CHAPTER 315

TOBACCO (SMOKING CONTROL) ACT

To make provision in respect of the control of tobacco smoking and for matters connected therewith.

1st April, 1987;
25th April, 1987;
15th June, 1987;
15th September, 1987;
1st January, 1988

ACT XLII of 1986, as amended by Act IX of 2003; and Legal Notice 424 of 2007.

Short title.

1. The short title of this Act is the Tobacco (Smoking Control) Act.

Interpretation.
Amended by: IX. 2003.51.

2. In this Act, unless the context otherwise requires -

"advertising" means any form of commercial communication with the aim of directly or indirectly promoting tobacco products;

"authorised officer" includes any person attached to the Department of Health and duly authorised by the Superintendent to exercise any power of the Superintendent under this Act and includes police officers;

"cigarette" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking;

"information society services" means services within the meaning of Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services as amended by Directive 98/48 EC (published in the Official Journal of the European Union under reference OJ L 204, 21.7.1998 1937 and OJ L 217, 5.8.1998, respectively;

"Minister" means the Minister responsible for public health and includes, to the extent of the authority given, any person authorised in that behalf for any purpose of this Act;

"person" includes a body corporate established by law;

"prescribed" means prescribed by regulations under this Act;

"public place" includes any place to which the public have or are permitted to have access, whether on payment or otherwise;

"publication" includes any article, of any material whatsoever, on which are visible any word, picture or other message, whether printed or otherwise;

"smoking requisites" means requisites for smoking tobacco or intended mainly for the preparation thereof, and includes cigarette rolling machines, cigarette paper or other cigarette covering,

cigarette filters, cigar or cigarette holders, smoker's pipes or pipe cleaners, and other equipment for preparing cigarettes or cigars;

"sponsorship" means any form of public or private contribution to any event, activity or individual with the aim or direct or indirect effect of promoting a tobacco product;

"Superintendent" means the Superintendent of Public Health;

"tobacco" includes cigarettes and smoking mixtures intended as a substitute for tobacco, and includes any tobacco product;

"tobacco product" means products for the purposes of smoking wholly or partly of tobacco.

Applicability.

3. Nothing in this Act shall apply to tobacco or tobacco substitutes as are considered to be medicinal preparations or poisons under the Medical and Kindred Professions Ordinance or any law substituting that Ordinance.

Cap. 31.

Prohibition of advertising. *Amended by: IX. 2003.52.*

4. (1) No person shall on television, radio or other broadcasting medium, or in cinemas, advertise cigarettes, cigars or other forms of tobacco, tobacco product or smoking requisites.

(2) Radio, television and other programmes broadcast by other mediums shall not be sponsored by undertakings whose principal activity is the manufacture or sale of tobacco products.

(3) No tobacco product shall bear the brand name, trade mark, emblem or other distinctive feature of any other product or service, unless the tobacco product has been traded under that brand name, trade mark, emblem or other distinctive feature previously to such other project.

(4) The brand name, trade mark, emblem and any other distinguishing feature of the product or service shall be presented in a manner clearly distinct from that used for the tobacco product.

Exceptions. *Amended by: IX. 2003.55.*

5. The provisions of the last preceding article shall not apply to foreign newspapers or magazines imported into Malta and whose main purpose is not that of advertising the said items or any of them or related to the business of any such items.

Prohibition of free distribution or other method of promotion. *Substituted by: IX. 2003.54.*

6. (1) Advertising in the press and other printed publications shall be limited to publications intended exclusively for professionals in the tobacco trade and to publications which are printed and published in third countries, where those publications are not principally intended for the local market.

(2) Other advertising in the press and other printed publications shall be prohibited.

(3) Advertising that is not permitted in the press and other printed publications shall not be permitted in information society services.

Sponsorship. *Added by: IX. 2003.54.*

6A. (1) The sponsorship of events or activities involving or taking place in more than one Member State of the European Union or otherwise having cross-border effect shall be prohibited.

(2) Any free distribution of tobacco products in the context of

sponsorship of events as are referred to in subarticle (1), having the purpose or the direct or indirect effect of promoting such products, shall be prohibited.

Health warnings to be shown in cinemas. *Amended by: IX. 2003.53.*

7. (1) It shall be the duty of every owner, licensee, machinist or person for the time being purporting to act in any such a capacity in a cinema to ensure that immediately before the beginning of every film show and immediately on the resumption of the show after the interval, a health warning acceptable to the Superintendent is shown on the screen for such time, on each occasion, as shall be prescribed, as also a notice that smoking is prohibited by law in the cinema.

(2) It shall be the duty of every person running a broadcasting station to ensure that before the showing of any film or other broadcast in which smoking or any of the items mentioned in article 4, are shown or mentioned, to broadcast immediately before the film show or other such programme, a health warning as is referred to in subarticle (1).

Health warnings. *Substituted by: IX. 2003.56.*

8. (1) Each packet of cigarettes and any other tobacco product imported, sold, distributed or supplied, by way of compensation or otherwise, shall contain such information including information as to the ingredients and quantities thereof.

(2) For the purpose of subarticle (1) and for any other purpose of this Act, the Superintendent may request manufacturers and importers of cigarettes and tobacco products to submit a list of all ingredients and the quantities thereof as are used in the manufacture of such cigarette or tobacco products.

Regulations. *Substituted by: IX. 2003.56.*

9. The Minister may make regulations for the better carrying out of the provisions of this Act and for reducing harm resulting from the consumption of tobacco or tobacco products, and in particular and without prejudice to the generality of that power, may make regulations for all or any other following purposes:

(*a*) to prescribe that health warnings as are referred to in article 10 shall be affixed in prominent positions in any public place and inside any vehicle licensed or used for public transport, and that it shall be the duty of the licensee and the driver, as the case may be, to comply with such regulation;

(*b*) to prescribe the maximum permissible tar, nicotine and other content which cigarettes or other forms of tobacco or tobacco products may contain, and the maximum yield of any such substances which may be obtained therefrom;

(*c*) to prescribe the conditions under which the sale or distribution of cigarettes, cigars or other tobacco products shall be prohibited or restricted;

(*d*) to prohibit or control any advertisement directly or indirectly connected with tobacco or with tobacco smoking;

(*e*) to control the number of cigarettes which may be offered for sale as any one retail packet and to prohibit the sale of single cigarettes:

Provided that the Minister shall not make regulations prohibiting the sale of cigarette packets containing such number of cigarettes as the cigarette packets as are on sale on the day of the coming into force of this paragraph;

(*f*) to control the presentation of cigarettes, cigars and other tobacco products;

(*g*) to prohibit or control smoking in any place or part thereof; and

(*h*) to prescribe any other matter which may be or is required to be prescribed by this Act.

Health warning to be displayed in shops. *Amended by: IX. 2003.57.*

10. The licensee of any premises from which cigarettes, cigars, tobacco or tobacco products or smoking requisites are sold, shall ensure that a warning notice acceptable to the Superintendent in respect of wording, format, size and presentation, and indicating the dangers to health of smoking, and that such notice be prominently displayed in the premises so as to attract the attention of customers or other persons on the premises and to be easily seen and read by them.

Tar and nicotine content. *Amended by: IX. 2003.58.*

11. (1) No cigarettes may be imported, sold, supplied or distributed by way of compensation or otherwise unless there is printed on the package or on a label affixed thereon, such information as the Superintendent may from time to time by regulations require.

(2) The provisions of subarticle (1) shall not apply to cigarettes, cigars, tobacco or tobacco products intended for export and which are not sold or distributed for consumption in Malta.

Sales to comply with Act and regulations. *Amended by: IX. 2003.59.*

12. (1) No person shall sell any cigarettes or other forms of tobacco or tobacco product which do not comply with the provisions of this Act or of any regulation made hereunder.

(2) No person may sell or authorise the sale of tobacco products in or from -

(*a*) hospital grounds, clinics, pharmacies or any other health care establishments;

(*b*) school grounds, colleges, or any other educational institution;

(*c*) sports or athletic facilities.

Sale to young persons. *Amended by: IX. 2003.60.*

13. (1) No person shall sell, supply or distribute by way of compensation or otherwise, any cigarettes, cigars, tobacco, tobacco products or smoking requisites to any person who is under the age of eighteen years, or in any manner induce such person to smoke.

(2) No cigarettes, cigars, tobacco or tobacco product may be sold from automatic sales machines except where such machines are kept under supervision.

(3) It shall be the responsibility of any person during such time as he is responsible for or has the control of the premises in which any such sales machine is kept to ensure that no person under eighteen years of age shall make use of such machine.

Prohibition of smoking in certain premises and public transport. *Amended by: IX. 2003.61.*

14. (1) No person shall smoke any cigarette, cigar, tobacco or tobacco product on any public transport, in any cinema, theatre, hospital, clinic or other health institution, or in any television studio in any debate, discussion or other programme broadcast locally for public viewing whether live or pre-recorded; or in any other place or establishment or part thereof as the Minister may from time to time prescribe; nor shall any person smoke any such item in any classroom, corridor, yard or appurtenance of a school, day home or similar premises used by children under eighteen years of age.

For the purposes of this subarticle "school" includes a kindergarten, nursery school or similar premises.

(2) It shall be the duty of the person in charge of any premises mentioned in subarticle (1), and of the driver and conductor of any public transport, to ensure that an appropriate sign or notice is put up in a prominent place or places as the case may require, so as to attract attention that smoking is prohibited, and it shall also be the duty of any such person to ensure that no smoking takes place on the premises or public transport, as the case may be.

Sale, etc., of sweets, etc., in cigarette form.

15. No person shall import, manufacture, sell, supply or distribute by way of compensation or otherwise any sweets, confectionery or toys in the form of cigarettes, cigars or smoker's pipe.

Food hygiene.

16. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law prohibiting or restricting the smoking of tobacco for reasons of food hygiene.

Offence by body or association.

17. Where an offence under or against any provision of this Act, is committed by a company or an association or other body of persons or a body corporate established by law, every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of such company, association or other body of persons or a body corporate established by law or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Offences and penalties. *Amended by: IX. 2003.62; L.N. 424 of 2007.*

18. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of any regulations made under this Act shall be guilty of an offence against this Act.

(2) Any person guilty of an offence against this Act or against any regulations made under this Act, shall, without prejudice to his liability under any other law, be liable, on a first conviction, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), and

where the act or omission constituting the offence subsists for more than a day, the Court shall in addition impose a fine (*multa*) of not less than twenty-three euro and twenty-nine cents (23.29) and not more than one hundred and sixteen euro and forty-seven cents (116.47) for each day in which such act or omission subsists, and on a second or subsequently conviction, in addition to such fines, and, at the request of the prosecution, to imprisonment for a term not exceeding three months, and to suspension of the licence of the premises or public transport means where the offence took place, for a period of not less than one week and not exceeding one month.

Committee on Smoking and Health. *Amended by: IX. 2003.63.*

19. (1) There shall be a Committee, to be known as the Committee on Smoking and Health, hereinafter referred to as the Committee, which shall be composed of:

(*a*) the Superintendent of Public Health, or his representative, as Chairman;

(*b*) the Director of Education or his representative;

(*c*) the Secretary, Ministry of finance or his representative;

(*d*) the Director of Health Promotion, or his representative;

(*e*) five members appointed by the Minister of Health as follows:

(i) a health promotion officer from the Department of Health;

(ii) one member of a Consumer Association;

(iii) one member from among the voluntary organization interested in the reduction of the risks to health resulting from smoking; and

(iv) two other members.

(2) The members mentioned in subarticle (1)(*e*) shall be appointed for such term and under such conditions as set out in their respective letter of appointment.

(3) The Minister shall appoint a public officer to be Secretary to the Committee.

(4) It shall be the duty of this Committee to advise the Minister on any measure, including legislation, which may be necessary or expedient to reduce the risk to health arising from the consumption of tobacco or tobacco products and to co-ordinate and promote activities related to the prevention and control of smoking of such items.

(5) Save as provided in this Act, the Committee may act notwithstanding any vacancy in its membership and may regulate its own procedure.