

Freedom of Information – Document Schedule for FOI-ORS: 13-0019

Name: [REDACTED]	Re: ACT Smoking Law
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Document No.	Page No.	Description of Document	Date of Doc.	Status: Full Release, Partial Release or Exempt	Reason for Exemption: Section 41(1) Personal Information Section 43(1)(c) Information regarding Business Affairs	Details of Exemption
1	1-3	Extract from the Annual Report 2010-11	2010-11	Full Release	Nil	Nil
2	4	Extract from the Annual Report 2011-12	2011-12	Full Release	Nil	Nil
3	5	Infringement Notices Issued 2010-11	2010-11	Full Release	Nil	Nil
4	6-7	Infringement Notices Issued 2011-12	2011-12	Partial Release	43(1) Information regarding Business Affairs	Business Information
5	8-9	Letters to Companies	21/03/2012	Partial Release	41(1) Personal Information 43(1) Information regarding Business Affairs	Names of employees and business information

2010-11.

Table 13: Workers Compensation Statistics

	2008-09	2009-10	2010-11
Workplace visits	241	464	405
Formal Notices	288	43	13
Infringement Notices	12	12	11
Records of Interview	2	1	-
Matters initiated	1,511	1,295	1,591
Default Notices*	-	3	2
Recovery Notices*	-	3	10
Client Services			
Presentations to stakeholders	5	1	3
Approval of rehabilitation providers**	-	23	2

* New legislation had not commenced

** New legislation in 2009-10 made approvals for three years and only new companies make applications.

under relevant legislation for accrediting assessors of plant operators and manages the issuing of licences or permits for authorisation of explosives, blasting, shot firers, display operators and fireworks displays as well as the import, handling, storage and supply of explosives.

During 2010-11 WorkSafe ACT issued 351 licences, accredited 55 assessors and refused accreditation of two assessors, due to incomplete applications or not meeting the requirements. In addition, two assessors had their approvals cancelled due to poor assessing practices and non-compliance with the Commissioner's Guidelines.

There were eight Improvement Notices and three Prohibition Notices issued under the Dangerous Substances Act.

Fair Trading Compliance

The ORS undertook over 3,180 inspections during 2010-11 across a range of businesses and industries including the security industry, liquor licensing, motor vehicle dealers and repairers, real estate agents, X18+ film licensees,

hawkers, tobacco licensees, retail premises and smoke-free public places.

This included 1,459 liquor inspections. The Liquor Act commenced on 1 December 2010 and is designed with the principles of harm minimisation, community safety, responsible service and consumption of liquor as key objectives. The liquor inspections were undertaken for the purposes of regulating the liquor industry and to monitor licensee compliance. Of the 1459 inspections, 1181 were conducted after hours in association with the ACT Policing Alcohol Crime Targeting Team. The remaining 278 inspections were routine type inspections and also conducted for the purpose of renewing and issuing licences in accordance with the requirements of the Liquor Act.

Tables 14 and 15 provided statistics on fair trading compliance disciplinary proceedings and prosecution against young people.

The ORS is responsible for monitoring compliance with the *Smoke-Free Public Places Act 2003* which commenced on 9 December 2010. This includes undertaking inspections to ensure that premises are complying with the

Act and meeting their legislative obligations. These inspections are both proactive and complaint driven, and 411 inspections were undertaken to monitor compliance. Significant non-compliance was identified during a number of inspections.

In addition to smoking inspections, there were 123 tobacco licence inspections conducted.

The Fair Trading (Motor Vehicle Repair Industry) Act commenced on 7 October 2010. The Act replaced a Code of Practice and provides for the licensing and regulation of the motor vehicle repair industry in the ACT. The ORS carried out 370 inspections of motor vehicle repair premises to ensure that they were aware of the introduction of the Act. In addition, the ORS also carried out 199 inspections of licensed motor vehicle dealers.

A product safety program was conducted during October and November 2010. This activity was part of a wider national initiative whereby all other states and territories undertook similar activities. The ORS conducted marketplace surveys on the mandatory toy, bean bag and pedal bicycles safety standards to ensure that retailers in the ACT were complying with these standards and selling 'safe' toys, bean bags and pedal bicycles.

Inspectors visited all major shopping centres and suburban market places in the wider Canberra area. They visited 25 stores during the survey and inspected over 1,500 products. In addition, in preparation for the Canberra Show, show bags were inspected in early February to

ensure that goods being offered for sale were compliant with mandatory safety standards.

The role of the ORS in regard to Fair Trading Compliance is to encourage compliance through education and to also deter, detect and remedy non-compliance. Inspections and/or investigations undertaken by the ORS are undertaken in accordance with the ORS compliance and enforcement policy.

The increase in inspections (3,180), compared to 2,500 in 2009-10, is attributed to an increase in proactive and educative type inspections.

During the year, 58 infringement notices were issued – 13 relating to non-compliance with the Smoke-Free Public Places Act, 15 issued against the security industry, one issued against a motor vehicle dealer and 29 issued against a number of other industries regulated by the ORS.

Priorities for 2011-12 include:

- Roll out of the risk based compliance framework, which will guide the priorities for inspections and compliance activity.
- Implementation of the ban on plastic bags through a process of engagement, education and enforcement.
- Ongoing participation in national compliance programs.
- Ongoing staff training, to include introduction of the Respect, Equity and Diversity Framework.

Table 14: Fair Trading Compliance Disciplinary Proceedings

Type	2008-09	2009-10	2010-11
Liquor	26	4	10
Security	12	-	-
Tobacco	1	-	-
Agents	-	-	3

The figures in Table 14 relate to proceedings commenced during the relevant period.

Table 15: Prosecutions against young people

Type	2010/11 (00)	2010/11 (00)	2010/11 (11)
Underage cautions (1)(2)	12	57	13
Underage prosecutions	-	4	-

(1) Cautions were Issued by ACT Policing.

(2) Cautions were for the 1 July – 30 November 2010 period. From 1 December 2010 (in line with the Liquor Act) the responsibility for the apprehension of under aged persons fell under the responsibilities of the Australian Federal Police.

Table 16: Complaints Received and Advice Provided during 2010-11

Type	2010/11 (00)	2010/11 (00)	2010/11 (11)
Written complaints	602	572	577
Emails	1,177	1,231	2,346
Counter	284	232	230
Telephone	7,297	5,850	6,460

Table 17: Parking Operations

Activity	2010/11 (00)	2010/11 (00)	2010/11 (11)
No. of ticket machine services	6,610	5,112	4,568
No. of parking meter services	3,396	3,106	3,354
No. of parking equipment fault responses	11,584	11,618	12,243
% of fault calls responded to within 60 minutes	98.39%	97.26%	94.77%

Table 18: Parking Review

	2010/11 (00)	2010/11 (00)	2010/11 (11)
Parking Infringement Notices issued	90,331	85,342	94,601
Statutory Declarations*	3,629	3,342	3,303
Written representations received	13,416	11,928	12,692
Parking Infringement Notices withdrawn	4,939	4,214	2,782
Summons Issued	266	225	162
Hearings in the ACT Magistrates Court	118	72	68
Client Services			
Parking Operations counter	196	194	149
Telephone contacts	11,869	9,373	9,814

* Statutory Declarations nominated new owners or different drivers of vehicles.

11-12

SMOKE FREE PUBLIC PLACES

Since 1 July 2011, 128 inspections have been conducted making a total of 464 inspections since the prohibition on smoking in most outdoor drinking and eating places commenced on 9 December 2010.

During the reporting period, 13 infringement notices were issued for non-compliance with the *Smoke-Free Public Places Act 2003* including one for a person smoking in an enclosed public area. Infringement notices were issued for the patron offence of smoking in an outdoor eating and drinking area and also to businesses for the offence of allowing smoking in their outdoor eating and drinking areas:

- eight infringement notices have been issued to businesses. Of the eight businesses, five are the holder of a liquor licence, and one is the holder of a liquor permit. The remaining two businesses do not hold a liquor licence
- five infringement notices have been issued to individual persons, of which four were received for smoking in the outdoor area of a licensed premise.

ORS continues to conduct regular inspections of businesses to ensure compliance with the new laws and has produced and distributed 'no smoking' stickers to assist businesses in educating customers.

PERFORMANCE MEASURES

INSPECTIONS

During the reporting period ORS also completed the following industry-focussed inspections:

- motor vehicle repairers – 50
- motor vehicle dealers – 15
- outdoor cafés – 55
- x-rated film industry – 19
- tobacco – 303.

COMPLIANCE AND ENFORCEMENT OUTCOMES

In addition to education, the following formal compliance actions were undertaken:

- total inspections – 5,182
- verbal warnings – 659
- written warnings – 52
- infringement notices – 34
- ACAT referral – 12
- Court referral – 3.

COMPLAINT MANAGEMENT

Since 1 July 2011 the ORS compliance unit actioned 630 formal complaints for further investigation and/or conciliation.

- 4,907 fair trading telephone enquiries were also received
- 4,326 fair trading email enquiries were also received.

REGISTRATION AND CLIENT SERVICES

ORS is responsible for providing a range of registration and client services to the community and industry including, but not limited to, registration services for births, deaths and marriages, land titles, rental bonds, charitable collections, associations, liquor licensing and occupational licensing for agents, security and high risk work.

Infringement Notices issued 2010-2011						
Details of Notice						
Smoke - free Public Places Act 1996						
Notice Type	Legislation	Section -	Offence	Penalty	ACAT outcome	
1 Smoking Infringement	Smoke-Free Public Places Act 2002	6(1)	Smoking in enclosed public place	\$110.00	N/A	
2 Smoking Infringement	Smoke-Free Public Places Act 2003	9E(2)	Occupier, who is not a licensed premises, failed to display 'no smoking' signs on tables etc	\$2,200.00	N/A	
3 Smoking Infringement	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00	N/A	
4 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
5 Smoking Infringement	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00	N/A	
6 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
7 Smoking Infringement	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00	N/A	
8 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
9 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
10 Smoking Infringement	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00	N/A	
11 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
12 Smoking Infringement	Smoke - free Public Places Act 2003	9B(1)	Person smoking in the outdoor area	\$110.00	N/A	
13 Smoking Infringement	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00	N/A	

Infringement Notice Issued 2011-2012									
Details of Notice									
Tobacco Act 1927									
	Notice Type	Legislation	Section	Offence			Business / Person		
1	Tobacco Infringement	Tobacco Act 1927	Sec10	Fail to store tobacco product out of view.	\$5,000.00				
2	Tobacco Act	Tobacco Act 1927	10(2)	Fail to store tobacco product out of view.	\$1,000.00				
3	Tobacco Act	Tobacco Act 1927	64(2)	Failed to display licence	\$110.00				
4	Tobacco Act	Tobacco Act 1927	67(1)	Obtained products from unlicensed wholesaler	\$1,000.00				
5	Tobacco Infringement	Tobacco Act 1927	S.10	Fail to store tobacco product out of view.	\$5,000.00				
6	Tobacco Infringement	Tobacco Act 1927	S.10	Fail to store tobacco product out of view.	\$5,000.00				
7	Tobacco Infringement	Tobacco Act 1927	s10(2) s64(2)	Fail to store tobacco product out of view.	\$5,550.00				
8	Tobacco Infringement	Tobacco Act 1927	S.10	Fail to store tobacco product out of view.	\$1,000.00				
9	Tobacco Infringement	Tobacco Act 1927	s.64(2)	Fail to display licence conditions.	\$550.00				

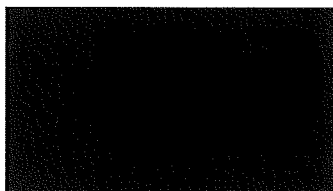
Infringement Notice Issued 2011-2012									
Details of Notice									
	Notice Type	Legislation	Section	Offence	Penalty	Business / Person	REFERRED TO ACAT	ACAT outcome	
1	Smoking Infringement	Smoke - free Public Places Act 1996	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00		21/10/11	21.3.2012 - Decision made on this occasion - not to take further action. (ref. to att. 1tr)	
2	Smoking Infringement	Smoke - free Public Places Act 2003	S. 9B	Person smoking in the outdoor area	\$110.00				
3	Smoking Infringement	Smoke - free Public Places Act 1996	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00				
4	Smoking Infringement	Smoke - free Public Places Act 2003	S. 9B	Person smoking in the outdoor area	\$110.00				
5	Smoke-Free	Smoke-Free Public Places Act 2003	9B(1)	Person Smoking in outdoor area	\$110.00				
6	Smoke-Free	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00				
7	Smoke-Free	Smoke-Free Public Places Act 2003	9D(1)	Licensee allowing person to smoke in the outdoor area	\$1,100.00				
8	Smoke-Free	Smoke-Free Public Places Act 2003	6(1)	Smoking in enclosed public place	\$110.00				
9	Smoke-Free	Smoke-Free Public Places Act 2003	8(1)	Offence for Occupier to allow person to smoke in enclosed public place	\$1,100.00		21/10/11	21.3.2013 - Decision made not to take further action on this occasion. (ref. to tr att.)	
10	Smoking Infringement	Smoke - free Public Places Act 2003	S. 9B	Person smoking in the outdoor area	\$110.00				
11	Smoking Infringement	Smoke - free Public Places Act 2003	S. 9D	Licensee allowing person to smoke in the outdoor area	\$1,100.00				
12	Smoking Infringement	Smoke - free Public Places Act 2003	S.9D	Licensee allowing person to smoke in the outdoor area	\$1,100.00				
13	Smoking Infringement	Smoke - free Public Places Act 2003	S. 9D	Licensee allowing person to smoke in the outdoor area	\$1,100.00				



ACT
Government

Justice and Community Safety

Our Ref: SF 015/11



Dear 

The Office of Regulatory Services (ORS) is responsible for ensuring compliance with the *Smoke-Free Public Places Act 2003* (the Act). The object of this Act is to promote public health by minimising the exposure of people to environmental smoke.

I refer to an infringement notice issued for a breach of Section 9D of the *Smoke Free Public Places Act 2003* (the Act) served on you on 3 August 2011, your correspondence disputing liability dated 29 August 2011 and a further letter requesting an independent review dated 29 September 2011.

I have considered all correspondence and the circumstances of the inspection and have decided, on this occasion, not to take further action.

Should you have any further queries in relation to this matter please contact the ORS Investigator Robert Southwell on (02) 6205-3781.

Yours sincerely

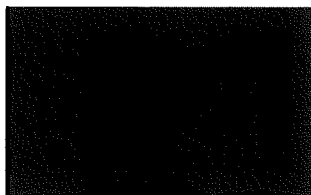
Derise Cubin
Senior Director, Compliance
Delegate of the Commissioner for Fair Trading
21 March 2012



ACT
Government

Justice and Community Safety

Our Ref: SF 023/11



Dear [REDACTED]

The Office of Regulatory Services (ORS) is responsible for ensuring compliance with the *Smoke-Free Public Places Act 2003* (the Act). The object of this Act is to promote public health by minimising the exposure of people to environmental smoke.

I refer to an Infringement notice issued for a breach of Section 9D of the *Smoke Free Public Places Act 2003* (the Act) served on you on 27 August 2011 and to the written correspondence dated 28 August 2011 disputing liability.

Your letter disputing liability was not received by this office until 19 October 2011. However, I have considered your letter and the circumstances of the inspection, and have decided not to make an application to the ACT Civil and Administrative Tribunal (ACAT) for occupational discipline. On this occasion, I have decided not to take any further action.

Should you have any further queries in relation to this matter please contact the ORS Investigator Lara Barrett on (02) 6205-4801.

Yours sincerely

Derise Cubin
Senior Director, Compliance
Delegate of the Commissioner for Fair Trading
21 March 2012