Unofficial Translation

Law amending the Tobacco Control Act (implementation of Directive 2014/40/EC and standardised tobacco packs)

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Short Title	Amendment to the Tobacco Act

I

In Act on 9 March 1973 No. 14 concerning protection against tobacco is amended as follows:

§ 2 should read:

Tobacco for the purpose of this act refers to items that can be smoked, sniffed, sucked or chewed consisting entirely or partially of tobacco.

Tobacco equipment for the purpose of this Act refers to the items as its purpose is mainly used in connection with tobacco goods and tobacco substitutes.

Tobacco substitutes for the purpose of this Act refers to products which by its usage corresponds to tobacco products, but do not contain tobacco.

Electronic cigarette for the purpose of this act refers to tobacco substitutes which can be used for consumption of vapour through a nozzle, or part of such a product, including a cartridge, a tank and equipment without the cartridge or tank. Electronic cigarettes can be for single use or for refilling.

The refill container for the purpose of this act refers to a container containing liquid to be used for refilling an electronic cigarette.

Herbal smoke product for the purpose of this Act refers to tobacco substitutes based on plants, herbs or fruit, which can be consumed through a combustion process.

Tobacco imitation for the purpose of this act refers to products which, by their design has a close resemblance with tobacco or tobacco accessories, but do not contain tobacco or tobacco substitutes.

With sales for the purpose of this Act refers to the transfer of tobacco products to the consumer in return for remuneration.

With wholesale for the purpose of this Act refers to the transfer of tobacco products for remuneration which is not covered by paragraph eight.

With cross-border remote selling for the purpose of this Act refers to the sale where the consumer at the time of ordering goods from a retail point of sale is in another country than where the retailing site is established.

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With special business for the purpose of this Act refers to outlets that primarily sell tobacco products, tobacco substitutes or tobacco equipment.

The Ministry may issue regulations regarding the products which should be regarded as tobacco products, tobacco substitutes, tobacco imitations, tobacco equipment, electronic cigarettes and refilling containers, and specific criteria for what constitutes a special business. In cases of doubt, the Ministry may decide the issues with a binding effect.

§ 3, first and second paragraph shall read:

Law applies to the importing, exporting, trade, design and use of tobacco products, tobacco equipment, tobacco substitutes, tobacco imitations and new categories of tobacco and nicotine products.

The law, with the exception of § 28 a, shall not apply to electronic cigarettes and refilling containers covered by the Medicines Act or Medical Devices Act.

Current second paragraph becomes the new third paragraph.

Chapter 2 is repealed.

Chapter 3 heading should read:

Chapter 3. Sale of tobacco products, etc.

§ 17 third subsection shall read:

The Ministry may by regulations make exceptions to the age limits specified in subsections, and make provisions relating to the age limit for import of tobacco products, tobacco substitutes, tobacco imitations, and tobacco equipment.

§ 18 shall read:

§ 18. Prohibition of self service

Self service of tobacco products and tobacco substitutes at outlets for consumers is prohibited.

The prohibition in the first subsection does not apply to specialty shops and outlets for tax-free sales at airports.

§ 19 shall read:

§ 19. Prohibition of sale of self-service vending machines

Sale of tobacco products and tobacco substitutes of self-service vending machines is prohibited. The prohibition does not include solutions where the customer takes out the goods from a vending machine with a prepaid vending machine card.

Cards for vending machines must not be marked with a brand or trade name or other characteristics of the goods, only a neutral writing stating the brand name of the product in question.

Vending machines must not be marked with a brand or trademark or other characteristics, only a neutral written specification

that the device is a vending machine for tobacco or tobacco substitutes.

The Ministry may issue regulations to implement and supplement these provisions.

§ 21 shall read:

§ 21. Prohibition on trade at a discount

It is forbidden to give a special discount on the sale of tobacco products and tobacco substitutes to the consumer.

New § 21a shall read:

§ 21 a. Registration scheme for remote selling

It is prohibited to engage in remote selling of tobacco products, electronic cigarettes and refilling containers, from or in Norway, without registration with the Directorate of Health.

It is forbidden to hand over goods as mentioned in the first paragraph to consumers in Norway unless the business is registered as a dispenser with the Directorate of Health.

It is forbidden to engage in remote sale from Norway to consumers located in EEA countries that have bans on remote selling.

The Ministry may issue further provisions for the implementation of the registration system for remote sales, including requirements for registration, a local representative, dispenses, age control and charges.

The Ministry may issue further provisions on private imports of tobacco products, electronic cigarettes and refilling containers, including quantitative limits.

§ 22 headline should read:

Prohibition of advertising

§ 22 first paragraph should read:

All forms of advertising of tobacco products is prohibited.

§ 22 fifth and new sixth paragraph should read:

This provision shall apply correspondingly to tobacco substitutes, tobacco imitations, and tobacco equipment.

The Ministry may issue regulations to implement and supplement these provisions, as well as exemptions from them.

§ 23 headline should read:

Prohibition of sponsorship

§ 23, second paragraph should read:

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Tobacco sponsorship for the purpose of this Act refers to any public or private contribution to an event, a business or an individual with the intention or the direct or indirect action to promote the sale of tobacco or tobacco substitutes.

§ 24 shall read:

§ 24. Ban on visible display at outlets

Visible display of tobacco products at points of sale is prohibited. The same applies to tobacco equipment, tobacco imitations, tobacco substitutes and cards for vending machines that give customers access to retrieve such goods from a vending machine.

The prohibition in the first subsection does not apply to specialty shops.

Neutral information about the price and which goods are sold on site may be given at the outlet.

The Ministry may issue regulations to implement and supplement these provisions and make exemptions from them.

Chapter 5 headline should read:

Chapter 5. Specific prohibition of tobacco use, etc.

New § 28a shall read:

§ 28 a. The use of electronic cigarettes

The provisions of this chapter shall apply correspondingly to the use of electronic cigarettes.

§ 29 first paragraph should read:

The Municipality will oversee the rules and pursuant to §§ 25, 26, first paragraph, 27 first and second paragraph and 28 a, are observed. The Labour Inspection will supervise with regards to the working space.

§ 29 third to the sixth paragraph should read:

PSA supervises that the provisions of and pursuant to §§ 25 and 28 a are adhered to within the remit of PSA in the petroleum activities in accordance with the employment law. Maritime authorities monitor compliance with the provisions of and pursuant to §§ 25 and 28 a, are adhered to on ships and vessels and offshore units. In its supervisory authority, said authorities using corresponding means so they have the appropriate standards of health conditions and working environment on ships and installations in the petroleum industry.

The Defence staff supervises that the provisions of and pursuant to §§ 25 and 28 a, are adhered to on vessels in the Armed Forces.

The Governor supervises that the provisions of and pursuant to §§ 25, 26, 27 and 28 a, are adhered to on Svalbard. The Governor may delegate to the Longyearbyen local council to oversee Longyearbyen.

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The supervisory authority may in special cases, grant exemptions from the rules laid down in or pursuant to §§ 25 and 28 a, and set conditions for any exemption. At workplaces with a working environment committee there should be a statement from the committee attached to the application. At workplaces without a working environment committee there should be a statement from the safety delegate attached to the application.

Chapter 6 heading should read:

Marking and design of tobacco products, etc.

§ 30 shall read:

§ 30. Standardised design of packing and goods

It is prohibited to import into Norway or sell tobacco packs and tobacco products that do not have standardised design pursuant to the provisions stipulated by the Ministry in the regulations. Standardisation can apply, for example, colour, shape, appearance, material and labeling, including the use of trademarks, logos and other elements related to branding.

The Ministry may issue regulations prescribing requirements for corresponding standardisation of tobacco equipment and tobacco substitutes, and make exceptions for certain product categories. The Ministry may issue regulations setting limits on the types of outlets that can sell goods that are waived from the standardisation requirement.

New § 30a shall read:

§ 30 a. Health Warning and product presentation

It is prohibited to import into Norway or sell tobacco products, electronic cigarettes and refilling containers and herbal smoking products, which are not marked with the health warning.

It is prohibited to import into Norway or sell tobacco products, herbal smoking products, electronic cigarettes or refilling containers marked with the elements, including text, names, trademarks, symbols, illustrations or other signs, which

a) promote or encourage the user by giving a misleading impression of the product characteristics, health effects, risk or discharge,
b) includes information about the amount of nicotine, tar or carbon monoxide,
c) gives the impression that a particular product is less harmful than other or vitalising, energising, healing, rejuvenating, natural, ecological qualities or other health or lifestyle benefits,
d) refers to taste, smell or other additives or the absence thereof,
e) is similar to a food or cosmetic or
f) gives the impression that a product has environmental or economic benefits.

The provisions of the first subsections do not apply to nicotine-free disposable electronic cigarettes and nicotine-free refilling containers. The ban on information about the nicotine content in the second subsection b, and flavourings in second subsection d shall not apply to electronic cigarettes and refilling containers. Second subsection letter d and letter f does not apply to herbal smoking products, but it still cannot be stated that the product is free of additives or flavorings.

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The Ministry may issue further regulations to supplement and implement the requirements of subsections and make exceptions to them.

§ 31 first paragraph should read:

It is prohibited to import into Norway or sell cases, boxes, covers, wraps and any other product which is intended in whole or in part to conceal or disguise the health warnings in § 30 first paragraph.

§ 32 shall read:

§ 32. Tobacco goods content and emissions

It is prohibited to import into Norway or sell cigarettes and rolling tobacco with a characteristic taste. With characteristic flavour means a clearly discernible odour or flavour other than tobacco, as a result of an additive or a combination of additives, such as fruit, spices, herbs, alcohol, candy, menthol or vanilla, and that is noticeable before or during consumption of the goods. The Ministry may issue supplementary regulations, including whether the proceedings for the assessment of whether a product is considered to have a characteristic flavour, and grant exemptions from the ban.

The Ministry may issue regulations on the contents of tobacco products and tobacco substitutes, including the prohibition of certain types of additives, maximum limits for content and emissions, as well as the methods and control of emissions measurements. The same applies to tobacco goods components including filter paper, capsules, etc.

The Ministry may issue regulations prescribing fees for the authorities' efforts and control of ingredients and emissions measurements.

§ 33 shall read:

§ 33. Minimum Size of the packages of tobacco products

The Ministry may issue regulations on minimum weight and minimum number of tobacco items per single package that can be sold in retailing.

§ 34 first paragraph should read:

Any kind of testing of tobacco products and tobacco substitutes and packs by consumers is prohibited.

New section 6A shall be added:

Chapter 6A. Electronic cigarettes, herbal smoking products and new tobacco products

§ 34 a. Registration, quality and safety of electronic cigarettes, etc.

It is prohibited to import into Norway or sell electronic cigarettes and refilling containers that are not registered with the Norwegian Medicines Agency.

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Manufacturers and importers of electronic cigarettes and refilling containers should apply to have their products registered at least six months before the planned introduction on the Norwegian market. For any substantial modification, the product must be registered again.

The Ministry may issue further regulations on the implementation of the registration requirement, disclosure of information received as well as fee and fee to cover expenses relating to the registration and supervision.

The Ministry may issue further provisions on standards of product quality, safety, design and instruction manual.

§ 34 b. Harmful and unwanted effects of electronic cigarettes etc.

Manufacturers, importers and distributors of electronic cigarettes and refilling containers shall have a system for collecting information on all believed harmful, or undesirable effects of the product on human health.

Manufacturers, importers and distributors who have reason to believe that electronic cigarettes or refilling containers that are in their possession, are planned or are placed on the market, are not secure or of good quality or do not meet the provisions of the Act, shall immediately take steps to correct the error, withdraw the product from the market or recall it. The supervisory authority where the product is being planned or is placed on the market shall be notified immediately.

The Ministry may issue further regulations on the implementation of the provisions, including measures and notification obligations.

§ 34 c. Market monitoring of electronic cigarettes, etc.

Manufacturers and importers of electronic cigarettes and refilling containers shall report annually on sales volume, consumer preferences, sales manner and summary of market research.

The Ministry may issue further provisions for the implementation of the reporting obligation and the market monitoring.

§ 34 d. Approval for new tobacco and nicotine products

It is prohibited to import into Norway or sell new tobacco or nicotine products unless the product is approved by the Agency.

With new tobacco and nicotine products means products which are placed on the market after 19th of May 2014 and who do not fall under the following categories: cigarettes, rolling tobacco, pipe tobacco, water pipe tobacco, cigars, cigarillos, chewing tobacco, nose tobacco or snuff.

The Ministry may issue further provisions on the conditions for approval, necessary documentation, requirements for research, reporting requirements and fees for approval.

Chapter 7 heading should read:

Chapter 7. Supervision and reactions to violations

§ 35 shall read:

§ 35. Supervisory Responsibilities

The Health Agency supervises the provisions of §§ 19 to 24, 30 to 34, 34 c and 34 d, and the regulations issued pursuant to these legal requirements, are observed. The Directorate supervises the requirements of §§ 30 a, and 32 in terms of tobacco products and herbal smoking products.

The Norwegian Medicines Agency supervises that the provisions of §§ 34 a, and 34 b, and regulations issued pursuant to these are adhered to. The same applies to the requirements relating to health warnings and product presentation in § 30 a, when it comes to electronic cigarettes and refilling containers.

The supervisory authority may conduct such an investigation and surveys as it deems necessary to carry out their statutory duties, and gives instructions and takes the decisions necessary for the implementation of the audit.

The Ministry may issue more detailed regulations on the implementation of the audit.

§ 36 should read:

Supervisory authority finds that any of the provisions referred to in § 35 have been infringed, it may impose on rectifying the situation. In the same time a deadline for correction will be set. The supervisory authority may require written confirmation from the offender that the illegal situation has ceased.

§ 36 fourth paragraph should read:

When special reasons for doing so, the supervisory authority may waive all or part of the imposed fine.

§ 37 first paragraph should read:

Decisions by § 36 based on violations of §§ 20, 21, 22, 23, 30, 30 a, 31 and 33 or provisions pursuant thereto, can be appealed to the Market. During the process in the Market Council, the rules of procedure laid down in or pursuant to the Marketing Act applies to the extent they are applicable.

New § 37 a shall read:

§ 37 a. Revocation of registration, approval and ban

The supervisory authorities may refuse registration or approval pursuant to §§ 21a, 34 a, and 34 d, or withdraw this if the business or product does not meet the requirements of this Act or regulations issued pursuant to it.

The supervisory authorities may set ban of certain products or product batches, if they have reason to believe that these do not meet the provisions of the Act or regulations issued pursuant to this Act.

The Ministry may issue further regulations to implement and supplement to the first and second subsections.

Chapter 8 headline shall read:

Chapter 8. Disclosure and reporting obligations

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§ 38 shall read:

§ 38. Disclosure and reporting obligations, etc.

All are required by order of the supervisory authority to provide the information necessary to prevent damage to health from the use of tobacco products or tobacco substitutes or conduct statutory duties.

Manufacturers and importers of tobacco products must report the contents and emissions of tobacco goods to the Directorate, and sales volumes. They must also submit all marketing and consumer research related to ingredients and emissions, and summary of market research in connection with the launch of new products. The same applies to significant changes.

Manufacturers and importers of herbal smoking products shall report the products' ingredients to the Directorate. The same applies when the composition of the ingredients of a product change.

The Directorate may require that the person who manufactures or introducing tobacco products shall present a representative sample of the product or initiate investigations that are needed to assess the product's features and effects. The costs of such investigations shall be shouldered by the manufacturer or importer. The Directorate may decide that the costs be wholly or partly covered by the state.

The Directorate may even initiate such investigations and may order the manufacturer or importer to bear the costs of the investigation. Costs are enforceable by disbursement.

The Ministry may issue further provisions on the implementation of the reporting obligation in second and third paragraphs, including the obligation to conduct studies and prepare reports, and grant exemptions from the reporting requirement.

The Ministry may by regulation require manufacturers and importers to pay fees for the authorities' efforts to receipt, storage, handling, analysis and publication of the information referred to in the second, third and sixth paragraphs.

§ 39 first paragraph should read:

The Ministry may issue regulations on the duty of the supervisory authorities, and any business or person who is involved in the manufacture, import, distribution, and retail sale of tobacco or related products, to provide information for statistical purposes.

New § 40a shall read:

§ 40 a. Disclosure of information

Information received pursuant to §§ 34 a, 34 c, 34 d and 38, may, notwithstanding the statutory duty of confidentiality be disclosed to the Commission, the European Commission and the relevant authorities in other EEA countries.

§ 42 shall read:

§ 42. Prohibition of certain product categories

The Ministry may prohibit the importation and sale of certain product categories on the basis of special circumstances if this is deemed necessary to protect public health.

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§ 43 shall read:

§ 43. Seisures and destruction of illegally imported goods

Tobacco products, tobacco substitutes and tobacco equipment imported in contravention of the provisions of this Act and its regulations, may be withheld, seised and destroyed.

By withholding this the recipient should be notified that the goods can be seised and destroyed. The recipient shall be given the opportunity to comment on the matter within a specified time limit.

If the receiver does not give an opinion within the time limit, the goods may be seised and destroyed. Administration Act §§ 23, 24, 25 and 27 is not applicable where the receiver has not provided feedback within the deadline.

The King may issue regulations on the implementation of this provision, including setting deadlines for providing feedback on the notice given by the second paragraph.

The King may by regulations make exceptions to the right to appeal against decisions made under this provision.

Current §§ 42 and 43 becomes the new §§ 44 and 45.

II

The Act applies from when the King decides.[1] The King may decide that the individual provisions shall come into force at different times and lay down transitional periods.

1 From 1st of April 2017 regarding res. March 31, 2017 no. 415, except § 21a, Chapter 5, §§ 30, 30 a, 32, first paragraph, 34 a to 34 d, 35 second paragraph 37 a, 38 third paragraph, 40a and 43. Chapter 5 and §§ 30, 30 a, first and fourth paragraphs and 43 shall enter into force on 1st of July 2017.