

[REPUBLIC OF MADAGASCAR]

**MINISTRY OF PUBLIC HEALTH  
MINISTRY OF JUSTICE  
MINISTRY OF INTERNAL SECURITY**  
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**INTERMINISTERIAL ADMINISTRATIVE ORDER No. 29.511 /2013  
concerning the prohibition of smoking in all indoor or enclosed places  
that constitute workplaces, public places and public transportation**

**THE MINISTER OF PUBLIC HEALTH  
THE ATTORNEY GENERAL, MINISTER OF JUSTICE,  
THE MINISTER OF INTERNAL SECURITY,**

In light of the Constitution;

In light of Law No. 2011-014 of December 28, 2011, concerning the insertion into the internal legal system of the roadmap signed by Malagasy political actors on September 17, 2011;

In light of Law No. 2004-029 of September 9, 2004, authorizing the ratification of the Framework Convention for Tobacco Control;

In light of Law No. 2011-002 of July 15, 2011 concerning the Code of Health;

In light of Decree No. 2005-0554 of August 30, 2005, concerning the creation of the National Office for Tobacco Control;

In light of Decree No. 2005-0554 of August 30, 2005, as amended by Decree No. 2006-0452 of July 11, 2006, concerning the creation of the National Office for Tobacco Control;

In light of Decree No. 2007-837 of September 25, 2007, concerning the organization and functioning of the National Office for Tobacco Control;

In light of Decree No. 2011-653, of October 28, 2011, concerning the nomination of the Prime Minister, Head of the Transition Government of National Unity;

In light of Decree No. 2011-0687 of November 21, 2011, as amended by Decrees No. 2012-0495 and No. 2012-0496 of April 13, 2012, No. 2013-0635 of August 28, 2013, No. 2013-0662 and No. 2013-0663 of September 4, 2013 concerning the nomination of Members of the Transition Government of National Unity;

In light of Decree No. 2008-0438 of May 5, as amended and completed by Decrees No. 2009-0980 of July 14, 2009, and No. 2011-0485 of September 6, 2011, setting the attributions of the Attorney General, Minister of Justice, as well as the general organization of his Ministry;

In light of Decree No. 2011-0725 of December 6, 2011, setting the attributions of the Ministry of Internal Security as well as the general organization of his Department;

In light of Decree No. 2012-0132 of January 31, 2012, amending and completing certain provisions of Decree No. 2011 0737 of December 13, 2011, setting the Minister of Public Health, as well as the general organization of his Ministry;

In light of Interministerial Administrative Order No. 18 171/2003 of October 22, 2003, determining the regulations concerning the industrialization,

importation, commercialization and consumption of tobacco products in Madagascar, do hereby

## ORDER:

### DEFINITIONS

#### Art. 1.-

For the purposes of this Administrative Order, the following definitions shall apply:

- **Secondhand smoke:** “the smoke produced by the combustion of a cigarette or other tobacco product, to which is generally added the smoke exhaled by the smoker.”
- **Smoking:** “The act of holding or using a lit tobacco product, whether or not the smoke is actively inhaled or exhaled.”
- **Workplace:** “any place including attached buildings and professional vehicles in the work setting used by people in the course of their work or in the context of their employment, and ‘work’ is understood to refer not only to paid tasks but also to charitable or volunteer work.”
- **Public places:** “Any places accessible to the general public and any places for collective use regardless of whether they are publicly or privately owned, or the conditions of access thereto.”
- **Public transportation:** “Any vehicle used for the transport of members of the public, generally in exchange for payment, or to accomplish a commercial aim. This includes taxis as well.”
- **Indoor or enclosed places:** “Any space covered by a roof or enclosed by one or several walls or partitions, regardless of the type of material used for the roof, the wall or the partitions, and of whether it is a permanent or temporary structure.”
- **Person in charge of a place:** “The owner, manager or any other person occupying the place.”
- **Signs:** “The assorted media used for signs (posters, billboards, or other means of posting information).”
- **Tobacco products:** “Products manufactured in whole or in part from leaf tobacco or its substitutes as raw material, intended to be smoked, sucked, chewed or sniffed.”

### PROHIBITION

Art. 2.- In application of the Framework Convention on Tobacco Control of the WHO, the acts of smoking cigarettes and tobacco products in any indoor or enclosed spaces comprising:

- o Workplaces;
- o Public places;
- o Public transportation,

are strictly forbidden.

### DISTRIBUTION AND REQUIRED POSTING OF SIGNS

#### Art. 3.-

Art. 3.- All people in charge of the places indicated in Article 1 must post signs to enforce the prohibition of smoking, and the signs are to be defined and made available by the Office for Tobacco Control of the Ministry of Public Health.

### RESPONSIBILITY

Art. 4.- The person in charge of a place, whether it is the proprietor or the manager, is obliged to enforce this Administrative Order; it is the mission of this person in charge to do the following:

- a. Required posting of signs enforcing the prohibition of smoking that are prominently visible to the general public;
- b. Removal of any ashtrays and related objects;
- c. Enforcement of the prohibition by taking all measures to dissuade users or clients from smoking in the places indicated in Article 2 above;
- d. Notification of the authorities of the local judicial police or appropriate enforcement authority.

#### **ENFORCEMENT AUTHORITY**

**Art. 5.-** Agents and Officers of the Judicial Police, law enforcement agents, the Mayor or his Deputy, are charged with enforcement on the basis of this Administrative Order and the Framework Convention on Tobacco Control of the WHO.

#### **SANCTIONS**

**Art. 6.-** The authorities charged with enforcement indicated in Article 5 above are to draw up notices of violation establishing the places and facts. However, in the event of violation of the prohibitions indicated by this Administrative Order, the agents in charge of enforcement are obliged to undertake immediately to ascertain the facts and to collect a fine of 2,500 Ariary (12,500 FMG) for each smoker caught in the act.

**Art. 7.-** If the offender refuses to comply, a notice of violation is to be issued to him. It has the same evidentiary weight as a notice drafted in his presence. A notice of violation signed by the agents and the offender is to be sent to the Office of the Prosecutor of the Republic for purposes of prosecution.

**Art. 8.-** Fines are to be collected by Agents, Officers of the Judicial Police, and authorized agents with payment stub booklets who shall issue a certified receipt, reviewed and initialed by the enforcement authority. Fines collected are allocated each month to the local agent of the Public Treasury.

#### **FINAL PROVISIONS**

**Art. 9.-** Those in charge of the places indicated above have a period of twelve (12) months as of the date of signature to enter into compliance with the provisions of this Administrative Order.

**Art. 10.-** All prior provisions at variance with the provisions of this Administrative Order are hereby rescinded, in particular, those of Articles 7 and 12 of Interministerial Administrative Order No. 18 171/2003 of October 22, 2003, determining the regulations with respect to the industrialization, importation, commercialization and consumption of tobacco products in Madagascar.

**Art. 11.-** This Administrative Order is to be published in the *Journal Officiel de la République*, with notice to be given hereof wherever it may be needed./

Antananarivo, on October 3, 2013

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Dr. Johanita NDAHIMANANJARA

[STAMP:] MINISTRY OF JUSTICE  
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RAZANAMAHASOA Christine

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RAKOTONDRAZAKA Arsène