

The obligation to protect the health of staff under the smokefree law is complementary to employers' obligations under the Health and Safety in Employment legislation, and complementary to 'good employer' obligations.

Where employment relationship problems arise in respect of smoking in the workplace, employers and employees should deal with these in terms of the Employment Relations Act 2000.

Offences and fines:

It is up to employers and managers to take 'all reasonably practicable steps' to ensure that no one smokes in the workplace. A failure to take such steps is a breach of the law under the Act and may result in a fine of up to \$400 (individual) or \$4,000 (body corporate).

LICENSED PREMISES

The licensee of any indoor licensed premises (liquor or gambling license) is required to take 'all reasonably practicable steps' to ensure that no person smokes in an internal area on their premises. This applies to bars, restaurants, cafes, chartered clubs, sports clubs and Marae with a liquor license.

Examples of 'reasonably practicable steps' include:

- a set of procedures on how to deal with a patron who smokes, and associated staff training
- smokefree signage
- removal of ashtrays.

Offences and fines:

Failure to take 'all reasonably practicable steps' to prevent someone from smoking in an internal area of a licensed premise may result in a maximum fine of \$400 for individual licensees and \$4,000 for bodies corporate.

Volunteers see above comment under 'Workplaces' heading.

Requirements of the Smoke-free Environments Act 1990

FURTHER INFORMATION

This information is a guide only and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.

For further information on tobacco, health and the Smoke-free Environments Act 1990 see:

www.smokefreelaw.co.nz
www.moh.govt.nz
www.healthed.govt.nz

or the Public Health Service at your local District Health Board.

Public Health Service contact details:



INFORMATION FOR MARAE COVERING:

- Kōhanga Reo/Kura Kaupapa
- Workplaces
- Licensed premises
- Volunteers



MANATŪ HAUORA

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INTRODUCTION

Many of us are exposed to the significant health risks of second-hand smoke. The Smoke-free Environments Act 1990 (the Act), amended in 2003, aims to extend protection equally for workers, volunteers, children and the public against exposure to second-hand smoke. The Act also plays a role in reducing the role modelling of smoking behaviours around young people, through the total smoking ban in all schools. This is important, as role modelling is a known risk factor for increased smoking uptake among this group.

One third of all Māori deaths can be attributed to smoking-related illness. Reducing smoking opportunities and exposure of smoking behaviours to tamariki and rangitahi, in environments such as Marae, can assist in improving the health status of Māori.

If your Marae has employees or volunteers, a kura kaupapa or kōhanga reo (educational facility – school or early childhood centre), or has a liquor license then it is covered by the Act. Included in the amendments are a number of changes affecting smoking in workplaces, which came into effect on 10 December 2004. Changes affecting kura and kōhanga reo came into effect on 1 January 2004.

KURA/KŌHANGA REO

Smoking is prohibited in all schools (grounds and buildings), including kura. It is also prohibited in premises used as early childhood centres, such as a kōhanga reo. This applies to everyone including teachers, parents, visitors etc.

These changes mean that all schools/kura and early childhood centres/kōhanga reo must be 100 percent smokefree, inside and outside, at all times.

The management of the kura/kōhanga reo is required to take 'all reasonably practicable steps' to ensure that no one smokes on the site of the school or centre at any time, on any day.

For the purposes of the Act, a 'reasonably practicable step' is defined as a step that a reasonable and prudent person would take in similar circumstances. Failure to take such steps is a breach of the law.

Management is also required to take 'all reasonably practicable steps' to ensure that signs stating that smoking is forbidden at all times are placed at every entrance to the site and buildings.

Offences and fines:

The management of schools and early childhood centres may be fined up to \$4,000 for not complying with the Act.

WORKPLACES

All internal workplaces must be 100 percent smokefree. This includes licensed premises, factories, offices, warehouses, 'smoko' rooms and work canteens. A workplace also includes the following examples: work vehicles, Marae-based kōhanga reo and hospitality venues. Indoor areas in Marae, which are workplaces, must also be smokefree.

A 'workplace' is an 'internal area' occupied by an employer, and usually frequented by employees or volunteers during the course of their employment.

Volunteers:

Volunteers will be covered by the Act if:

- they work in an internal area; and
- there is an employer who arranges for volunteers to undertake work and the volunteer performs any work arranged by or on behalf of the employer, and
- the volunteer frequents the internal area and performs the work on a regular basis.

An 'internal area' means an area within or on the premises or vehicle that, when all its doors, windows, and other closeable openings are closed, is 'completely or substantially enclosed' by:

- a ceiling, roof or similar overhead surface; and
- walls, sides, screens or other similar surfaces; and
- those openings.

Employers must take 'all reasonably practicable steps' to ensure that no person smokes at any time in an internal area of a workplace. This includes cafeterias, corridors, lifts, stairwells, toilets, workrooms and other internal areas associated with the workplace.

Examples of 'reasonably practicable steps' include:

- display of smokefree signs in the workplace
- reference to the smokefree law in workplace employment agreements and recruitment policies
- notifying service contractors of the smokefree law as it applies to workplaces
- training managers and supervisors on what to do if someone smokes in the workplace.