



Frequently asked questions

What is a Declared Smoke-free Area?

Declared Smoke-free Areas are public outdoor spaces where smoking has been banned. These areas can be created to address a passive smoking risk or to support the management of smoking at an event.

Applicants must identify a smoking issue, show that they represent the area being declared, have community support for a declaration and are able to manage the enforcement of the smoke-free area. Enforcement is likely to require either the support of the local council or complete control of the area, such as an event.

Under Section 51 of the *Tobacco Products Regulation Act 1997*, the Minister can declare an area smoke-free for up to three days by Notice in the Gazette. Under Section 52, the Government can declare an area smoke-free for longer than three days, by Regulation.

Any smoking bans introduced under Section 51 or Section 52 of the Act, are at the discretion of the Minister, therefore there is no guarantee that any application to introduce smoke-free areas will be successful.

What type of areas does the application apply to?

Outdoor areas where there is an identified need. It could apply to music festivals, sporting events, sporting clubs, street festivals, multicultural festivals, outside of hospitals, pageants, town squares, plazas, public celebrations, and outside of council buildings.

Private, residential property will not be declared smoke-free.

We would like to make our event/area smoke-free. Where do we start?

1. Call the Tobacco Control Unit, Drug and Alcohol Services SA on ph: 08 7425 5000 to discuss your proposal.
2. Consult with business and the community on the proposed area.
3. Applications by incorporated bodies should coordinate their application with council where they do not have control of the area. In these circumstances, a commitment by the council to enforce the ban is required.
4. If officers have not been authorised, then an application needs to be made by completing an application form called:
Authorisation of a Local Government Officer under the *Tobacco Products Regulation Act 1997* can be downloaded from the SA Health Website, search for Declared Smoke-free Areas.
5. Prepare an application. The same application will apply for areas and events declared smoke-free for up to 3 days, and longer.
See Application Guide.
6. Application guidelines are available from the SA Health website, search for: Declared smoke-free areas.
Lodge an application for a smoke-free area for up to 3 days, at least 8 weeks before the event, or 6 months for all other smoke-free areas.



Why does the process take so long?

Applications for smoke-free areas lasting longer than 3 days take 6 months for approval. This is because the legislation requires a Regulation to be made. A Regulation is a law and must be approved by Cabinet and the Governor, before being tabled in Parliament for at least 4 months before it comes into effect.

How will council or business enforce the smoke-free area?

Applications must include an enforcement plan describing how the smoke-free area will be enforced.

Organisers of events will be expected to either show that the local council supports and will enforce the smoke-free area, or that they have control of the area, and staff and security officers will ask smokers to leave. Staff and security officers cannot issue expiation notices. For incorporated bodies, council commitment to enforce the ban is required if the body does not have control of the area. A ticketed event does not require support of the council, because they can enforce the ban through ejection.

Authorised officers from the council and SA Police have the ability to issue expiation notices. An expiation fee of \$75 can be issued by an authorised officer or a police officer. However, enforcement cannot be left to the SA Police alone, unless they have agreed.

The enforcement plan should include guidelines describing how smoking breaches will be addressed. An educative approach to enforcement is recommended.

In this scenario smokers should be informed about the smoke-free area and politely asked to either stop smoking or leave the area. Confrontation with smokers should be avoided. Most people are prepared to voluntarily comply with a smoke-free area when they are aware of it, providing that the area is clearly sign-posted as smoke-free.

The high level of community support usually ensures bans are self-enforced by community members pointing out signage to smokers. In the event of a complaint, the council or business can determine the appropriate level of response.



Why does the council need authorised officers for enforcement?

Councils that apply for a smoke-free area are expected to also apply for their officers to be authorised (under section 63 of the *Tobacco Products Regulation Act 1997*) to enforce the smoke-free area.

A smoke-free area will not be declared without the council having authorised officers. These officers will be authorised to issue fines under Sections 49, 50, 51 and 52, which relate to the Declared Smoke-free Area, playgrounds and covered transport waiting areas.

A council can authorise officers for enforcement of Sections 49, 50, 51 and 52 without declaring a smoke-free area, in which case the enforcement will apply to playgrounds and covered transport waiting areas only.

What are the costs involved if I apply?

There are no fees to lodge an application for an area to be declared smoke-free. In addition there are no fees to apply for an officer to be authorised.

Any fees collected through Expiation Notices issued by Council Officers, will be treated as revenue for the issuing authority. An expiation notice of \$75 can be issued. The maximum fine is \$200.

Costs may be incurred by:

- Consultation process required for the application
- The signage required if the application is successful
- Enforcement of the legislation
- Community education.

What are the costs involved if you don't apply?

- Cleaning up of butt litter
- Potential fire hazards
- Unpleasant atmosphere for children and non-smoking adults
- Harder for smokers to quit
- Normalises smoking in your community.

What sort of signage is required in a smoke-free area?

The *Tobacco Products Regulation Act 1997* requires that signs are posted in numbers and in positions that ensure they are likely to be seen in the smoke-free area.

To ensure that people are aware of the smoke-free area, councils or businesses should install suitably worded and placed signage. The internationally recognised symbol for 'No Smoking' is used by a number of councils and can be easily affixed to existing signage. An inexpensive way of informing the community of the policy is to order the free stickers and signs available from SA Health and to use these with other signs.

http://www.tobaccolaws.sa.gov.au/Portals/0/NO_SMOKING_SIGNAGE_29-5-12.pdf

Temporary signs can be used where appropriate, such as at events. Signage should be placed at entrances and throughout the venue.

Can't we just put up 'No Smoking' signs without applying for a smoke-free area?

Signs may be used to indicate that the council or event, and the community do not want smoking in the area. This approach is educative only and would rely on self-enforcement by community members pointing out signage to smokers. In the event of a complaint, the council, business and police would not be able to issue a fine.

Councils might choose to use signs to gauge community acceptance, before applying for a smoke-free area.

Do I need to submit an application every year for an annual event?

An application for a smoke-free area may be rolled over for the next year on request under some circumstances. An application covering multiple years may also be negotiated.

Will a by-law do the same thing?

No. The *Local Government Act 1999* does not provide powers to create by-laws to restrict smoking.

