

The Union of Myanmar
The State Peace and Development Council
The Control of Smoking and Consumption of
Tobacco Product Law
(The State Peace and Development Council Law No 5/2006)
(The 8th Waxing Day of Kason, 1368 ME)
(4 May, 2006)

The State Peace and Development Council hereby enacts the following law;

Chapter I

Title, Commencement and Definition

1.

- (a) This Law shall be called the Control of Smoking and Consumption of Tobacco Product Law.
- (b) This Law shall come into force on the date of completion of one year from its promulgation.

2. The following expressions contained in this Law shall have the meanings given hereunder;

- (a) Cigar means any cigarette, cheroot, cigar, smoking pipe and any other similar material prepared by any means for inhalation of smoke emitted from the burning of tobacco product;
- (b) Tobacco product means any material prepared for the purpose of smoking or consumption of the whole or part of the tobacco plant, leaf or stalk of the same;
- (c) Cigar smoke means smoke emitted from the burning of cigar or smoke emitted from smoking, exhaling or inhaling of cigar;
- (d) Sale means retail and wholesale of any material or display of the same for sale;
- (e) Cigar package means a packet, bottle, card or any other similar material into which the cigar or tobacco product is collected and inserted and which packs the same;
- (f) Label means a name, sign, shape or mark denoted by any means to make known any kind of cigar and tobacco product;
- (g) Central Board means the Central Board for the Control of Smoking and Consumption of Tobacco Product formed under section 4;
- (h) Supervisory Body means the Supervisory Bodies for the Control of Smoking and Consumption of Tobacco Product formed under sub-section (i) of section 5 at the State, Division, District and Township levels;
- (i) Person-in-Charge means the owner or person who administers the places designated in sections 6 and 7. This expression also includes a person who has been assigned duty by the said owner or person;
- (j) School includes Basic Education High School, Basic Education Middle School, Basic Education Primary School, Nursery School, Pre-School and Monastic Education School;
- (k) Training School means a course for the teaching of educational and technical knowledge of ten or more trainees.

Chapter II

Objectives

3. The objectives of this Law are as follows;

- (a) to convince the public that health can be adversely affected due to smoking and consumption of tobacco product and to cause refraining from the use of the same;
- (b) to protect from the danger which affects public health adversely by creating tobacco smoke-free environment;
- (c) to obtain a healthy living style of the public including child and youth by preventing the habit of

smoking and consumption of tobacco product;

(d) to uplift the health, economy and social standard of the public through control of smoking and consumption of tobacco product;

(e) to implement measures in conformity with the international convention ratified by Myanmar to control smoking and consumption of tobacco product;

Chapter III

Formation of the Central Board of the Control of Smoking and Consumption of Tobacco Product, and Functions and Duties thereof

4. The Government:

(a) shall form the Central Board of the Control of Smoking and Consumption of Tobacco Product comprising Minister of the Ministry of Health as Chairman, Deputy Minister of the Ministry of Health as Vice-Chairman, Director-General of the Department of Health as Secretary, a person assigned with duty to lead the task for control of smoking and consumption of tobacco product as joint secretary and service personnel and experts from the relevant government department and organizations as members.

(b) may re-organize the Central Board formed under sub-section (a), as may be necessary.

5. The functions and duties of the Central Board are as follows;

(a) laying down policy to implement the objectives of this law;

(b) carrying out measures to create tobacco smoke-free environment for protecting the public from the dangers of tobacco smoke;

(c) giving guidance to lay down and carry out tobacco cessation programmes;

(d) giving guidance to carry out educative work to let the public be aware extensively that smoking and consumption of tobacco product are dangerous to health;

(e) giving guidance to hold exhortative exhibitions, seminars, workshops and health talks for reduction of smoking and consumption of tobacco product;

(f) giving guidance to carry out research works in respect of smoking and consumption of tobacco product;

(g) co-operation and co-ordination with the relevant Government departments and organizations for enabling the control of smoking and consumption of tobacco product;

(h) communicating with international organizations, regional organizations, local and foreign non-governmental organizations for carrying out effectively the control of smoking and consumption of tobacco product;

(i) formation of the supervisory bodies at the State, Division and Township levels and determining the functions and duties thereof for carrying out the control of smoking and consumption of tobacco product;

(j) formation of necessary committees and determining their functions and duties to implement them.

Chapter IV

Non-Smoking Areas

6. The following compounds, buildings, rooms and places are non-smoking areas:

(a) hospital buildings, offices, compounds and other buildings in the compound except staff houses and apartments in the hospital compound;

(b) medical treatment centres and clinics;

(c) stadium and indoor playing fields;

(d) children drill sheds and playgrounds;

(e) teaching buildings, classrooms, offices, compounds and other buildings in the compound

except staff houses and apartments in the school compound;
(f) teaching buildings of universities, degree colleges, colleges and institutes, classrooms and offices;
(g) opera houses, cinema halls, video halls and other buildings of entertainment;
(h) marts, department stores, stores and market sheds;
(i) museums, archives, public libraries and reading rooms;
(j) elevators and escalators;
(k) motor vehicles and aircrafts for passenger transport;
(l) air-conditioned public rooms;
(m) public auditoriums;
(n) teaching buildings and classrooms of private tuition classes and training schools;
(o) other public compounds, buildings and places prescribed through notification by the Ministry of Health.

7. Places to which the public have access in the following buildings, vehicles and crafts are non-smoking areas except the private offices and rooms. However, specific places where smoking is allowed, shall be arranged in such areas:

(a) buildings of offices and departments;
(b) buildings of factories and workshops;
(c) buildings of hotels, motels, guest houses and lodging houses;
(d) buildings of railway stations, airports, ports and highway bus terminals;
(e) restaurants;
(f) trains and vessels for passenger transport;
(g) other public buildings, rooms and places prescribed through notification by the Ministry of Health.

Chapter V

The Functions and Duties of the Ministry of Health

8. The functions and duties of the Ministry of Health relating to the control of smoking and consumption of tobacco product are as follows:

(a) implementing the policies and guidelines laid down by the Central Board;
(b) implementing the works of control of smoking and consumption of tobacco product in accordance with the objectives of this Law;
(c) determining the requirements to be arranged at the specific area where smoking is allowed as mentioned in section 7;
(d) determining the caption and marks referring to make known the non-smoking area and specific smoking area;
(e) determining the caption of warning in Myanmar language, to be mentioned on the package of cigar that smoking can seriously affect health and other necessary warnings;
(f) arranging and carrying out counselling and treatment for cessation of smoking and consumption of tobacco product;
(g) in performing the functions of the control of smoking and consumption of tobacco product, communicating and coordinating with the relevant government departments and organizations, international organizations, regional organizations and local and foreign non-governmental organizations;
(h) laying down and carrying out the necessary arrangements to enable implementing effectively the measures for control of smoking and consumption of tobacco product;
(i) submitting to the Central Board the report of actions in respect of the control of smoking and consumption of tobacco product.

Chapter VI

Functions and Duties of Person-in-charge

9. The person-in-charge shall:

- (a) keep the caption and mark referring that it is a non-smoking area at the place mentioned in section 6 in accordance with the stipulations.
- (b) arrange the specific place where smoking is allowed as mentioned in section 7, and keep the caption and mark also referring that it is a specific place where smoking is allowed, in accordance with the stipulations.
- (c) supervise and carry out measures so that no one shall smoke at the non-smoking area.
- (d) accept the inspection when the supervisory body comes to the place for which he is responsible.

Chapter VII Actions taken by Administrative Means

10. The person-in-charge of any university, degree college, college, institute, school, private tuition class and training school may pass any of the following orders on a person who smokes or holds lighted cigar at the place mentioned in sub-sections (e), (f) and (n) of section 6:

- (a) educating, warning and informing the parents or guardian for the first offence;
- (b) taking action in accordance with the rules and regulations prescribed by the relevant ministry in coordination with the Central Board, for subsequent offences.

Chapter VIII Offences and Penalties

11. Whoever commits any of the following acts to publicize for wide distribution and sale of cigar and tobacco product shall, on conviction, be punished with a fine from a minimum of kyats 20000 to a maximum of kyats 50000, for the first offence and be punished with imprisonment for a term which may extend to 2 years and shall also be liable to a fine from a minimum of kyats 50000 to a maximum of kyats 200000 for second and subsequent offences:

- (a) setting up signboard of advertisement, advertising by drawing, hanging the advertisement, affixing advertisement, distributing pamphlet of advertisement or advertising by other means;
- (b) broadcasting or displaying by radio, film, television and video or by communication system using high technology from the mass media channels;
- (c) describing by publishing in newspapers, journals, magazines and pamphlets or distributing the same;
- (d) distributing free of charge, handing out or giving as present goods containing the label of cigar and tobacco product;
- (e) sponsoring or rendering service to hold athletic game, funfair or exhibition or any welfare activity;
- (f) describing the label of cigar and tobacco product on any personal goods;
- (g) carrying out by any other means.

12. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both:

- (a) obstruction, disturbance, prohibition or commission of assault to any member of Supervisory Body who comes and inspects under this Law;
- (b) obstruction, disturbance, prohibition or commission of assault on the person-in-charge who supervises to prevent smoking at the non-smoking area.

13. Whoever commits any of the following acts shall, on conviction, be punished with a fine from a minimum of kyats 10000 to a maximum of kyats 30000 for the first offence and be punished

with imprisonment for a term which may extend to one year and shall also be liable to a fine from a minimum of kyats 30000 to a maximum of kyats 100000 for second and subsequent offences:

- (a) production, distribution or sale of cigar without mentioning the caption of warning in Myanmar language to be mentioned on the package of cigar that smoking can seriously affect health and other necessary warnings in accordance with the stipulations;
- (b) production of cigar and tobacco product fraudulently mentioning that the toxic chemical potency is less than the amount prescribed by the Central Board in cigar and tobacco production, distribution or sale thereof in spite of knowing such fact mentioned;
- (c) production, distribution or sale of cigar and tobacco product without label for commercial purpose;
- (d) production, distribution or sale of any other goods showing the label of any cigar and tobacco product;
- (e) production, distribution or sale of toys, edibles or wares made in the form of cigar.

14. Whoever commits any of the following acts shall, on conviction, be punished with a fine from a minimum of kyats 10000 to a maximum of kyats 30000 for the first offence and be punished with imprisonment for a term which may extend to one year and shall also be liable to a fine from a minimum of kyats 30000 to a maximum of kyats 100000 for second and subsequent offences:

- (a) selling cigar within the compound and within 100 yards from the compound of a school;
- (b) giving in addition, giving as present or jointly giving directly or indirectly, any cigar and tobacco products in distributing or selling any goods, or any article in distributing or selling cigar and tobacco products;
- (c) selling the cigar by vending machine;
- (d) selling or giving cigar to a person who has not attained the age of eighteen;
- (e) employing a person who has not attained the age of eighteen in distributing or selling cigar;
- (f) exchanging the cigar with any goods from a person who has not attained the age of eighteen;
- (g) destroying the caption and mark showing the place where smoking is not allowed or where smoking is allowed.

15. Whoever commits any of the following acts shall, on conviction, be punished with a fine from a minimum of kyats 1000 to a maximum of kyats 3000 for the first offence and be punished with a fine from a minimum of kyats 3000 to a maximum of kyats 10000 for second and subsequent offences:

- (a) sale of cigarette singly or in a package containing less than 20 to enable easy purchase and smoking;
- (b) if being a vendor of cigar, fails to mention conspicuously at the place of sale, the caption of warning in Myanmar language that smoking can seriously affect health;
- (c) if being a vendor of cigar, fails to mention conspicuously at the place of sale, the caption informing in Myanmar language that sale is not made to a person who has not attained the age of eighteen.

16. Any person-in-charge who fails to comply with any duty contained in section 9 shall, on conviction, be punished with a fine from a minimum of kyats 1000 to a maximum of kyats 3000 for the first offence and be punished with a fine from a minimum of kyats 3000 to a maximum of kyats 10000 for the second and subsequent offences.

17. Whoever commits smoking or holding lighted cigar in any non-smoking area under sections 6 and 7, except places prescribed in sub-sections (e), (f) and (n) of section 6 shall, on conviction, be punished with a fine from a minimum of kyats 1000 to a maximum of kyats 5000.

Chapter IX
Miscellaneous

18.

(a) Offences contained in Chapter VIII of this Law are determined as cognizable offences.

(b) The responsible Police Officer concerned shall cause the person apprehended under section 17 to give a surety on a personal bond or other appropriate bond to appear before the relevant Court on the appointed day.

19. In implementing the provisions of this Law:

(a) the Ministry of Health may, with the approval of the Government, issue necessary rules and procedures;

(b) the Ministry of Health and relevant ministries may issue necessary notifications, orders and directives and the Department of Health may issue necessary orders and directives.

20. The Prohibition of Smoking at the Entertainment Buildings Act, 1959 is hereby repealed.

(Sd.) Than Shwe
Senior General
Chairman

Source: The New Light of Myanmar, Friday, 5 May 2006