



Tonga

**TOBACCO CONTROL (AMENDMENT)
ACT 2014**

Act 17 of 2014



TOBACCO CONTROL (AMENDMENT) ACT 2014

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TOBACCO CONTROL (AMENDMENT) ACT 2014

Act 17 of 2014

AN ACT TO AMEND THE TOBACCO CONTROL ACT 2000

I assent,
TUPOU VI,
18th February 2016.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title

- (1) This Act may be cited as the Tobacco Control (Amendment) Act 2014.
- (2) The Tobacco Control Act 2000, as amended, is in this Act referred to as the Principle Act.

2 Section 2 amended

Section 2 of the Principal Act is amended -

- (a) by deleting the phrase “smoke-free zone” and its definition; and
- (b) in the definition of “workplace” by deleting the words “; but does not include any place of residence occupied by the employer or any employee”.

3 Section 3 amended

Section 3 of the Principal Act is amended -

- (a) in subsection (2) by deleting paragraph (d) and replacing it with the following:

- “(d) the notice referred to in paragraph (c) shall not be displayed so as to be visible from outside the retailer’s place of business.”; and
- (b) by inserting the following new subsection (3):
- “(3) Subsection (1)(a) applies to the display of tobacco products inside a retailer’s place of business.”.

4 Section 6(3) amended

Section 6(3) of the Principal Act is amended by deleting the-

- (a) word “may” and replacing it with the word “shall”;
- (b) word “or other messages” and replacing it with “and other messages”; and
- (c) words “, or include,”.

5 Section 9A(1) amended

Section 9A(1) of the Principal Act is amended by deleting the words “displayed for sale” and replacing it with the words “available for sale”.

6 Section 11(1) amended

Section 11(1) of the Principal Act is amended -

- (a) in paragraph (c), by deleting the words “during school hours”;
- (b) in paragraph (d), by deleting the words “except in designated smoking sections on an aircraft during an international flight or on a ship”;
- (c) by deleting the word “or” at the end of paragraph (h);
- (d) by deleting paragraph (i) and inserting the following new paragraphs:
- “(i) licensed premises;
 - (j) restaurant;
 - (k) church facilities;
 - (l) meeting place, whether the meeting is work related, communal or social;
 - (m) place where kava is being served; or
 - (n) shop or other place where trading is conducted,”.

7 Section 11(2) repealed

Section 11(2) of the Principal Act is hereby repealed.

8 Section 12 repealed

Section 12 of the Principal Act is hereby repealed.

9 Section 13 amended

Section 13 of the Principal Act is amended by deleting the words “a smoke free zone places in which as a smoke free zone or smoking is prohibited a smoke free zone place or places in which is prohibited either permanently or for any period he thinks fit” and replacing it with “smoke free places in which smoking is prohibited either permanently or for any period he thinks fit”.

10 New section 17A inserted

The Principal Act is amended by inserting after section 17 the following new section 17A:

“17A Infringement Notices

- (1) If an authorised officer considers that any person has committed an offence against any of the provisions specified in subsection (7) he may issue to the person a Notice of Infringement in the form set out in Form 1 of the Schedule.
- (2) A person issued with such a notice may –
 - (a) pay the fine set out in the notice, applicable to the offence alleged, to a Magistrate Court; or
 - (b) contest the notice.
- (3) Where a person wishes to contest the notice a summons will be issued for an offence against the relevant provision of this Act.
- (4) The authorised officer who issued a Notice of Infringement under subsection (1) shall lodge the duplicate notice within 48 hours with the Clerk of the Magistrate’s Court for the district.
- (5) The Clerk of the Magistrates Court shall –
 - (a) where the fine is tendered by the person, receive the payment, issue a receipt and file the notice; or
 - (b) where no payment is tendered within 21 days of the date of issue of the notice, issue a summons to the person for the offence alleged.
- (6) The summons shall be heard and determined by a Magistrate.
- (7) The offences to which this section applies, and the fixed penalties attaching thereto are –

Section	Offence	Fixed Penalty
5(1)	Sponsorship	\$3,000

8B	Failure to comply with annual testing for additives or constituents	\$2,000
8C	Failure to submit annual report and returns	\$2,000
9(1)	Sells or supplies tobacco products to persons under 18 years Purchase tobacco products for the use of persons under 18 years Allows a person under 18 years to purchase tobacco product from a vending machine	\$200
9(3)	Failure by retailer to display notice that sale of tobacco product to person under 18 years is prohibited	\$200
9A	Failure to display “Smoking Kills” sign	\$200
9B	Manufacture or sale of product designed for or likely to appeal to young persons under 18 years evoking or likely to evoke an association with a tobacco product or brand	\$2,000
9C(1)	Sale of loose cigarettes or loose tobacco	\$200
9C(2)	Sale, import or distribute cigarettes in a package containing fewer than 20 cigarettes or tobacco in package containing less than 30 grams	\$200
10	Placing or permits to be placed, a vending machine in a place where persons under 18 years are allowed to access	\$200
10B	Sale or distribution of tobacco product in a prohibited place	\$200
10C	Selling tobacco product at a discount	\$200
11(1)	Smoking in public or prohibited places	\$100
11(5)	Failure by person in charge to ensure no smoking takes place or no smoking sign is displayed	\$200
19	Failure to provide information requisitioned by an authorised officer	\$200
22	Failure to comply with any directions given by an authorised officer	\$200

- (8) The offences and their penalties listed in subsection (7) shall apply notwithstanding anything in the relevant section or the specific penalty set out therein.

- (9) If an incident is disposed of under this section by the payment of the sum specified in a Notice of Infringement then it shall be deemed to be an administrative penalty with no offence committed.”.

11 Section 21 amended

Section 21 of the Principal Act is amended by inserting the following new subsection (3):

- “(3) Any person who obstructs an authorised officer in the exercise of his powers under this Act commits an offence.”.

12 New Schedule inserted

The Principal Act is amended by inserting at the end the following new Schedule:

**“SCHEDULE
Form 1
NOTICE OF INFRINGEMENT
(Section 17A)**

Date :
 To :
 of.....
 (address)

An authorised officer alleges that you have committed an offence under the Tobacco Control Act 2000.

If you choose to have this offence dealt with by way of payment of Infringement Notice in accordance with section 17A you may pay the following fixed fine for this offence –

Section :
 Offence:
 Fixed Infringement Notice Fine:

To dispose of this matter in this way, you may sign the declaration below and take this notice together with the sum of \$..... to pay the fine only to the Clerk of the Magistrate’s Court at District within 21 days of today’s date.

OR

If you wish to contest this offence a summons will be issued to you after 21 days and you will be required to attend a court and appear before a Magistrate and if convicted the penalty will be decided by the Magistrate in accordance with the Tobacco Control Act 2000 which may be more than specified on this Infringement Notice.

DECLARATION:

I, (insert name)

.....
 understand that under clause 10 of the Constitution of Tonga I have a right to have this matter dealt with by a court. However, instead of appearing in court, I wish to pay the fine as set out in this notice. I tender this Declaration and the fine of \$..... set by this Notice of Infringement.

Signed.....

Dated

(see overleaf for list of offences and penalties)

TOBACCO CONTROL ACT 2000
FORM 1 - INFRINGEMENT NOTICE
REVERSE SIDE

Section	Offence	Fixed Penalty
5(1)	Sponsorship	3000
8B	Failure to comply with annual testing for additives or constituents	2000
8C	Failure to submit annual report and returns	2000
9(1)	(a) Sells or supplies tobacco products to persons under 18 years (b)Purchase tobacco products for the use of persons under 18 years (c)Allows a person under 18 years to purchase tobacco product from a vending machine	200
9(3)	Failure by retailer to display notice that sale of tobacco product to person under 18 years is prohibited	200
9A	Failure to display "Smoking Kills" sign	200
9B	Manufacture or sale of product designed for or likely to appeal to young persons under 18 years evoking or likely to evoke an association with a tobacco product or brand	2000
9C(1)	Sale of loose cigarettes or loose tobacco	200

9C(2)	Sale, import or distribute cigarettes in a package containing fewer than 20 cigarettes or tobacco in package containing less than 30 grams	200
10	Placing or permits to be placed, a vending machine in a place where persons under 18 years are allowed to access	200
10B	Sale or distribution of tobacco product in a prohibited place	200
10C	Selling tobacco product at a discount	200
11(1)	Smoking in public or prohibited places	100
11(5)	Failure by person in charge to ensure no smoking takes place or no smoking sign is displayed	200
19	Failure to provide information requisitioned by an authorised officer	200
22	Failure to comply with any directions given by an authorised officer	200

Passed by the Legislative Assembly this 28th day of July 2014.