



New South Wales

Smoke-free Environment Amendment Regulation 2005

under the

Smoke-free Environment Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Smoke-free Environment Act 2000*.

MORRIS IEMMA, M.P.,
Minister for Health

Explanatory note

The *Smoke-free Environment Act 2000* (**the Act**) prohibits smoking in any enclosed public place but provides a temporary exemption (between 4 July 2005 and 2 July 2007) in relation to one room or part of one room of a registered club, hotel, nightclub or casino. Section 11B (6) of the Act provides that the Minister for Health may authorise a second room, or part of a second room, of a club, hotel, nightclub or casino to also be exempt in certain circumstances.

The object of this Regulation is to prescribe the criteria to be met before an authorisation may be given by the Minister under section 11B (6), including the process for making an application to the Minister for such an authorisation.

This Regulation is made under the *Smoke-free Environment Act 2000*, including sections 11B (6) and 23 (the general regulation-making power).

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Clause 1 Smoke-free Environment Amendment Regulation 2005

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1 Name of Regulation

This Regulation is the *Smoke-free Environment Amendment Regulation 2005*.

2 Amendment of Smoke-free Environment Regulation 2000

The *Smoke-free Environment Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clause 7

Insert after clause 6:

7 Authorisation for second room to be part of exempt area

- (1) The Minister may grant an authorisation under section 11B (6) of the Act to set aside a second room or part of a second room of a club, hotel, nightclub or casino as part of an exempt area only if an application is made in accordance with subclause (2) and the Minister is satisfied that:
 - (a) all public places that are part of the premises in respect of which the exemption is being sought are enclosed, and
 - (b) the existing exempt area is a gaming machine room the area of which is less than 15% of the total area of all the rooms in the club, hotel, nightclub or casino, and
 - (c) the second room or part of a second room that is proposed to be set aside is as close as possible to the existing exempt area, and
 - (d) the area of the second room or part of a second room that is proposed to be set aside, when added to the existing exempt area, will be less than 25% of the total area of all the rooms in the club, hotel, nightclub or casino.
- (2) An application for an authorisation to set aside a second room or part of a second room of a club, hotel, nightclub or casino as part of an exempt area:
 - (a) is to be made by, or on behalf of, the licensee, secretary or casino operator, as the case may be, and
 - (b) is to be lodged with the Director-General, and
 - (c) is to be in the form of a written statement setting out the reasons why the exemption should be granted taking into account the requirements of the Act and this Regulation, and
 - (d) is to be accompanied by a floor plan of the premises in respect of which the exemption is sought showing the location, dimensions and area of:
 - (i) the exempt area, and

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Schedule 1 Amendment

- (ii) the second room or part of a second room that is proposed to be set aside as part of the exempt area, and
 - (iii) each other room of the club, hotel, nightclub or casino, and
 - (e) is to be accompanied by an application fee of \$500.
- Note.** Section 307A of the *Crimes Act 1900* provides for a maximum penalty of 2 years imprisonment, or a fine of 200 penalty units (\$22,000), or both for an offence of making a false or misleading application.
- (3) Words and expressions used in this clause have the same meanings as they have in Part 3 of the Act, including the definition of **room** in section 11B.

BY AUTHORITY
