

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)*

Enacted by ACT XLII of 1986.

1. This Act may be cited as the Tobacco (Smoking Control) Act. Short title.
2. (1) In this Act, unless the context otherwise requires - Interpretation.
- "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;
- "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;
- "Superintendent" means the Superintendent of Public Health;
- "tobacco" includes cigarettes and smoking mixtures intended as a substitute for tobacco.
- (2) For the purposes of the provisions of this Act - Interpretation of advertisement.
- (a) "advertisement" includes any direct or indirect promotion of the sale of any item referred to in section 4 of this Act, by any notice, circular, pamphlet, brochure, programme, sample or other material or means, whether distributed free or sold to the public, or by any word, picture or message on any package,

*See section 1 of the Act as originally enacted, part of which has been omitted under the Statute Law Revision Act, 1980, and Legal Notice 27 of 1987.

wrapper or label of any such item, and also includes special displays, discount coupons and gift coupons or points, premiums, special sales, loss-leader and tie-in sales, but does not include a price list or such information on any such package, wrapper or label as is necessary for indicating the contents and their nature, brand or trade name, name and address of the manufacturer, and the price, or such information as may be required by any law or regulation;

- (b) any advertisement containing or consisting in a brand name used in the sale of any of the items referred to in section 4 of this Act, or a trade name of any person manufacturing any such item, in either case in Malta, shall be deemed to be an advertisement of such items even if no mention is made therein of such items, or mention is made therein of services or products other than those items;
- (c) any pricing policy and practice intended to sell any such item at a lower price on a long term basis shall not be deemed to be an advertisement for the purposes of this Act;
- (d) any advertisement which the Minister, after consulting the Committee on Smoking and Health, prescribes as exempted from being an advertisement, shall not be deemed to be an advertisement for the purposes of this Act.

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.

4. 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.

Health warnings to be shown in cinemas.

5. (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 section 4 of this Act, are shown or mentioned, to broadcast immediately before the film show or other such programme, a health warning as is referred to in subsection (1) of this section.

Health warnings in advertisements.

6. No person shall advertise for sale any of the items mentioned in section 4 of this Act, in any newspaper, magazine or other publication, or promote by distribution of leaflets, by posters,

canopies, illuminated signs, or billboards, the sale or supply of such items, unless the advertisements, leaflets, posters, canopies, illuminated signs, or billboards include or contain a health warning acceptable to the Superintendent indicating that smoking of tobacco is dangerous to health.

7. The provisions of the last preceding section 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. Exceptions.

8. (1) Every package of cigarettes imported, sold, distributed or supplied, by way of compensation or otherwise, shall contain a health warning on the outside of the package with a clear message in one of the official languages of Malta, and acceptable to the Superintendent, indicating that smoking of tobacco is dangerous to health. Health warning on packages.

(2) The health warning referred to in subsection (1) of this section shall be printed clearly and be of a reasonable size as to be prominently and easily legible taking into consideration the size and the colour background of the package, to the satisfaction of the Superintendent.

(3) No other wording on any such package or in any medium in outlets where cigarettes, cigars, tobacco or tobacco products are sold shall be used so as to mislead or tend to mislead the public on the concept of the danger and harm which tobacco may cause to health.

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

9. The Minister may make regulations for reducing the risks to human health resulting from 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 of the following purposes: Regulations.

- (a) to prohibit the advertisement or other promotion of the sale of cigarettes, cigars or other forms of tobacco, tobacco products or smoking requisites, in newspapers, magazines or other publications, other than as stated in section 7 of this Act;
- (b) to prescribe the contents and format of any health warning required to be shown, affixed or displayed by this Act on any medium or thing whatsoever, as well as the frequency and the times at which any such warning shall be changed or rotated;
- (c) to extend the provisions of sections 8 and 11 of this Act to other forms of tobacco products;
- (d) to prescribe that health warnings as are referred to in section 10 of this Act 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;

- (e) 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;
- (f) to prescribe the conditions under which the sale or distribution of cigarettes, cigars or other tobacco product shall be prohibited or restricted inside hospitals, clinics and other health institutions;
- (g) to prohibit or control any advertisement directly or indirectly connected with tobacco or with tobacco smoking;
- (h) 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;

- (i) to control the size, weight and presentation of cigarettes, cigars and other tobacco products;
- (j) to prohibit or control smoking in any place;
- (k) to prescribe any other matter which may be or is required to be prescribed by this Act;
- (l) to prescribe any other matter which may appear to the Minister necessary or expedient for the better carrying out of the provisions of this Act for securing the health of the public.

Health warning to be displayed in shops.

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 language, 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.

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, a correct declaration of the content of tar and nicotine in each cigarette.

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

12. 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.

Sales to comply with Act and regulations.

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 sixteen years, or in any manner induce such person to smoke.

Sale to young persons.

(2) No cigarettes, cigars, tobacco or tobacco product may be sold from automatic sales machines except in restaurants and other establishments in respect of which there exists a valid licence to serve alcoholic beverages on the premises, or in other places in which sales from 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 sixteen years of age shall make use of such machine.

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; 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 sixteen years of age.

Prohibition of smoking in certain premises and public transport.

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

(2) The provisions of the preceding subsection shall not apply -

- (a) to patients or inmates of a hospital or clinic, in respect of any area in such premises designated by the Superintendent as an area wherein smoking by patients or inmates is permitted; and
- (b) to persons working in a hospital, clinic, school, day home or similar premises, in respect of any area in such premises approved by the Superintendent as a smoking area.

(3) It shall be the duty of the person in charge of any premises mentioned in subsection (1) of this section, 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.

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.

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

16. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law prohibiting or

Food hygiene.

- 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. **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 first conviction, to a fine (*multa*) not exceeding five hundred liri, 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 two liri and not more than fifty liri for each day in which such act or omission subsists, and on a second or subsequent conviction, to imprisonment for a term not exceeding three months, in addition to such fines, and, at the request of the prosecution, to suspension of the licence of the premises or public transport where the offence took place, for a period not exceeding one month.
- Committee on Smoking and Health. **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, as Chairman;
 - (b) the Director of Education or his representative;
 - (c) the Secretary, Ministry of finance or his representative;
 - (d) the Dean of the Faculty of Medicine at the University of Malta; and
 - (e) five members appointed by the Minister of Health as follows:
 - (i) a medical practitioner from the Department of Health engaged on health promotion education;
 - (ii) one member involved in the tobacco industry;
 - (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 paragraph (e) of this section 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.
