

**ADMINISTRATIVE ORDER NO. 138/2013/MS/CAB/DGS/DSSP OF AUGUST 20, 2013,
DETERMINING THE PROCEDURES FOR THE ESTABLISHMENT OF SMOKING AREAS IN PUBLIC PLACES
WHERE SMOKING IS PROHIBITED**

THE MINISTER OF HEALTH,

In light of Law n° 2009-007 of May 15, 2009, concerning the code of public health of the Republic of Togo;

In light of Law n° 2010-017 of December 31, 2010, concerning the production, commercialization, and consumption of cigarettes and other tobacco products;

In light of Decree n° 2012-004 /PR of February 29, 2012, concerning the attributions of the Ministers of State and Ministers;

In light of Decree n° 2012-046 /PR of July 11, 2012, concerning the prohibition of smoking in public places;

In light of Decree n° 2012-051/PR of July 19, 2012, concerning the nomination of the Prime Minister;

In light of Decree n° 2012-056/PR of July 31, 2012, concerning the composition of the government, together with the texts of its amendments;

ORDERS:

Article One: Purpose

The purpose of this Administrative Order is to determine the procedures for the establishment of smoking areas in public places where smoking is prohibited.

Art. 2: Possibility of establishing smoking areas

It is possible to smoke in reserved areas established by the person or institution responsible for facilities, subject to their respecting specific technical standards.

The installation of a smoking area is not mandatory.

Art. 3: Reserved locations

These are enclosed rooms, dedicated to the consumption of tobacco, where no provision of service, including food, beverages or any provision of entertainment may be offered.

Minors are not authorized to enter into these reserved locations.

Art. 4: Places where such arrangements are not allowed

Locations reserved for smoking may not be established in the following places:

- Inside public or private establishments (schools, universities),
- Inside vocational training centers;
- Inside establishments intended for, or regularly used for the intake, training, lodging or athletic activities of minors,
- Inside healthcare establishments.

Art. 5: Compliance with technical standards for reserved areas

Smoking areas that are established must comply with the following terms:

- They must be maintained under continuous negative pressure of at least five pascals with respect to the adjoining rooms,
- They must be in enclosed rooms,
- They must be equipped with a system for refreshment of the air of at least ten (10) times the volume of the area per hour,

- They must be equipped with an air extractor by specific mechanical ventilation, different from the ventilation system or climate control system of the building,
- They must be equipped with automatic closing doors without the possibility of opening unintentionally;
- They must not constitute a passageway between other areas,
- They must have a maximum surface area of 35 m² (and the minimum),
- They must not authorize any kind of advertising, promotion or sponsoring of tobacco and its derivatives.

Art. 6: Plan for establishment of smoking areas

At companies, the plan for creating an area available to smokers, and the procedures for implementing this plan are to be submitted for consultation to:

- The committee for hygiene and safety and working conditions,
- Or, failing this, by delegates of staff and the occupational physician.

In government buildings and public institutions, the plan for creating an area available to smokers, and the procedures for implementing this plan are to be submitted for consultation to:

- The committee for hygiene and safety,
- Or, failing this, a joint technical committee.

Art. 7: Mandatory signs for established smoking areas

In spaces specially established to serve as smoking areas, prominently displayed signs must remind people of the principle of banning smoking, and other prominently displayed signs

must indicate the smoking area set aside in this public place.

Art. 8: Sanctions against parties responsible for the facilities where the prohibition applies

Parties responsible for facilities where the prohibition applies are susceptible to payment of a fine if they do any of the following things:

- Fail to post the required signs reminding people of the principle of banning smoking,
- Make available to smokers a reserved area that is not in compliance with the required technical standards,
- Deliberately encourage the violation of this ban by any means whatsoever.

Art. 9: Sanctions against smokers

The act of smoking in a place of common use outside the area reserved for this purpose is punishable by the fine prescribed by law.

Art. 10: Enforcement against smokers

Labor inspectors, health department inspectors, officers of the judiciary police or an enforcement official of equivalent rank can ascertain infractions of the ban on smoking.

In such cases, the official shall draw up a notice of violation in duplicate, sending one to the police station or brigade of the territorial constabulary, with the other to be submitted to the public prosecutor.

Art. 11: Filing of complaints.

Any person, whether a smoker or non-smoker, may file a complaint against the manager of a public establishment who infringes the provisions of this Administrative Order.

Any person who wishes to bring a complaint against a smoker must approach the public prosecutor of the Republic, or a police station or brigade of the constabulary to make a statement.

A telephone hot line may be established to indicate the status of cases of violations verified.

Institutions regularly established for at least one (1) year at the time of the facts in question, whose by-laws are concerned with tobacco control, as well as authorized consumer associations, may file civil suits.

Art. 12: Final provisions

The Director General of Health is charged with the execution of this Administrative Order, which is to be published in the Official Journal of the Republic of Togo.

Unofficial Translation

Lomé, August 20, 2013

The Minister of Health

Professor Kondi Charles AGBA