



LEGISLATION & POLICIES

This document provides information on legislation and policies relevant to development of a workplace tobacco management policy for health and community services in the ACT, including:

- Links to a number of factsheets and resources for not-for-profit agencies regarding the Work Health and Safety Act 2011; and
- A short explanation of, and links to, legislation and policies that could be relevant to the development of the workplace tobacco management policies.

Note: The content is not intended to be a substitute for professional legal advice. Organisations should contact a legal representative if they have any questions related to their liability under any legislation.

1. Work Health and Safety

[Guidance Note for the Elimination of Environmental Tobacco Smoke in the Workplace](#)

This Guidance Note on the Safe Work Australia website provides information and advice to employers, workers, unions, occupational health and safety practitioners, managers, health and safety committees and representatives, medical practitioners and other interested persons on how environmental tobacco smoke can be eliminated from the workplace.

This document is currently under review to reflect the requirements of the harmonised Work Health and Safety laws. Until such time that Safe Work Australia revises this material, it continues to be available as a source of practical guidance, and will contribute to industry state of knowledge, to assist those who must comply with the harmonised Work Health and Safety laws.

[ACT Work Health and Safety Act 2011](#)

[ACT Work Health and Safety Regulations 2011](#)

A person conducting a business or undertaking is required to ensure, so far as is reasonably practicable the provision and maintenance of a work environment with out risks to health and safety.

[Work Health and Safety Act 2011 and](#)

[Work Health and Safety Regulations 2011 \(Commonwealth\)](#)

This Act and Regulations are based on the same Model Act as the ACT Work Health and Safety legislation so has similar provisions and penalties.

SAFE WORK AUSTRALIA FACTSHEETS

Safe Work Australia produced a series of factsheets and a volunteer resource kit for the not for profit sector to help clarify responsibilities under the Act.

- [Volunteers and the Model Work Health and Safety \(WHS\) Act fact sheet](#)
- [Volunteers 'officers' and their duties under the Model Work Health and Safety \(WHS\) Act fact sheet](#)
- [Volunteers organisations and the Model Work Health and Safety \(WHS\) Act fact sheet](#)
- [How volunteer organisations can comply with the Model Work Health and Safety \(WHS\) Act fact sheet](#)
- [Volunteers resource kit](#)

2. ACT Smoke Free Policies and Legislation

[ACT Health Smoke-free Workplace Policy 2009](#)

Smoking is prohibited at all ACT Health facilities and in all ACT Health leased vehicles (including privately plated vehicles). This measure seeks to ensure that staff, volunteers, contract providers, patients and visitors are not exposed to harmful environmental tobacco smoke when visiting an ACT Health facility. Smoking can only occur in an approved designated outdoor smoking area.

The policy also applies to health services funded by ACT Health and provided within an ACT Health building. All persons involved with the provision of these health services are bound by the policy. This is to ensure the policy is consistent across ACT Health facilities, services and people.

[Smoke-free Public Places Act 2003](#)

This Act outlines a number of places and events where smoking is not permitted. The object of this Act is to promote public health by minimising the exposure of people to environmental smoke—

- (a) in enclosed public places; and
- (b) in outdoor eating or drinking places; and
- (c) at underage functions.

The most relevant part of this Act for most organisations is enclosed public places. The definition in the Act of an *enclosed public place* is that it means a public place, or part of a public place, that is enclosed as prescribed by regulation.

The occupier of premises on which there is an enclosed public place commits an offence if the occupier fails to take reasonable steps to prevent smoke entering the enclosed public place from another part of the premises occupied by the occupier.

The occupier of premises commits an offence if the occupier fails to take reasonable steps to prevent smoke from the premises entering an enclosed public place on other premises.

3. Workers Compensation

ACT Workers Compensation Act 1951

An employer is liable to pay compensation under this Act if a worker of the employer suffers personal injury arising out of, or in the course of, the worker's employment. If the worker contracts or has an aggravation, acceleration or reoccurrence of a disease, this is considered to be a personal injury under the Act and the employer can be liable to pay compensation.

Safety, Rehabilitation and Compensation Act 1988 (Commonwealth)

If a person contracts a disease or suffers an aggravation of a disease whilst in the employment of the Commonwealth or a licensed corporation before the time the symptoms of the disease becomes apparent, then the employment is considered to have contributed to a considerable degree to the disease. As such unless the contrary is established, then the Commonwealth or licensed corporation is liable to pay compensation.

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