

No. 30 of 1987.

Tobacco Products (Health Control) Act 1987.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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Tobacco Products (Health Control) Act 1987.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Tobacco Products (Health Control) Act 1987,

Being an Act to restrict—

- (a) the manufacture, importation, advertisement, sale, distribution and packaging of tobacco products; and
- (b) the smoking or use of tobacco products; and
- (c) for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act—

- (a) is for the purpose of giving effect to the public interest in public health; and
- (b) contains provisions that regulate or restrict the exercise of certain rights or freedoms referred to in Subdivision III.3.C of the *Constitution*, namely—
 - (i) the freedom of expression conferred by Section 46; and
 - (ii) the right to freedom of information conferred by Section 51; and
- (c) to the extent that the regulation or restriction is necessary for the purpose of giving effect to the public interest referred to in Paragraph (a),

is a law made in accordance with, and to comply with, the requirements of, Section 38 of the *Constitution*.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“advertisement” means advertisement published—

- (a) in a newspaper, magazine or other publication; or
- (b) in a circular, hand bill, poster or other notice; or
- (c) on any goods or any part of those goods; or
- (d) on any label, container or package of any goods; or
- (e) orally or by any means of producing or transmitting light or sound; or
- (f) in any other manner;

“cigarettes” means cigarettes that contain cut or sliced tobacco;

“package” in relation to cigarettes, means a packet, box, case, wrapper, cover or other like receptacle that immediately contains cigarettes;

“sell” includes—

- (a) offer for sale and keep or have in possession for sale; and
- (b) sale by means of a machine or mechanical device used or capable of being used for the purpose of selling or supplying tobacco products without the personal manipulation or attention of the seller or supplier or his employee or other agent at the time of the sale or supply;

“tobacco product” means a tobacco product declared under Section 3;

“this Act” includes any Regulations made under this Act.

3. DECLARATION OF TOBACCO PRODUCTS.

The Minister may, by notice in the National Gazette declare goods, items, substances, articles or products to be tobacco products for the purposes of this Act.

4. EXEMPTIONS.

(1) The Minister may, by notice in the National Gazette, exempt—

- (a) a tobacco product or class of tobacco products specified or described in the notice; or
- (b) for a purpose approved by the Minister, a manufacturer or dealer in tobacco products,

from all of the provisions of this Act or such of the provisions of this Act as are specified or described in the notice.

(2) An exemption under this section may be made unconditionally or subject to such conditions as are specified or described in the notice.

PART II. – RESTRICTION ON IMPORTATION, MANUFACTURE, ETC., OF TOBACCO PRODUCTS.

5. APPOINTED DAY.

The Minister may, by notice in the National Gazette, fix a day to be the appointed day for the purposes of this Part.

6. PROHIBITION ON MANUFACTURE, SALE, DISTRIBUTION, ADVERTISEMENT AND IMPORTATION OF TOBACCO PRODUCTS.

Except in accordance with this Part, a person shall not, on or after the appointed day, manufacture, sell, distribute, advertise or import tobacco products.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months.

7. IMPORTATION, MANUFACTURE AND SALE OF TOBACCO PRODUCTS.

(1) Subject to this section, it is prohibited–

- (a) to import into Papua New Guinea, tobacco products; and
- (b) to manufacture, sell or distribute tobacco products,

which are not marked with a declaration stating the level of harmful substances contained in or released by the tobacco products, and in addition–

- (c) in the case of cigarettes, to sell cigarettes unless they are in package and each package, whether an inner or outer package, in which they are enclosed, is marked in the prescribed manner with the prescribed health warning; and
- (d) in all cases, to sell tobacco products, unless they are marked with such symbol and such text pointing out the risk to health inherent in the consumption of tobacco products, as may be required by the Minister or as prescribed.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months, or both such fine and imprisonment.

(2) The Regulations shall prescribe the conditions relating to the content, weight, filters and packaging of tobacco products.

8. ADVERTISING OF TOBACCO PRODUCTS.

(1) The advertisement of–

- (a) tobacco products; and
- (b) tobacco products included in the advertisement of other goods or services,

is prohibited.

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(2) The Regulations may prescribe further matters for the purposes of this section.

PART III. – MISCELLANEOUS.

9. SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE.

A person shall not sell or hand over–

- (a) tobacco products to a person who is or apparently is under the age of 18 years; or
- (b) imitations of tobacco products which may encourage or induce the use of, or consumption by, a person who is or apparently is under the age of 18 years.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months.

10. RESTRICTION ON USE OF TOBACCO PRODUCTS IN DECLARED PLACES.

(1) The Minister may, by notice in the National Gazette, declare a place, including a part or section of a public transport vehicle, to be a place to which this section applies.

(2) A declaration under Subsection (1) shall specify–

- (a) any limitation on the use of tobacco products; and
- (b) the extent of the limitation (which may extend to prohibition),

in the declared place, and may specify any conditions subject to which the limitation is to operate.

(3) A person who uses tobacco products in a place declared under Subsection (1) otherwise than in compliance with the limitations specified in the declaration, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months.

11. REQUIREMENT TO FURNISH INFORMATION.

(1) All manufacturers and importers of, and dealers in, tobacco products shall furnish such information relating to the manufacture, importation, distribution, sale, advertising, packaging and composition of tobacco products as the Minister or a person authorized for that purpose, requires.

(2) A person who, having possession of or control over any information obtained under Subsection (1), shall not give or communicate the information to any person, except–

- (a) for the purposes of this Act; or
- (b) in proceedings in a court in relation to an offence under this Act.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months.

12. OFFENCES BY CORPORATION.

(1) In this section unless the contrary intention appears—

“**association**” means an association incorporated under the *Associations Incorporation Act 1966*;

“**foundation**” means a body or authority established as such—

- (a) under a trust deed; or
- (b) under an Act.

(2) Subject to Subsection (3), where a body corporate, foundation or association is guilty of an offence under this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar office of the body corporate, foundation or association, or any person who was purporting to act in any such capacity, he, as well as the body corporate, foundation or association, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of Subsection (2), an offence may be sustained only if it is proved that—

- (a) the commission of the offence is for the purpose of furthering the interests of the body corporate, foundation or association; or
- (b) the body corporate, foundation or association, has benefited substantially as the result of the commission of the offence.

13. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, for prescribing fines not exceeding K1,000.00 for an offence against the Regulations.

Office of Legislative Counsel, PNG