9** Entry into force

This ordinance shall enter into force on May 1, 2010.

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<sup>3</sup> RS 822.11

<sup>4</sup> The amendment can be consulted in RO 2009 6289

