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Population

Tobacco Products (Control and Regularization) Regulation – 2068 [2011 AD]

Government of Nepal has formulated following rules while exercising the rights given by Clause 27 of Tobacco Products (Control and Regulation) Act - 2068 [2011 AD].

1. **Short title and commencement:** (1) The name of these rules shall be “Tobacco Products (Control and Regulatory) Regulation - 2068 [2011 AD]”.
(2) This regulation shall come into force immediately.
2. **Definition:** Unless the subject or context means otherwise, in this regularion:-
“Act” shall mean Tobacco Products (Control and Regularization) Act - 2068 [2011 AD].

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3. Points to be considered while designating the area for smoking and consuming tobacco:

(1) The manager of Tourism Standard Hotel may designate some place in an open area, with minimum movement of people, outside the hotel building in a way that would not harm the people who do not smoke or consume tobacco.

However, while making such a provision, the smoking area should be farther from the main door of entrance and windows; and proper arrangements shall be made to prevent the smoke and the odor due to smoke to entering inside through air.

Explanation: For the purpose of this rule, “**Tourism Standard Hotel**” shall mean any hotels which are registered under Tourism Act – 2035 [1978 AD].

(2) The fundamental things that a Manager should maintain as per the Sub - clause (3) under the Clause 4 of the Act while designating a smoking zone in a prison and an airport are as follows:

(a) A room for smoking shall be constructed with a provision of automatic door that remains closed at all times.

(b) The arrangement shall be made for the direct exit of smoke produced due to smoking.

(c) The rooms shall be prepared in such a way where as far as possible, there will not be places for more than one person for smoking or consuming tobacco.

(3) If the Tourism Standard Hotel is not be able to provide a separate place for smoking and consuming tobacco as per the Sub Clause (1) due to lack of ample space, an arrangement may be made according to the Sub Clause (2) in order to make necessary arrangements in a specific place for smoking and consuming tobacco.

(4) In the place designated for smoking and consuming tobacco as per the Sub Clause (1) and (2), no furniture, including tables and chairs shall be kept

(5) The manager shall append a notice displaying “Smoking and consuming tobacco is injurious to health” at a prominent place of such specified areas and rooms designated under Sub Clause (1) and (2) for smoking and consuming tobacco so that it could be easily seen and read.

4. Procedure to be followed while appending the notice:

(1) The manager shall append the notice of the following sizes in the respective public place under him or her that prohibits the smoking and consuming tobacco:

(a) The notice to be appended in the main door of entrance of the building shall be of 30 cm in length and 20 cm in width at the minimum.

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(b) The notice to be appended in the inner door of the building shall be of 20 cm in length and 15 cm in width at the minimum.

(2) In such a notice appended as per the Sub Clause (1), it should also be mentioned that people smoking in places other than the designated ones for smoking and consuming tobacco, would be prosecuted.

5. Matters to include in the packet or wrappers: In addition to the matters specified in the Section (a) and (b) of Sub Clause (1) under the Clause (7) of the Act, the manufacturers shall also mention the facts in the box or packet or wrappers and packaging of tobacco products they manufacture that the tobacco product contains chemical substances such as nitrosamine, benzopyrene, tar, carbondioxide etc..

6. Matters not to be included in the packet or wrappers: In addition to the matters specified in the Sub Clause (2), (3) and (4) under the Clause (7) of the Act, the manufacturers shall not mark, label and use the following matters in the packet and wrappers of tobacco products :-

- (a) The label and trademark of tobacco products shall not be marked or used in a way that would advertise or promote the tobacco products.
- (b) Manufacturers shall not do packaging and labeling of tobacco products in a way that would distort, damage or hide the warning message, symbol and graphics of packets and wrappers of tobacco products.
- (c) Manufacturers shall not use any words or any graphics or symbols that may be misleading or that would give deceitful messages.

7. Size of packet or box: The manufacturers shall prepare box or packet of cigarettes or *bidi* with a capacity of at least 20 sticks of cigarettes or *bidi* in it.

To submit the details: (1) In addition to the particulars as specified in the Sub Clause (1) of clause (8) of the Act, the manufacturer shall also submit an annual report related to the tobacco products to the ministry as per the following particulars before the end of the month of Srawan [31st July] every year:-

- (a) Details about tar and carbon monoxide,
- (b) Details about nitrosamine and benzopyrene,
- (c) Name and address of the manufacturer, and the registration number of the industry.
- (d) Price and the batch number,
- (e) Date of manufacture and expiry date of consumption of the tobacco products.

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(2) The manufacturer of the tobacco product and the person involved in import and export of such shall submit the following details related to the tobacco products that are imported and exported by them within the framework of the Sub Clause (2) of clause (8) of the Act to the ministry before the end of the month of Srawan [31st July] every year.

- (a) The place and the quantity of the product manufactured,
- (b) The place and the quantity of the product imported,
- (c) The place and the quantity of the product exported,
- (d) The details of excise paid.

9. Procedure to add or change the warning message and graphics: (1) The ministry may change the warning message and symbols and graphics as specified under the Clause (9) of the Act within a year.

(2) The warning message and symbols and graphics that are added or changed by the ministry as per the Sub Clause (1) shall be made available to the manufacturers through the Ministry of Industries and they shall be asked to print and label the same in the box, wrappers, packet and parcel of the tobacco products.

10. Can ask for the proof: The inspector or the vendor of tobacco products can ask for appropriate documentary proof of age such as citizenship certificate or date of birth or passport or driving license or voter identity card or national certificate of identity etc. in order to verify the age of the purchaser.

11. Shall put notice board: (1) The vendor shall put a notice board with the following notices in the entrance door of their sales depot at a prominent place that could be seen and read easily.

(a) No tobacco products shall be sold to a person under the age of 18 years, and a person under the age of 18 years shall not be asked to sell any tobacco product.

(b) No tobacco products shall be sold to pregnant women, and pregnant women shall not be asked to sell any tobacco product.

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(2) The manager shall append the notice at various spots of public places related to him or her denoting that the place is prohibited for smoking and consuming tobacco.

(3) The notice under the Sub Clause (1) and (2) shall be of 30 cm in length and 20 cm in width in minimum.

12. Not to keep lighter and matches etc in public places: The manager shall not keep any items that may be used for smoking or consuming tobacco including ashtray, lighter and matches at public places related to him or her.

13. Not to do binding sale and marketing of tobacco products: No one shall include free or binding sales of tobacco products while purchasing any other items.

14. To give report about the sale and marketing and consumption of tobacco products within the prohibited area: If anyone is found to be indulging in smoking and consumption of tobacco products in the prohibited area as designated under the Sub Clause (3) of Clause (11) of the Act, the respective official or person shall immediately stop such activities and report to the manager about the same.

15. The other duties, responsibility and rights of the Inspector: In addition to the duties, responsibilities and rights stated in the Act, the inspector shall also have the following duties, responsibilities and rights :-

(a) To ask the manufacturers to print the warning message and graphics in the box, packet, wrappers and packaging of the tobacco products compulsorily and conduct monitoring of the same.

(b) To take specimen of tobacco products from the place of manufacture or storage or from sale and marketing of the tobacco products.

(c) To stop with immediate effect if there is found any activity of violating the Act or this regulation in the manufacturing or in storage or sale and marketing of the tobacco products.

(d) To send the specimen of tobacco products to the concerned agency for testing and necessary action.

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(e) To give necessary directions to the respective manager of the public places to take action against anyone who is found to be involved in smoking and consuming tobacco in public places against the Act and this regulation.

(f) To stop the marketing and import and export of tobacco products immediately if any tobacco product is found being sold, distributed, imported and or exported failing to meet the standards specified in the Act and this rule; and to give appropriate direction to the respective manufacturer or vendor to sell and get marketing and import and export of only such tobacco products that meets the specifications stated by the Act.

(g) To involve any staff member from other agency or institution under the own leadership during the process of inspection.

(h) To seek necessary support of the staff or officials of the government office, institutions and organizations or local level agency during the process of inspection.

16. Conditions to remove the nominated member: (1) The members of the committee nominated as per the Act may be removed from the position on the following conditions :-

- (a) If a nominated individual remained absent without notice in 3 meetings consequently,
- (b) If a nominated individual does not carry out his or her duty sincerely,
- (c) If a nominated individual lacks the capacity to perform his duties,
- (d) If a nominated individual is found to be smoking or consuming tobacco in a public place,
- (e) If a nominated individual is found to be involved directly or indirectly in the manufacture, import, export or sales and marketing of tobacco products.

(2) Before removing the nominated member according to the Sub Clause (1), a reasonable opportunity shall be given to him or her to provide any necessary clarification.

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17. **The other duties, responsibility and rights of the committee:** In addition to the duties, responsibilities and rights as laid down in the Act, the committee shall also have the following duties, responsibilities and rights :-
- (a) To submit proposals to the government of Nepal in order to formulate the policies to encourage the farmers engaged in tobacco cultivation to shift their farmings to other crops by replacing the tobacco.
 - (b) To coordinate and consult the respective agencies in relation to the control and regularization of tobacco products.
 - (c) To manage the financial operation of the health fund.
 - (d) To form a sub committee as necessary in order to conduct the duties of the committee without trouble.
 - (e) To monitor or get monitored the provisions as laid down in the Act and this rule whether it has been implemented or not.
18. **The amount to be deposited in the health fund:** At least 25% of the total amount raised from the revenue levied from the excise tax upon smoking and tobacco products by Government of Nepal as per the financial act shall be deposited in the health fund.
19. **The usage and expenditure of health fund:** (1) The amount collected in the health fund shall be used in following activities:-
- (a) In prevention, control, diagnosis, treatment and research, and investigation of the diseases caused by smoking and consumption of tobacco.
 - (b) In conducting program for health education and public awareness and services for the control of smoking and tobacco products.
 - (c) In fulfilling the operating cost of the committee.

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(2) The allocations of the total health fund for conducting the activities as per the Sub Clause (1) shall be made as per the following :-

- (a) Seventy Five percent of the amount shall be provided to the government owned hospitals for prevention, control, diagnosis, treatment and research and investigation of the diseases caused by smoking and consumption of tobacco.
- (b) Fifteen percent of the amount shall be provided to the centers and divisions under the ministry involved in conducting programs on health education and public awareness and services for the control of smoking and tobacco products.
- (c) Ten percent of the amount shall be provided to the social agencies and non government hospitals involved in prevention, control, diagnosis, and treatment of the diseases caused by smoking and consumption of tobacco.

(3) An amount as specified by the committee which shall not be more than 0.5 (Zero Point Five) percent of the fund specified in the Section (c) of Sub Clause 2 shall be spent for carrying out administrative functions of the committee.

20. Management and operation of health fund: (1) The amount collected in the health fund shall be deposited by opening an account in any of the 'A' grade commercial bank as specified by the committee.

(2) The operation of the fund account shall be carried out by joint signatures of member secretary of the committee and the person involved in maintaining accounts.

21. The audit of the health fund: The audit of the health fund shall be conducted by the Controller.

22. Designation of powers: Committee may designate some of the rights among the rights conferred to it under the Act or this regulation to the chairperson, vice chairperson, or member or sub committee that is formed within the framework of this regulation, or any other officer level staff as deemed appropriate.

23. Can set up guidelines: The ministry can formulate necessary guidelines remaining within the jurisdiction provided by the Act or this regulation.

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- 24. Cessation and protection:** (1) Health (Smoking and Liquer tax) Fund Regulation – 2051 (1994 AD) has been now ceased.
- (2) Any activities carried under Health (Smoking and Liquer tax) Fund Regulation – 2051 (1994 AD) shall be considered as carried under this regulation.

**By Order,
Dr. Pravin Mishra
Secretary to the Government of Nepal**