

# SMOKE-FREE FOR GOOD

## IMPORTANT INFORMATION FOR ALL LICENSED PREMISES

Effective from **1 November 2007** all enclosed areas in liquor licensed premises must be 100% no-smoking. Your legal obligation is to ensure that patrons do not smoke in any enclosed areas. You can do this by:

- Prominently displaying signs that contain the phrase 'no-smoking', 'smoking prohibited' or 'smoke-free zone' in positions that are likely to be seen by patrons in the premises. Appropriate signage will be supplied to you free of charge.
- Not providing ashtrays or similar that may facilitate smoking.
- Providing regular training to all staff about current no-smoking laws and having procedures for dealing with patrons who smoke in enclosed areas.

### What is meant by enclosed?

An area is enclosed if it is fully or partially enclosed by a ceiling/roof and walls such that the combined area of the ceiling (includes shade sails and umbrellas) and wall surface exceeds 70% of the total ceiling/wall area. An area without a ceiling/roof will not be considered enclosed.

### How will the law be enforced?

The Department of Health has officers authorised to enforce these new smoking bans. The *Occupational Health Safety & Welfare Act 1986* also requires that workplaces implement all legislation as it relates to their premises.

### What are the penalties?

The maximum fine for employers or business operators is \$1250. For the person smoking, whether an employee or patron, the maximum fine is \$200. On-the-spot fines can be issued.

## Outdoor Areas

Many hotels and clubs have outdoor areas (such as verandas or courtyards) where patrons have been able to smoke. The dimensions of the space, or the use of plastic blinds or other structures to weatherproof outdoor areas, may cause the area to be considered enclosed.

**From 1 November 2007, if an area is enclosed, smoking is not permitted.** This ban already applies to restaurants, cafés and other workplaces.

### How do I work out if the space is enclosed or unenclosed?

To be unenclosed, at least 30% of the area must be open and allow the free flow of air.

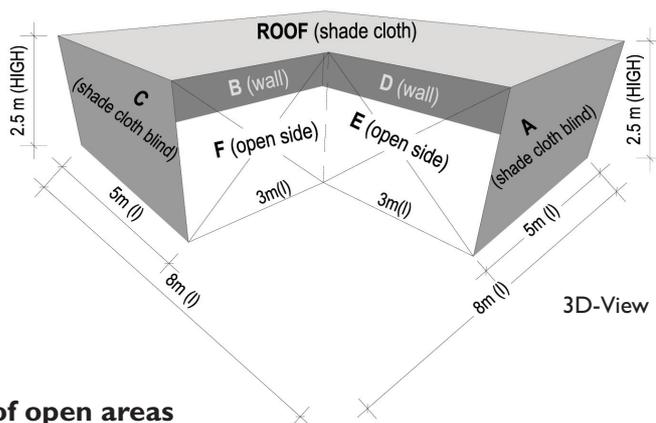
To work out whether an area is enclosed, you need to compare the *Total Open Area* with the *Total Notional Surface Area* (see examples). As layouts in each establishment are different you might wish to seek advice from an architect when calculating the area of your space.

#### Example 1: A Beer Garden with Shade Cloth Ceiling

Shade cloth blind *	(A)	12.5m <sup>2</sup>
Wall of building	(B)	20m <sup>2</sup>
Shade cloth blind *	(C)	12.5m <sup>2</sup>
Wall of building	(D)	20m <sup>2</sup>
Open side	(E)	7.5m <sup>2</sup>
Open side	(F)	7.5m <sup>2</sup>
Shade cloth covered pergola (Roof)		55m <sup>2</sup>

**Total Notional Surface Area 135m<sup>2</sup>**

\* Area = Length x Height



**Total Open Area = sum of surface area of open areas**

For this example: E + F = 15m<sup>2</sup>

or if the shade cloth blinds A & C were completely up: E + F + A + C = 40m<sup>2</sup>

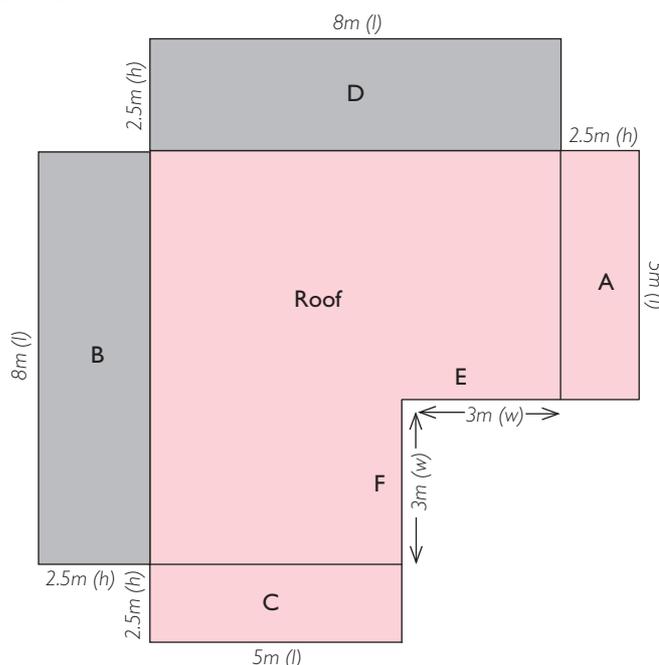
**Total Open Area compared with Total Notional Surface Area =**

**Total Open Area ÷ Total Notional Surface Area x 100**

For this example: 15 ÷ 135 x 100 = 11%

or if the shade cloth blinds A & C were completely up: 40 ÷ 135 x 100 = 30%

Therefore, with the blinds in place the beer garden would be considered enclosed (11% open) but if the blinds were completely up, it would be considered unenclosed (30% open).



**Can I have smoking if the blinds or other structures can be moved or opened?**

Blinds or other moveable or openable structures used to weatherproof outdoor areas may be considered to enclose an area depending on their use. Where blinds or other structures are open, smoking is permitted if their opening results in the area being less than 70% enclosed. Closed blinds or other structures are considered the same as walls and where they enclose more than 70% of the area, smoking is not permitted.

**Can I promote that I have an area for smoking?**

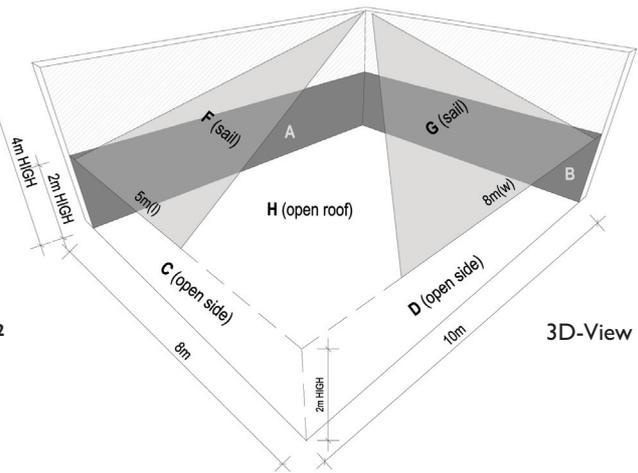
Under Section 45 of the *Tobacco Products Regulation Act 1997* a business **must not** display signs or engage in a practice of any kind, designed to promote a business as welcoming or permitting smoking on its premises.

**Example 2: A Courtyard with Sloping Sails**

- Wall of building (A) 20m<sup>2</sup>
- Wall of building (B) 16m<sup>2</sup>
- Open side (C) 16m<sup>2</sup>
- Open side (D) 20m<sup>2</sup>
- Shade cloth sail \* (F) 24.5m<sup>2</sup>
- Shade cloth sail \* (G) 28m<sup>2</sup>
- Total area not covered by sails (H) 27.5m<sup>2</sup>

**Total Notional Surface Area: 152m<sup>2</sup>**

\* Area of Triangle = Length x Width ÷ 2



Please Note: When calculating the height of a side, the area is calculated from the lowest point of the roof/ceiling. For this example, the lowest point of the sails is 2m therefore the height of all sides is calculated from this measurement.

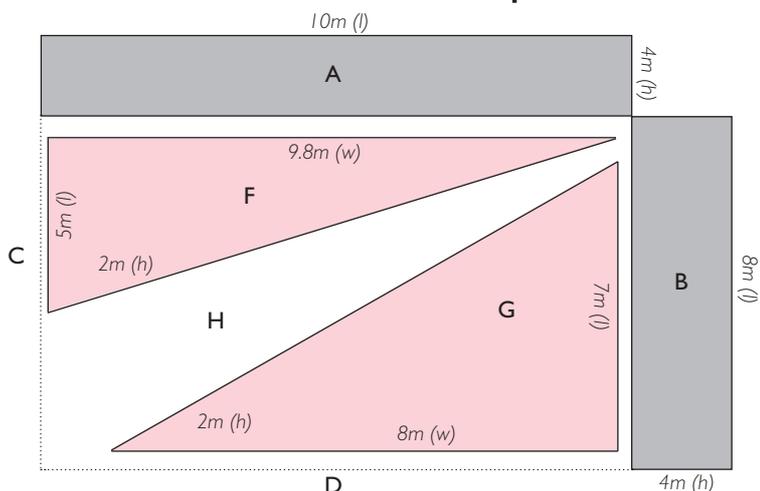
**Total Open Area = sum of surface area of open areas**

For this example: C + D + H = 63.5m<sup>2</sup>

**Total Open Area compared with Total Notional Surface Area = Total Open Area ÷ Total Notional Surface Area x 100**

For this example: 63.5 ÷ 152 = 41.8%

Therefore, this courtyard would be considered unenclosed (41.8% open).



### **How can I get more information?**

Department of Health Officers can provide advice on how to assess if an outdoor structure is enclosed or unenclosed. Businesses should be aware that the Officer's opinions may not be the final assessment of the Government or a court of law and businesses are encouraged to seek their own independent advice if they are unsure if an existing or proposed structure complies with the legislation.

For further information call the Department of Health Info Line: 1300 363 703 or visit the website [www.tobaccolaws.sa.gov.au](http://www.tobaccolaws.sa.gov.au).

The Australian Hotels Association and Clubs SA also provide a free Business Consultancy Service. Contact David Watts on 1800 049 309.

***If an area is enclosed,  
smoking is not permitted.***

#### **Disclaimer:**

This information is intended only as a general guide and introduction to the relevant provisions of the *Tobacco Products Regulation Act 1997*. The State of South Australia does not accept any liability for any expense, loss or damage suffered as a result of reliance upon the information contained in this booklet. Nothing in this booklet should replace the seeking of appropriate legal advice where this is considered appropriate.

