

**TOBACCO PRODUCTS CONTROL REGULATIONS 07
VIRGIN ISLANDS**

TOBACCO PRODUCTS CONTROL REGULATIONS 2007

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VIRGIN ISLANDS

STATUTORY INSTRUMENT 2007 No.

**TOBACCO PRODUCTS CONTROL ACT, 2006
(No. 18 of 2006)**

Tobacco Products Control Regulations, 2007

[Gazetted _____, 2007]

The Minister, in exercise of the powers conferred by sections 11 of the Tobacco Products Control Act, 2006, makes the following Regulations:

1. These Regulations may be cited as the Tobacco Products Control Regulations, 2007 and shall come into force on the date the Tobacco Products Control

Citation and
commencement.
No. 18 of 2006

Act, 2006 comes into force, except regulation 11 which shall, come into force three months after the coming into force of the Act and these Regulations.

Interpretation
No. 18 of 2006

2. In these Regulations, unless the context otherwise requires

"Act" means the Tobacco Products Control Act, 2006;

"box" includes a pack;

"container" includes a room;

"employee" means a person who is employed by an employer in consideration for monetary wages or profit and a person who volunteers to work for a non-profit entity;

"employer" means a person who employs the services of another person;

"humidified container" means a container in which the humidity is controlled to preserve the quality of cigars in the container;

"person" includes the corporate person;

"Regulations" means Regulations made under the Act; and

"work place" means the place from which an employer undertakes a chosen work, business, trade or profession.

Information on
use of tobacco
products

3. (1) Information required to be given by a person who sells or imports a tobacco product for sale shall be written

Schedule 1

(a) on the pack containing the tobacco product; and

(b) in the case of cigars and loose tobacco, on the door to the humidified container at the retail outlet.

(2) The information referred to in sub-regulation

(1) shall be as set out in Schedule 1, and in the case of

Obligation on a retailer to warn consumers

(a) a tobacco product packaged in a box, be conspicuously written on the front, back and side of each box; and

Schedule 2

(b) a cigar or loose tobacco in a humidified container at a retail outlet, be conspicuously posted on the door to the humidified container.

Persons who can sell tobacco products
Cap. 200

4. (1) Notwithstanding regulation 3, a person who sells a tobacco product shall conspicuously display a health warning in English to the public at the place where the tobacco product is sold.

(2) The health warning required to be displayed under sub-regulation (1) shall be as set out in Schedule 2.

5. (1) A person granted a valid trade license under the Business, Professions and Trade Licenses Act may sell a tobacco product.

(2) Notwithstanding sub-regulation (1), a tobacco product shall not be sold in

Quantities of tobacco or cigarettes to be sold per pack.

- (a) a health institution, including a hospital, pharmacy and health clinic;
- (b) an educational institution, including a pre-primary, primary, secondary, and post secondary school; and
- (c) a recreational facility, including a park, movie theatre and sports facility.

6. (1) A person shall not sell or offer to sell to another person, individual sticks of cigarette or loose tobacco.

Acceptable methods of identification

(2) A person who sells a tobacco product shall ensure that

(a) loose tobacco is packaged and sold in a pack and that each pack contains not less than twenty-five grammes of loose Tobacco; and

(b) cigarette sold or offered for sale by the person is in a pack which contains not less than twenty sticks of cigarette. No smoking sign

(3) A person commits an offence if the person sells, offers to sell to another person, a tobacco product in a manner otherwise than as stated under sub-regulation (1) or (2).

7. (1) Pursuant to regulation 4, a person shall on a request made to the person by a tobacco product seller, produce to the tobacco product seller, an official government identification document bearing a photograph and indicating the age of the person as evidence of proof of that person's age for purposes of selling a tobacco product to the person.

(2) A tobacco product seller who accepts a method of identification other than that stated under sub-regulation (1), commits an offence.

8. (1) A "No Smoking" sign shall be conspicuously displayed

(a) at the entrance to and in a conspicuous place within each public place, by the occupier of the public place;

Schedule 3

(b) by the occupier of a private dwelling, at any part of the private dwelling

(i) open to the public,

(ii) used as a work place, or An employers obligation

(iii) which is a common

entrance or foyer to
other apartment blocks;

(c) by an employer in a work vehicle
or vessel used by more than one person; and

(d) by each public transport owner, in that
transport owner's public transport vehicle.

(2) A "No Smoking" sign shall

(a) be flat and rectangular in shape;

(b) have a minimum measuring size of eight
and a half inches by eleven inches;

(c) display the symbol for "No Smoking",
set out in Schedule 3; and

(d) carry the message "It is unlawful
to smoke in this location", in English.

9. (1) An employer shall ensure that

(a) a "No Smoking" sign is
displayed at the work place;

(b) an ash tray or similar
equipment is not placed at the work place;

(c) an ash tray or similar
equipment is not placed in a work ^{Hotels, motels}
vehicle or vessel used by more than ^{and guest}
one person, except where the ash tray ^{houses}
was originally installed in that vehicle or
vessel by the manufacturer; and

(d) an employee who fails to
comply with the Act and Regulations is
removed from the work place.

(2) An employer shall ensure compliance
with other lawful obligations prescribed in connection
with the retail of a tobacco product.

(3) An employer or the employer's

representative shall not

(a) dismiss or threaten to dismiss an employee,

(b) discipline or suspend, or threaten to discipline or suspend an employee,

(c) penalise an employee, or

(d) intimidate or coerce an employee who acts in accordance with or seeks to enforce the Act and Regulations.

Penalty of offences committed under the Act. Schedule 4

10. (1) An operator or proprietor of a hotel, motel or guest house shall ensure that

(a) smoking is prohibited in at least seventy-five percent of the rooms in the hotel; and

(b) a "No Smoking" sign is posted in every room designated as a non-smoking room.

(2) An operator or proprietor of a hotel, motel or guest house who designates smoking rooms pursuant to sub-regulation (1)(a) shall, ensure that the rooms so designated are not let out to non-smokers.

(3) A designated smoking room shall be situate in a designated smoking zone.

(4) A guest room designated in a smoking zone shall be constructed in a manner that physically separates it from an adjacent area where smoking is prohibited.

11. (1) A person who contravenes a provision of the Act specified under column 1 of Schedule 4 is liable to the penalty stated

(a) in column 3 with respect to a business entity; or

Payment of

finer

- (b) in column 4 with respect to an individual.

(2) Where an offence is committed by a body corporate the liability of whose members is limited, then, notwithstanding and without affecting the liability of the body, any person who at the time of the commission of the offence was a director, general manager, secretary or other like officer of that body or was purporting to act in that capacity

- (a) is, subject to sub-regulation (3), liable to be prosecuted as if he has personally committed that offence; and

- (b) is liable to the like conviction and punishment as if he has personally been guilty of that offence, if on prosecution it is proved to the satisfaction of the court that he consented to, or connived at, or did not exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions in that capacity and to all the circumstances.

Schedule 5

- (2) A person shall not be prosecuted under sub-regulation (2) except upon the direction of the Attorney General.

- (3) Where an offence is committed by a partnership, then each partner may be charged with the offence.

12. (1) A Tobacco Control Officer shall serve a notice of offence on a person who has committed an offence under the Act and these Regulations.

- (2) The notice of offence shall
 - (a) contain particulars of the offence;
 - (b) specify the period allowed for the payment of the fine imposed; and

(c) state the fine payable.

(3) The notice referred to in sub-regulation (1) shall

(a) be in the form set out in Schedule 5; and

(b) be prepared in triplicate and a copy

(i) served on the person who committed the offence, directing the person to a Magistrate's Court where the fine is to be paid;

(ii) served on the Magistrate's Court where the penalty is to be paid; and

(iii) retained by the Tobacco Control Officer.

(4) A person may pay the penalty

(a) before the expiration of a period of twenty-one days after the date of the notice; or

(b) in the case of a corporate body, before the date appointed for the prosecution of the offence.

(5) Subject to section 11(3), proceedings shall be commenced against an offender on the twenty-second day after the date of the notice.

(6) A fine paid by a person in respect of an offence committed under the Act and these Regulations shall be treated as a fine imposed by summary conviction on

the person who committed the offence.

SCHEDULE 1

(Regulation 3(2))

Health Warning

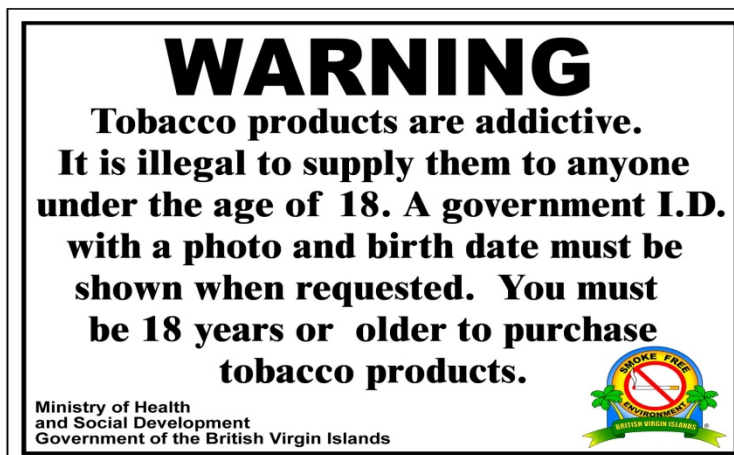


8 1/2 INCHES X 11 INCHES

SCHEDULE 2

(Regulation 4(2))

Health Warning



8 1/2 INCHES X 11 INCHES

SCHEDULE 3

(Regulation 8(2)(c))



8 1/2 INCHES X 11 INCHES

SCHEDULE 4

(Regulation 11)

Penalties for offences committed under the Act

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Section	Offence	Penalty (Business)	Penalty (individual)
s3	Selling or importing a tobacco product, without the information required under sub-sections (1) and (2) on the package.	A fine of two hundred and fifty dollars.	
s4(1)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element otherwise than as provided under the Act.	A fine of two hundred and fifty dollars.	

s4(2)(a)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element in a manner to deceive or mislead a consumer or purchaser concerning its character, properties, toxicity, composition, merit or safety.	A fine of seventy five dollars.	
s4(2)(b)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element that does not display in the prescribed form or manner, the information required under section 3.	A fine of seventy five dollars.	
4(2)(c)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element through means of promotion that can be viewed from outdoors.	A fine of seventy five dollars.	
4(2)(d)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element by utilising any item other than a tobacco product, or any physical establishment or vehicle of any kind, which bears the brand name (alone or in conjunction with any other word), trade-mark, trade distinguishing guise, logo, graphics arrangement, design, slogan, symbol, motto, selling message, or recognisable colour or pattern of colours, of any brand of tobacco product, or which bears any other indicia of product identification identical or similar to, or identifiable with those used with or those used for, any brand of tobacco product.	A fine of seventy five dollars.	
4(2)(e)	Promoting or causing to be promoted, a tobacco product or a tobacco related brand element by utilising for the purpose of promoting any athletic, musical, artistic or any other social or cultural event, the brand name (alone or in conjunction with any other word), trade-mark, trade distinguishing guise, logo, graphics arrangement, design, slogan, symbol, motto, selling message, recognisable colour or pattern of colours, of any brand of tobacco product or any other indicia of product identification identical or similar to, or identifiable with those used with or	A fine of seventy five dollars.	

	those used for, any brand of tobacco product.		
4(4)	Offering or providing direct or indirect consideration for the purchase of a tobacco product, including a gift to a purchaser or a third party, bonus, premium, cash rebate or right to participate in a game, lottery or contest, or distribute a tobacco product without monetary consideration, or in consideration of the purchase of a product or service or the performance of a service.		
5(1)	Selling or offering to sell a tobacco product to a person who is under eighteen years of age.	A fine of two hundred and fifty dollars.	
5(3)	Selling or offering to sell a tobacco product which is not packaged, and if packaged, in a package which does not contain the prescribed quantity or number of units.	A fine of seventy five dollars.	
5(4)	Selling or offering to sell tobacco or a tobacco product in a place other than the prescribed place.	A fine of seventy five dollars.	
5(5)	Selling or offering to sell a tobacco product or a tobacco brand element that is visibly seen by the general public at the point of sale.	A fine of two hundred and fifty dollars.	
5(6)	Selling or offering to sell a tobacco product by means of a display that permits a person to handle the tobacco product before paying for it.	A fine of two hundred and fifty dollars.	
5(7)	Selling or offering to sell a tobacco product through a vending machine, the mail, or through the internet.	A fine of two hundred and fifty dollars.	
5(8)	Selling or offering to sell a tobacco product at retail without signs bearing the health warning and other information, posted at the location where the retail is	A fine of one hundred dollars.	

	being undertaken, in accordance with the Act and Regulations.		
5(9)	Displaying an unapproved sign with respect to the legal age to purchase a tobacco or a tobacco related product at a place or premises where tobacco or tobacco related products are being sold.	A fine of one hundred dollars.	
7	Smoking tobacco or holding lighted tobacco in (a) a public place, (b) within fifty feet from the entrance, exit or open window of offices and office buildings, including public areas, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, stairways, restrooms, amenity areas, laundry rooms and individual offices; health institutions; educational institutions; any premises in which children are cared for, for a fee; any means of transportation used for commercial, public or professional purposes and used by more than one person; public transportation terminals; retail establishments, including shopping malls; cinemas; concert halls; sports facilities; restaurants, bars, nightclubs and discotheques; pool and bingo halls; publicly owned facilities rented out for events; any other facilities, including beaches, accessible to the public; and any other facilities that employ paid personnel.		A fine of fifty dollars.
	An occupier of a public place failing to place in a prominent place, the prescribed signs that clearly indicate smoke-free zones.	A fine of one hundred and twenty five dollars.	
9(3)	Denying, obstructing or hindering a Tobacco Control Officer in the exercise of the powers of a Tobacco Control Officer under paragraphs (a), (b), (c), and (d).	A fine of one hundred and twenty five dollars.	A fine of fifty dollars.
9(4)	1. Refusing to return seized tobacco		A fine of

	<p>products which are found after seizure to meet the requirements of the Act and Regulations; and</p> <p>2. Refusing to confiscate and destroy or subject to some other disposal as ordered by a court, a tobacco product found to be non-compliant with the Act and Regulations.</p>		<p>one hundred and twenty five dollars.</p>
9(7)	<p>(a) Hindering a Tobacco Control Officer in the performance of the duties of a Tobacco Control Officer;</p> <p>(b) Misleading a Tobacco Control Officer by concealment or false statements; and</p> <p>(c) Refusing to provide a Tobacco Control Officer with information or document to which the Tobacco Control Officer is entitled under the Act or Regulations made under the Act.</p>	<p>A fine of one hundred and twenty five dollars.</p>	<p>A fine of fifty dollars.</p>