

November 2010

In focus: Law on preventing population from exposure to tobacco smoke

On May 15th, 2010 the Law on preventing population from exposure to tobacco smoke (*"Official Gazette of the Republic of Serbia", no. 30/2010*) (hereinafter referred to as: the "Law") came into force and on October 20th, 2010 the Rulebook on the form and content of the sign 'no smoking', the sign 'smoking allowed' in a certain area, the way of posting the signs, the form of reports on the violation of the smoking ban, the type and manner of collecting evidences of smoking and the manner for determining the presence of tobacco smoke in a space where smoking is prohibited, as well as the form for collection of the fine on spot (*"Official Gazette of the Republic of Serbia", no. 73/2010*) (hereinafter referred to as: the "Rulebook") came into force.

Deadline for compliance with the Law and circle of persons to whom the Law shall be applied

The Law prescribes the obligation of legal entities and entrepreneurs to comply their work with the provisions of the Law within a period of 180 days from the day of becoming effective respectively until November 11th, 2010.

The space in which smoking is not allowed

The Law prohibits smoking in every enclosed workspace.

According to the Law, under the term workspace shall be considered: every enclosed space which is used for performing jobs as well as every other associated enclosed space, such as hallways, elevators, stairs, lobbies, common rooms, toilets, canteens, auxiliary buildings, warehouses, garages, official vehicles for transporting persons or goods, etc.

The person responsible for control of the smoking ban

Control of the smoking ban and implementation of the smoking ban measures at the Employer shall be performed by the person responsible for control of the smoking ban (hereinafter referred to as: the "Responsible person").

Pursuant to the Law, the Responsible person is a person who manages work i.e. performs activities or in any other way manages the enclosed workspace, as well as the owner of the space, respectively person to whom the owner of the premises in

which smoking is not allowed transferred the right of use, i.e. entrepreneur who performs activities in accordance with the Law.

The Responsible person is obliged to provide the enclosed workspace without tobacco smoke, as well as to provide that no butts of tobacco products or ashtrays are present in such a space.

The Law prescribes the possibility of the Responsible person to assign in written form one or more employees to, in his name and for his own account, control the smoking ban, except in cases of working in shifts when such assignment is obligatory.

In case of violation of the smoking ban, the person responsible for control of the smoking ban is obliged to orally order the offender to stop smoking, as well as to take measures to move away the person who, after the oral order, does not stop smoking, and to initiate i.e. propose initiation of a proceeding for determining violation of work discipline in accordance with the Law and the Employer's general act.

The report on violation of the smoking ban shall be filled in the appropriate form which is an integral part of the Rulebook, immediately after violation is conducted and shall be kept at least 12 months from the day when it was made.

The Responsible person is responsible in case a person who is smoking is found in a space where smoking is forbidden.

The premise for smoking

In an enclosed workspace, the Employer may, exceptionally, determine a separate premise designated exclusively for smoking.

The separate premise from the previous paragraph must fulfill the following conditions:

- The same cannot be used for performing the Employer's activity;
- Above the door or beside the door there must be a sign: "Premise for smoking", as well as the number of persons who can be in the premise at the same time, depending on the capacity of the ventilation system for air purification;
- At the entrance of the smoking premise as well as in the smoking premise itself, it must be ensured that a sign "No smoking due to a ventilation system failure" must be automatically shown, in case of the ventilation system failure;
- The premise for smoking must be a completely closed room with sliding self-closing doors, provided that closed windows and doors shall be considered as part of the wall of that premise;
- The premise for smoking must be equipped with a ventilation system that is an integral part of the smoking room which is physically separated from other ventilation systems, provided that the air with tobacco smoke from the smoking premise shall not exceed in other enclosed premises which are in that enclosed space;
- Air from the smoking premise cannot be recycled, but must be brought to open space through ventilation system.

The obligation on posting the sign “No smoking” and the sign “Smoking allowed”

The subject regulations prescribe the Employer’s obligation to, on every door of every enclosed workspace, as well as on other visible places inside the workspaces i.e. inside every particular enclosed workspace (office, cabinet, room, etc.) post the sign ‘no smoking’ respectively the sign ‘smoking allowed’ on the indoors of spaces where, in accordance with the Law, smoking is allowed.

The form and content of the sign ‘no smoking’ and the sign ‘smoking allowed’ is stipulated by the Rulebook and the graphic illustrations of the same are its integral part.

The obligation on posting the name of the Responsible person

The Law stipulates that on one or more visible places in the space where smoking is not allowed there must be set the name of the Responsible person, respectively name of the person who, in the name and on behalf of the Responsible person, controls the smoking ban, with information about the place where this person is, and phone number so that in this space smoking can be reported.

Prescribed fines

Violation of the smoking ban exists if:

1. A person is found with a lit cigarette;
2. The presence of a lit cigarette is observed;
3. The presence of one or more ashtrays is observed;

4. The presence of one or more tobacco butts are observed;
5. The presence of tobacco smoke is observed.

The Employer’s failure to act in accordance with the legal provisions shall be considered as an offence from Article 28 of the Law, for which the following monetary fines are prescribed:

1. For legal entities - from 500.000 to 1.000.000 RSD;
2. For the responsible person in the legal entity – from 30.000 to 50.000 RSD;
3. For entrepreneurs – from 300.000 to 500.000 RSD.

A monetary fine in the amount of 5.000 RSD on the spot is prescribed for a physical person who smokes in the enclosed workspace.

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