



འབྲུག་གི་ཏམ་ཁུ་དམ་འཛིན་བཅའ་ཡིག་དང་སྒྲིག་གཞི་

སྤྱི་ལོ་ ༢༠༡༣ ཅན་མ།

TOBACCO CONTROL RULES AND
REGULATIONS 2013

TABLE OF CONTENTS

INTRODUCTION.....	6
CHAPTER 1	6
PRELIMINARY	6
SHORT TITLE AND COMMENCEMENT.....	6
REPEAL.....	6
CHAPTER 2	7
NON-SMOKING AREAS AND DUTIES OF THE PERSON-IN-CHARGE.....	7
NON-SMOKING AREAS.....	7
POWERS AND FUNCTIONS OF THE PERSON-IN-CHARGE OF ALL NON-SMOKING AREAS.....	7
DUTIES OF THE PERSON-IN-CHARGE PERMITTED TO DESIGNATE SMOKING ROOMS/SPACES.....	8
DUTIES OF THE PERSON-IN-CHARGE OF PUBLIC TRANSPORT.....	8
CHAPTER 3	9
IMPORTATION OF TOBACCO OR TOBACCO PRODUCTS FOR PERSONAL CONSUMPTION.....	9
PERMISSIBLE QUANTITY AND TYPE FOR IMPORTATION FOR PERSONAL CONSUMPTION.....	9
AUTHORIZED PORT OF ENTRY	9
IMPORTATION ON BEHALF OF ANOTHER PERSON.....	10
VALIDITY OF THE RECEIPT OF PAYMENT OF TAX AND DUTIES	10
PAYMENT OF TAXES FOR PERSONAL CONSUMPTION ON IMPORT FROM INDIA.....	10
PAYMENT OF TAXES FOR PERSONAL CONSUMPTION ON IMPORT FROM COUNTRIES OTHER THAN INDIA.....	10
IMPORTATION OF TOBACCO AND TOBACCO PRODUCT BY DIPLOMAT OR CONSULAR.....	10
IMPORTER'S IDENTIFICATION.....	11
IMPORT RECORD	11
CONFISCATION OF EXCESS TOBACCO OR TOBACCO PRODUCT	11
PROOF OF TAX PAYMENT.....	11
MISPLACEMENT OR LOSS OF RECEIPT	11
PROHIBITED TOBACCO AND TOBACCO PRODUCTS	12

SUBMISSION OF QUARTERLY REPORT	13
IMPORTATION BY A MINOR.....	13
CHAPTER 4	14
TOBACCO DEPENDENCE AND CESSATION MEASURES.....	14
CHAPTER 5	16
DEMAND AND SUPPLY REDUCTION COMMITTEE	16
FORMATION OF THE COMMITTEE.....	16
MEETING OF THE COMMITTEE	17
QUORUM	17
FUNCTIONS OF THE COMMITTEE.....	17
RESPONSIBILITY OF THE CHAIRPERSON	18
CHAPTER 6	19
AUTHORIZED OFFICER AND AUTHORITY OF AUTHORIZED OFFICER	19
AUTHORIZED OFFICER.....	19
AUTHORITY OF AUTHORIZED OFFICER	19
AUTHORIZED OFFICER OF THE BHUTAN NARCOTIC CONTROL AGENCY.....	19
CHAPTER 7	21
ROLE OF IMPLEMENTING AGENCIES.....	21
DEPARTMENT OF FOREST AND PARK SERVICES	21
BHUTAN AGRICULTURE AND FOOD REGULATORY AUTHORITY	21
DEPARTMENT OF TRADE.....	21
DEPARTMENT OF REVENUE AND CUSTOMS	21
ROAD SAFETY AND TRANSPORT AUTHORITY	22
BHUTAN INFOCOMM AND MEDIA AUTHORITY	22
ROYAL BHUTAN POLICE	22
SECURITY FORCE.....	24
CHAPTER 8	25
ENFORCEMENT PROCEDURES AND MEASURES	25
COMPLAINT.....	25
ANONYMOUS COMPLAINT	25
PROTECTION OF INFORMANTS AND COMPLAINANTS	25
REWARD TO INFORMER OR COMPLAINANT.....	26
INVESTIGATION.....	26

PROCEDURE FOR SEARCH AND SEIZURE.....	26
SEARCH OF VEHICLE/AIRCRAFT/VESSEL/CONVEYANCE WITHOUT WARRANT	26
SEARCH OF OTHER PREMISES.....	26
STATEMENT FROM THE SUSPECT/ACCUSED.....	27
REMAND ORDER	27
CHARGE SHEET.....	27
PROSECUTION	27
CHAPTER 9	28
PROCEDURE FOR COLLECTION OF FINES.....	28
PAYMENT OF FINES IMPOSED	28
SEIZURE MEMO	28
SEARCH, SEIZURE, ARREST AND INVESTIGATION OF A DIPLOMAT OR CONSULAR.....	29
RETENTION OF SEIZED TOBACCO OR TOBACCO PRODUCT	30
CHAPTER 10	31
DISPOSAL OF TOBACCO AND TOBACCO PRODUCT	31
DISPOSAL COMMITTEE	31
CHAPTER 11	32
FINES AND PENALTIES	32
FINES	32
PENALTIES.....	34
CHAPTER 12	36
MISCELLANEOUS	36
AUTHORITY FOR AMENDMENTS	36
INTERPRETATION.....	36
RULES OF CONSTRUCTION	36
DEFINITION.....	36
ANNEXURE I	39
AUTHORIZED PORT OF ENTRY (DECLARATION POINTS).....	39
ANNEXURE II.....	40
LIST OF REVENUE AND CUSTOMS OFFICES FOR PAYMENT OF TAX AND DUTY OF IMPORTATION OF TOBACCO AND TOBACCO PRODUCTS.....	40
ANNEXURE III	41

INFRINGMENT NOTICE 41

ANNEXURE IV..... 43

**AUTHORIZED AGENCIES TO REALIZE FINES IMPOSED ON VIOLATION OF
ANY PROVISIONS OF THE ACT AND THIS RULE 43**

ANNEXURE V 44

SEIZURE MEMO 44

ANNEXURE VI..... 46

DISPOSAL RECORD 46

ANNEXURE VII 48

HANDING-TAKING OVER OF TOBACCO AND TOBACCO PRODUCTS 48

Introduction

The Tobacco Control Board, in accordance with the powers conferred under Section 57 of the Tobacco Control Act of Bhutan, 2010, hereby frames and approves the Tobacco Control Rules and Regulations, 2013 for effective implementation of the Act as follows:-

CHAPTER 1

PRELIMINARY

Short Title and Commencement

1. This Rules and Regulations shall:
 - a) Be called the Tobacco Control Rules and Regulations 2013;
 - b) Extend to the whole of the Kingdom of Bhutan; and
 - c) Come into force on the 19th Day of 11th Month of Water Female Snake Year of the Bhutanese calendar corresponding to 1st Day of 1st Month of the Year 2013.

Repeal

2. This Rules and Regulations shall repeal Tobacco Control Rules and Regulations, 2011 and any notification, circular, order or any other government directives, issued after the enactment of the Amendment Act, which is inconsistent with these Rules and Regulations.

CHAPTER 2

NON-SMOKING AREAS AND DUTIES OF THE PERSON-IN-CHARGE

Non-Smoking areas

3. In addition to Non-Smoking areas listed under Section 3 (a) to (e) of the Act, as per Section 3(f) of the Act, smoking in any non-smoking area including inside conveyance shall be prohibited.

Powers and functions of the person-in-charge of all non-smoking areas

4. The person-in-charge of the non-smoking area shall:
 - a. Display notices/signs/symbols indicating smoking is prohibited in the area;
 - b. Ensure that the displayed notice is legible and visible;
 - c. Ensure that the notice is written in both Dzongkha and English and is displayed in a prominent place;
 - d. Brief the employee to ensure that no person smokes in the non-smoking area;
 - e. Request the offending person to refrain from smoking, if the person is found smoking in the non-smoking area;
 - f. Demand the offender to leave the place or transport, if the offending person continues to smoke; and
 - g. Report the matter immediately to an authorized officer or law enforcement personnel including the Royal Bhutan Police, if the offender declines to leave or stop smoking.

Duties of the Person-In-Charge permitted to designate smoking rooms/spaces

5. The person-in-charge of the hotels, motels, guesthouses, inns, and lodgings and recreation centers as per section 9 of the Act shall:
 - a) Designate smoking area or declare the entire premise as a non-smoking area; and
 - b) Not designate smoking room/area if it is located within the premises of any government or private institutions or offices.
6. The smoking area of the hotels, motels, guesthouses, inns and lodgings and recreation centers shall:
 - a) Have proper ventilation; and
 - b) Display notice or sign indicating that it's a smoking room/space/ floor.

Duties of the Person-In-Charge of Public Transport

7. In addition to the duties under Section 4, 5, 6, 7, and 8 of the Act and Rule 4, the person-in-charge of public transport shall:
 - a. Verify any baggage loaded in his conveyance;
 - b. Ensure the ownership of the baggage including personal belongings;
 - c. Report any suspicious baggage to the nearest law enforcement official; and
 - d. Maintain record of the sender of any courier if permitted by Bhutan Postal Corporation and Road Safety and Transport Authority, including the name, address and mobile number or such other identification details, irrespective of nature, size or weight of the courier

CHAPTER 3

IMPORTATION OF TOBACCO OR TOBACCO PRODUCTS FOR PERSONAL CONSUMPTION

Permissible quantity and type for importation for personal consumption

8. A person may import tobacco or tobacco products for personal consumption as per section 12 of the Act as amended in 2012, annexure I of the Act as follows:
- a) 300 sticks of cigarettes; or
 - b) 400 sticks of Bidis; or
 - c) 50 pieces of cigar; or
 - d) 250 grams of other tobacco or tobacco products.
9. A person shall be allowed to import only one type of tobacco or tobacco product at a time under Rule 8 of this Rule as authorized by Annexure I of the Act.

Authorized port of entry

10. The entry points into the country as listed under Annexure I of this Rule shall be Authorized Port of Entry into Bhutan. BNCA may revise the list of authorized ports of entry under Annexure I from time to time and inform the general public through notification.
11. A person shall import tobacco or tobacco products for personal consumption only through authorized port of entry as listed under Annexure I of this Rule.
12. Any person importing tobacco or tobacco products for personal consumption through authorized port of entry shall declare the tobacco or tobacco products in her possession at the authorized port of entry to the

Royal Bhutan Police or Customs Officials before crossing the authorized port of entry.

13. Any person importing tobacco or tobacco products for personal consumption shall pay tax and duty at the nearest Regional Revenue and Customs Office as listed under Annexure II of this Rule after declaring the products at the authorized port of entry.

Importation on behalf of another person

14. A person shall not import tobacco or tobacco products on behalf of another person.

Validity of the receipt of payment of tax and duties

15. A proof or receipt of tax and duty payments under Section 13 of the Act shall be issued by the Revenue and Customs Office and this receipt shall be valid only for one month from the date of payment of tax and duty as authorized by Annexure I of the Act.

Payment of taxes for personal consumption on import from India

16. A person importing tobacco and tobacco products originating from India, for personal consumption, shall pay 100 percent sales tax and at such rate as may be revised by the Board from time to time.

Payment of taxes for personal consumption on import from countries other than India

17. A person importing tobacco and tobacco products originating from countries other than India, for personal consumption, shall pay 100 percent sales tax and 100 percent customs duty and at such rate as may be revised by the Board from time to time.

Importation of tobacco and tobacco product by diplomat or consular

18. Notwithstanding anything contained in the Sales Tax, Customs and Excise Rules & Regulations 2000, a diplomat or consular may import tobacco or tobacco products twice the permissible quantity under Section 12, Annexure I of the Act for personal consumption.

19. A diplomat or consular shall be permitted to import only one product at a time.

20. A diplomat or consular shall be exempted from payment of sales tax and customs duty.

Importer's identification

21. At the time of declaration of tobacco or tobacco product, a person shall produce an Identity Card (Citizenship Identity card, Passport, Voter Photo Identity Card) or other relevant document issued by his country.

Import record

22. The Department of Revenue and Customs shall maintain a record of an importer, date of importation, and quantity of tobacco or tobacco products imported and such record shall be made accessible at all entry points of Bhutan.

Confiscation of excess tobacco or tobacco product

23. If a person declare(s) tobacco or tobacco product in excess of the permissible quantity, the Department of Revenue and Customs shall confiscate the excess tobacco or tobacco product during the payment of tax and duty and the confiscated products shall be forwarded to BNCA for disposal in keeping with Rule 90 to 93 of this Rule.

Proof of tax payment

24. In accordance with section 14 of the Act, any person found in possession of tobacco or tobacco products for personal consumption in the area specified under section 3 of the Act or any other place declared by the Board shall, on demand by an authorized officer or law enforcement officer, provide proof of tax and duty payments.

Misplacement or loss of receipt

25. Notwithstanding Rule 24, if a person has genuinely displaced the receipt or proof of payment of tax, he is required to provide relevant document

produced at the authorized port of entry through which he has imported the tobacco or tobacco product including date of importation, name of the authorized port of payment of tax and duties.

26. The authorized officer shall then verify if the person has imported the tobacco or tobacco product after declaration.

Prohibited tobacco and tobacco products

27. A person shall not import tobacco or tobacco products even with declaration or payment of duty if the tobacco or tobacco product:

- a. Does not show the country of origin and health warning on the tobacco or tobacco product;
- b. Promotes by any means that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effect, hazard or emission or any other indication that creates a false impression that a particular tobacco product is less harmful than other tobacco products;
- c. Does not show printed labels displaying the information or relevant constituents and emissions;

28. At the time of declaration at the port of entry, if the tobacco or tobacco product does not fulfill the requirement under Rule 27, the Department of Revenue and Customs shall confiscate the tobacco or tobacco product.

29. If a tobacco or tobacco product fails to fulfill the requirement under sections 15 or 16 or 17 of the Act, import shall be prohibited. The Board shall notify the public that import of such tobacco or tobacco product is prohibited unless the required condition is fulfilled.

Submission of quarterly report

30. The Department of Revenue and Customs shall submit quarterly report on the import of tobacco and tobacco product for personal consumption to Bhutan Narcotic Control Agency.

Importation by a minor

31. A minor shall not import any tobacco or tobacco product even for personal consumption.

CHAPTER 4

TOBACCO DEPENDENCE AND CESSATION MEASURES

32. The method/strategy of cessation of tobacco use may also be incorporated into the existing curriculum/programme for medical and health trainees/workers as per the guideline which may be issued/framed by the Ministry of Health.
33. As per section 23 of the Act, the Tobacco Control Office and the Ministry of Health shall:
- a) Incorporate tobacco cessation service into the primary health-care services;
 - b) Establish easily accessible and free quit-line services; and
 - c) Make Accessibility of low-cost pharmacological therapy.
34. The Tobacco Control Office through Demand and Supply Reduction Committee may but not limited to:
- a. Incorporate diagnosis and treatment of tobacco dependence and counseling services into national health education programme, plans and strategy and develop appropriate comprehensive guidelines;
 - b. Assist in building capacity and collaborate with key stakeholders, such as health-care workers, educators, youth workers and non-governmental organizations to strengthen tobacco cessation activities through behavioral pharmaceutical interventions, advice counseling based on scientific evidence and best practice;
 - c. Implement dissemination and implementation plans, highlighting the importance of all service providers within or outside the health-care sector, by setting an example of not using tobacco.

The plan should be periodically reviewed and updated in light of developing scientific evidence; and

- d. Review and revise the guideline periodically to ensure that they continue to provide effective guidance in implementation of the cessation program and strategy.

CHAPTER 5

DEMAND AND SUPPLY REDUCTION COMMITTEE

Formation of the Committee

35. There shall be a Demand and Supply Reduction Committee comprising of the following members which may be revised from time to time:

- a. Chairperson, Head of Bhutan Narcotic Control Agency, Ex-officio;
- b. Chief Trade Officer, Ex-officio, Internal Trade Division, Department of Trade, Ministry of Economic Affairs;
- c. Collector, Customs and Excise Section, Department of Revenue and Customs, Ministry of Finance;
- d. Chief Program Officer, Non Communicable Diseases(NCD), Department of Public Health, Ministry of Health;
- e. Chief, Registration and Licensing, Road Safety and Transport Authority, Ministry of Information and Communication, ex-officio;
- f. Chief Program Officer, School Programme Division, Department of School Education, Ministry of Education;
- g. A representative from the Security Forces;
- h. Deputy Chief of Police, Crime and Operation, Royal Bhutan Police, Ex-officio;
- i. Member from relevant Civil Society Organizations, nominated by the Civil Society Organization Office; and
- j. Head, Tobacco Control Program, BNCA as member secretary.

Meeting of the Committee

36. The Committee shall meet at least thrice a year, holding one such meeting prior to each Board meeting and additional meetings may be convened as and when required.
37. The secretariat shall plan, coordinate, organize and record minutes of the meeting.
38. The minutes of each meeting shall be dated and signed by the Chairperson within seven working days.
39. In the absence of the Chairperson, the committee shall elect a senior member as the officiating Chairperson.

Quorum

40. The presence of not less than two-third of the total number of members shall constitute a quorum for the meeting of the Committee.

Functions of the Committee

41. The function of the Committee is to:
 - a) Advise and guide the Board in implementing the Act and the regulation, strategy and action plans;
 - b) Assist the Tobacco Control Office in developing, implementing and monitoring the tobacco control activities in coordination with agencies and individuals under the guidance of the Board;
 - c) Assist the Tobacco Control Office in developing guidelines and standards for tobacco control under the guidance of the Board;
 - d) Assist the Tobacco Control Office in acquiring information from all relevant agencies relating to the implementation or enforcement of the provisions of this Act;
 - e) Assist the Tobacco Control Office in developing training materials and in conducting training of trainers for law enforcement personnel, health

worker, media, government service personnel, employer and employee in the private sector;

- f) Assist the law enforcement agency in promoting contact details for public complaint, comment and notification; and
- g) Assist the Tobacco Control Office in cooperating with regional and international intergovernmental organizations and financial and development institutions for technical and financial assistance on research, surveillance and exchange of information.

Responsibility of the Chairperson

42. The Chairperson of the Committee shall:

- a) Be responsible for regular convening of Committee meeting; and
- b) Sign the minutes and report the decision of the Committee to the Board.

CHAPTER 6

AUTHORIZED OFFICER AND AUTHORITY OF AUTHORIZED OFFICER

Authorized Officer

43. The Board shall identify authorized officer in consultation with the head of the following agencies:

- a) The Department of Forest and Park Services, Ministry of Agriculture and Forest;
- b) The Bhutan Agriculture and Food Regulatory Authority, Ministry of Agriculture and Forest;
- c) The Department of Trade, Ministry Economic Affairs;
- d) The Department of Revenue and Customs, Ministry of Finance;
- e) The Road Safety and Transport Authority, Ministry of Information and Communications;
- f) The Bhutan InfoComm and Media Authority;
- g) The Royal Bhutan Police;
- h) The Bhutan Narcotic Control Agency; and
- i) The Security Force of the Government.
- j) Any other agencies designated by BNCA from time to time

Authority of authorized officer

44. The authorized officer may exercise the power conferred under section 43 of the Act, while carrying out his duty.

Authorized Officer of the Bhutan Narcotic Control Agency

45. The Head, Tobacco Control Program, Bhutan Narcotic Control Agency shall:

- a) Coordinate the law enforcement agency and its authorized officer for carrying out the duty as per the provisions of the Act; and

- b) Organize and coordinate periodic joint inspection as per the inspection procedures adopted under this rule.

CHAPTER 7

ROLE OF IMPLEMENTING AGENCIES

Department of Forest and Park Services

46. The Department of Forest and Park Services, Ministry of Agriculture and Forest, shall:

- a) Prohibit cultivation and harvesting of tobacco and tobacco product in any forest areas; and
- b) Check any vehicle/conveyance carrying tobacco plant and its product at the entry points and check posts.

Bhutan Agriculture and Food Regulatory Authority

47. The Bhutan Agriculture and Food Regulatory Authority, Ministry of Agriculture and Forest shall:

- a) Inspect any hotel, motel, inn, lodging and restaurant to implement section 3 of the Act; and
- b) Check any vehicle/conveyance at entry points for tobacco or tobacco products.

Department of Trade

48. In addition to section 34 of the Act, the Department of Trade, Ministry of Economic Affairs shall, at any reasonable time, in accordance with laws, enter and inspect any individual, shop, vendor, market, shopping mall, supermarket, factory, hotel, motel, inn, lodging, restaurant, business center or any other commercial center where he believes tobacco and tobacco product is manufactured, prepared, packaged, stored for distribution or for sale.

Department of Revenue and Customs

49. In addition to section 35 of the Act, the Department of Revenue and Customs, Ministry of Finance shall:

- a) Impose tax on the permissible quantity of tobacco and tobacco products imported;
- b) Ensure that tobacco and tobacco products purported to be imported fulfill the requirement under Rule 27;
- c) Impose tax in accordance with Rule 16 and 17;
- d) Confiscate tobacco and tobacco product in accordance with Rule 28;
- e) Check any conveyance at the entry points; and
- f) Approve and monitor the declaration of tobacco and tobacco products at the authorized port of entry.

Road Safety and Transport Authority

50. In addition to section 40 of the Act, the Road Safety and Transport Authority, Ministry of Information and Communications shall:

- a. Ensure that “no-smoking” sign is displayed as prescribed under Rule 4 in all public transportations.
- b. Enforce section 3 of the Act in public transports.

Bhutan InfoComm and Media Authority

51. The Bhutan InfoComm and Media Authority shall implement sections 18, 19 and 53 of the Act and at any reasonable time enter:

- a. Any entertainment center licensed by the BICMA where tobacco and tobacco products are advertised; and
- b. Any entertainment center under section 3 of the Act where smoking is not allowed.

Royal Bhutan Police

52. In addition to section 38 of the Act, the Royal Bhutan Police shall:

- a) At any reasonable time, in accordance with the laws, enter and inspect any place where he believes tobacco and tobacco product is

manufactured, prepared, packaged, stored for distribution or for sale; any individual, shop, vendor, market, shopping mall, supermarket, factory, hotel, motel, inn, lodging, restaurant, business center or any other place where he believes tobacco and any tobacco products are sold;

- b) At any reasonable time, enter any place with a search warrant that he believes contains/stores tobacco and any tobacco product;
- c) At any check point, open and examine any container or package that he believes contains tobacco and any tobacco product;
- d) At any reasonable time, stop any person with the possession of tobacco and tobacco products and demand for proof of tax and duty payment;
- e) Stop or detain any vehicle/conveyance in which he believes that any tobacco product is being conveyed/imported;
- f) Detain and seize tobacco products for such time as may be necessary or as recommended by the Board;
- g) At any reasonable time, enter any place where any advertisement of the tobacco and tobacco product has been made or is being made;
- h) At any reasonable time, enter any place under section 3 of the Act where smoking is not allowed;
- i) Assist an authorized officer of the relevant agency in execution of his duty as per section 206 of the Royal Bhutan Police Act of Bhutan 2009;
- j) Take custody of a person arrested or detained by any other authorized official of the relevant agency and keep that person under the Police custody in accordance with section 207 of the Royal Bhutan Police Act of Bhutan 2009; and
- k) Assist the relevant agency to complete required legal formality as per section 207 of the Royal Bhutan Police Act of Bhutan 2009.

Security Force

53. The Security Force shall:

- a. Ensure that notices/signs/ symbols prohibiting smoking within the non-smoking areas under the jurisdiction of Security Forces are displayed.
- b. Check vehicle/conveyance governed by the Security Rules at the authorized port of entry if there is suspicion that the conveyance is carrying tobacco and tobacco product;
- c. Implement the provisions of the Act in all the premises/areas under the security forces;
- d. Assist in apprehending any person found smuggling tobacco and tobacco products across the border; and
- e. Implement the provisions of the Act to any uniformed person governed by the Security Rules.

CHAPTER 8

ENFORCEMENT PROCEDURES AND MEASURES

Complaint

54. Any person who witnesses the commission of an offence under the provision of the Act and the Rules and Regulation, may lodge a written complaint in person to any of the following law enforcement agencies:

- a) The Bhutan Narcotic Control Agency ;
- b) The Royal Bhutan Police;
- c) The Department of Trade, Ministry of Economic Affairs ;
- d) The Department of Revenue and Customs, Ministry of Finance;
- e) The Road Safety and Transport Authority, Ministry of Information and Communications;
- f) The Bhutan InfoComm and Media Authority ;
- g) Department of Forest and Park Services, Ministry of Agriculture and Forest; and
- h) Any other relevant agency designated by BNCA.

Anonymous complaint

55. An authorized officer or the relevant agency shall not act on an anonymous complaint.

Protection of informants and complainants

56. The identity of any person lodging complaint or providing information on illegal sale or violation of provisions of the Act and this Rule shall be kept confidential and protected.

57. Any person who reveals the identity of the complainant or informer to the suspect or accused or any person that would undermine his best interest including personal safety, such person shall be liable to pay compensation for any damages caused to the informant or complainant as per the relevant laws.

58. The Royal Court of Justice may summon the complainant or the informer for in camera hearings.

Reward to informer or complainant

59. An informer or complainant may be provided with reward as per the procedures adopted by BNCA.

Investigation

60. If any of the relevant agencies suspects or notices the commission of an offence under the provisions of the Act and the Rule, that agency shall immediately investigate the case.

61. Notwithstanding Rule 60, if a person is arrested under Rule 60, he shall be handed over to the Royal Bhutan Police in accordance with section 207 of the Royal Bhutan Police Act of Bhutan 2009.

Procedure for search and seizure

62. An authorized officer shall exercise power of search and seizure in accordance with section 45 of the Act and relevant provisions of the Civil and Criminal Procedure Code of Bhutan.

Search of vehicle/aircraft/vessel/conveyance without warrant

63. An authorized officer shall search vehicle/aircraft/vessel/conveyance without search warrant in accordance with sections 176 and 178 of the Civil and Criminal Procedure Code of Bhutan.

Search of other premises

64. An authorized officer shall obtain search warrant from the court to conduct search of any other premises not covered by Rule 63.

65. Upon arrest of a suspect, the authorized officer or the relevant agency, with information to the Bhutan Narcotic Control Agency, shall handover the suspect to the Royal Bhutan Police for detention.

Statement from the suspect/accused

66. Upon the arrest of a suspect, the authorized officer or the relevant agency shall be required to take written/recorded statement from the accused/suspect immediately upon the arrest in presence of at least one independent witness and may obtain more statements as and when necessary to establish the facts.

Remand Order

67. The agency responsible for arresting the suspect shall obtain remand order in accordance with the CCPC or request Royal Bhutan Police in writing, to obtain the remand order until case is charged sheeted in the court of law or withdrawn due to lack of locus standi.

68. The Royal Bhutan Police shall produce the person so detained under Rule 67 before the court in accordance with the Civil and Criminal Procedure Code of Bhutan.

Charge Sheet

69. The Royal Bhutan Police or the Office of the Attorney General shall frame the charge sheet and file the petition in the Court of Law as per the Civil and Criminal Procedure Court and other relevant laws.

Prosecution

70. The Royal Bhutan Police or the Office of the Attorney General shall prosecute as per Section 71 of the Royal Bhutan Police Act of Bhutan 2009.
71. After the judgment of the Court becomes final and binding, the agency or prosecution shall inform in writing to Bhutan Narcotic Control Agency for the disposal of the seized tobacco and tobacco products as per Rule 90 to 93 of this Rule.

CHAPTER 9

PROCEDURE FOR COLLECTION OF FINES

Payment of fines imposed

72. If an offender found smoking in non-smoking area is unable to pay fine immediately upon being caught, the offender shall pay the fine within twenty four hours to the authorized agency.
73. Any person found violating the provisions of the Act and Rules except smoking in non-smoking area, liable for fines shall pay the fines within fourteen working days to the authorized agency from the date of issuance of infringement notice.
74. The authorized officer or Joint Inspection Team shall issue an infringement notice as provided in Annexure III of this Rule for violation of provisions which are liable for fines under this Rule and Act and direct the offender to pay the fines imposed to the nearest authorized agencies provided under the Annexure IV.
75. If the imposing law enforcement agency is unable to realize the fines on the spot, he shall direct the accused to pay the fines to the nearest authorized agency provided under annexure IV of this Rule.
76. The authorized officer shall seize any personal identification card including License, CID, VPIC or any other identification documents issued by the Royal Government and return such document upon the realization of the fines imposed.

Seizure Memo

77. The authorized officer shall issue a seizure memo as per the format given in Annexure V, immediately upon seizure of the tobacco and tobacco product except for the tobacco and tobacco product seized by the custom

official at the entry point where custom officials will use their own seizure memo.

78. The authorized officer shall submit a copy of the seizure memo to the Tobacco Control Office within seven working days from the date of seizure.

79. If a team of law enforcement officer carries out the search and seizure, the team leader shall sign the seizure memo. All seizure memos shall be in quadruplicate copies.

80. The seizure memo shall be dispatched as follows:

a. Original Copy shall be retained with law enforcement which seizes the tobacco and tobacco products and later submit it to the prosecutor for production in court of law.

b. Duplicate Copy shall be submitted to BNCA along with the tobacco and tobacco products after the judgment becomes final and binding or before realization of the fines imposed.

c. Triplicate Copy shall be submitted to the agency realizing the fines imposed.

d. Quadruplicate Copy shall be issued to the offender.

81. Handing and taking of tobacco and tobacco products shall be as per the Annexure VII of this Rule.

Search, Seizure, arrest and investigation of a diplomat or consular

82. A diplomatic or a consular with an official document shall enjoy person inviolability and shall not be liable to any form of arrest, detention or investigation or inspection of personal baggage.

83. Notwithstanding Rule 82, if there is credible doubt or suspicion that a diplomat or consular is importing tobacco and tobacco products beyond the permissible quantity under Annexure I of the Act, his/ her personal

baggage shall be subject to inspection at the port of entry in the presence of the diplomatic/Consular agent or his authorized representative.

Retention of seized tobacco or tobacco product

84. The investigating agency/prosecution shall keep the seized tobacco or tobacco product until the judgment of the court has become final and binding as per sections 96.4 and 96.5 of the Civil and Criminal Procedure Code of Bhutan.
85. After the judgment of the Court becomes final and binding, the agency or prosecution shall inform in writing to Bhutan Narcotic Control Agency for disposal of the seized tobacco and tobacco products as per Rule 90 to 93.
86. Any relevant agency or authorized officer shall impose fine as per the provisions of the Act and the Rule, and shall issue a money revenue receipt to the offender and maintain a record of the fines realized.
87. If the Offender refuses to provide the details, he shall be handed over to the Royal Bhutan Police and fine shall be imposed through the court of law.
88. The fines collected under Rule 72 and 73 shall be deposited into the revenue account of the respective/relevant agency within the next working day.
89. If a person trying to bring any tobacco or tobacco product into the country escapes before the law enforcement officer apprehends him and if he is not traceable or apprehended, the respective law enforcement agency shall safe keep the products and inform BNCA in writing.

CHAPTER 10
DISPOSAL OF TOBACCO AND TOBACCO PRODUCT

Disposal Committee

90. There shall be a Disposal Committee, consisting of at least:
- a. One authorized officer of the Bhutan Narcotic Control Agency;
 - b. One authorized officer from the Department of Revenue and Customs;
and
 - c. One representative from the Royal Bhutan Police.
91. The tobacco product confiscated/seized by the authorized officer shall be disposed of by the Disposal Committee in line with the national disposal guideline or any other guideline as may be agreed between the Bhutan Narcotic Control Agency and the National Environment Commission.
92. The Committee shall ensure that disposal of tobacco and tobacco product does not cause harm to the society or environment by using appropriate available technology or method.
93. The Committee shall record the details of tobacco and tobacco products destroyed or disposed as per Annexure VI.

CHAPTER 11

FINES AND PENALTIES

Fines

94. A person smoking in any non-smoking area shall be imposed a fine of Nu.500/- (Five Hundred Ngultrums only) per incident according to section 48 of the Act and shall produce proof of payment of import duty and tax.
95. If a minor is caught smoking in any non-smoking area, the guardian or parent shall be imposed a fine of Nu. 500/- (Five Hundred Ngultrums only) per incident.
96. Any minor imposed fine by any law enforcement agency or the Royal Court of Justice for violation of any provisions of the Act or Rule, the parent or guardian shall pay the fines imposed.
97. If a person-in-charge of the non-smoking area fails to comply with Sections 4, 5, 6, 7, 8, 9, 10 and 49 of the Act and Rule 4, 5 and 6, he shall be imposed a fine of Nu. 10,000/- (Ten Thousand Ngultrums only) per incident.
98. If a person-in-charge of the Public Transport fails to comply with Rule 7, he shall be imposed a fine of :
- a. Nu. 10,000/- (Ten Thousand Ngultrums only) per incident, if the quantity of the tobacco and tobacco products is within the permissible quantity; and
 - b. If the quantity is more than the permissible quantity, he shall be imposed a fine of Nu. 10,000/- (Ten Thousand Ngultrums only) or the calculated amount of the value of the tobacco products confiscated and the total tax evaded on the same, whichever is higher.

99. If any person is found in possession of tobacco and tobacco products without payment of tax and duty which is brought into the country and within the permissible quantity but with more than one type of product shall be imposed a fine of Nu.10,000/- (Ten Thousand Ngultrums only) per type, per incident.
100. If a person is in possession of tobacco and tobacco products within the permissible quantity which is brought into the country without payment of tax for personal consumption as per section 51A (a) of the Act, the person shall be imposed a fine of Nu. 10,000/- (Ten Thousand Ngultrums only) per incident.
101. Any person who provides or permits the use of his receipt of payment of tax and duty of importation of tobacco and tobacco products for personal consumption to any other person for any purpose shall be liable for a fine of Nu.30,000/- (Thirty Thousand Ngultrums only) per incident and shall not be permitted to import tobacco or tobacco products in his name for the next three years from the date of imposing the fines.
102. Any person producing receipt of payment of tax and duty of importation of tobacco and tobacco products other than his own when demanded shall be liable for a fine of Nu.30,000/- (Thirty Thousand Ngultrums only) per incident and shall not be permitted to import tobacco or tobacco products for the next three years from the date of imposing the fines.
103. If a person is in possession of tobacco and tobacco product within the permissible quantity after expiry of the validity of the receipt under Rule 15, the person shall be imposed a fine of Nu.10,000/- (Ten Thousand Ngultrums only) per incident, provided the quantity is within the permissible quantity and only one type of tobacco or tobacco product is reflected in the receipt.

104. If any tobacco or tobacco product is found in any conveyance and if the quantity is within the permissible quantity, the transporter shall be imposed a fine of Nu.10, 000/- (Ten Thousand Ngultrums only) as per Section 51B (a) of the Act.

105. If a person violates section 18(a)(b)(c)(d)(e)(f) or (g) of the Act, he shall be imposed a fine ranging from Nu.1,000/- (One Thousand Ngultrum only) to Nu.36,000/- (Thirty Six Thousand Ngultrums only) per incident.

Penalties

106. If a person engages in sale of tobacco or tobacco products in another person's business license, he shall be prosecuted in accordance with the provisions of the Act, and the license of that business firm shall be suspended for a period of 3 months to 1 year by the relevant agency of the Government.

107. If a person is in possession of tobacco and tobacco products more than the permissible quantity but less than three times the permissible quantity without payment of tax, the person shall be charged with petty misdemeanor as per section 51A(b) of the Act.

108. If a person is found in possession of tobacco and tobacco products more than three times the permissible quantity but less than or equal to four times the permissible quantity, the person shall be charged with misdemeanor as per Section 51A(c) of the Act.

109. If a person is found in possession of tobacco and tobacco products more than four times the permissible quantity, the person shall be charged with fourth degree felony as per Section 51A (d) of the Act.

110. If a person violates Sections 11(a) and (b) of the Act, he shall be charged with felony of fourth degree as per Section 50 of the Act, irrespective of the quantity.
111. If the quantity of any tobacco or tobacco product found in any conveyance is:
- a) More than the permissible quantity but less than three times the permissible quantity, the transporter shall be charged with petty misdemeanor as per Section 51B (b) of the Act, per incident.
 - b) More than three times the permissible quantity but less than or equal to four times the permissible quantity, the transporter shall be charged with misdemeanor as per Section 51B(c) of the Act.
 - c) More than four times the permissible quantity, the transporter shall be charged with felony of fourth degree as per Section 51B(d) of the Act.

CHAPTER 12 MISCELLANEOUS

Authority for Amendments

112. The Tobacco Control Board shall have the powers to amend this Rule and may revise this Rule from time to time as per the requirement of the government.

Interpretation

113. The power to interpret these Rules shall vest with the Bhutan Narcotic Control Agency who may issue such instructions or notifications as may be necessary to give effect to and implement the provisions of these Rules and its interpretation shall be final and binding.

Rules of construction

114. In this Rule, unless the context otherwise indicates, the masculine gender shall include the feminine gender and the singular shall include the plural and vice versa.

Definition

115. In addition to the following terms, unless the context otherwise requires, the words and terms used in this Rule shall have the same meaning as assigned in the Act.

- a. **“Act”** means the Tobacco Control Act of Bhutan 2010 and Tobacco Control (Amendment) Act 2012;
- b. **“Baggage”** means any type of container containing any goods or consignments irrespective of size, shape, weight or nature.

- c. “**Board**” means the Tobacco Control Board;
- d. “**Calculated**” means the total amount of the value of the tobacco product and the total amount of the tax and duties evaded together as formulated below:

Calculated amount	=	<i>Total amount of the value of the tobacco product</i>	+	<i>Total amount of the tax and duties evaded.</i>
----------------------	---	---	---	---

- e. “**Conveyance**” means any mode of transport;
- f. “**Fourth Degree**” means grading of an offence as defined in the Penal Code of Bhutan;
- g. “**Minor**” means any person who is under the age of 18 years;
- h. “**Misdemeanor**” means grading of an offence as defined in the Penal Code of Bhutan;
- i. “**One Month**” means thirty days including the day of issuance of the receipt or any document or official recognition of the offence or event by the law enforcement agency.
- j. “**Public Transport**” means all buses, taxis, aircrafts or such similar passenger transports or any conveyance designated by the Road Safety and Transport Authority as public transport.
- k. “**Rule**” means to this Tobacco Control Rules and Regulation framed by the Board;

1. **“Security Forces”** means uniformed personnel designated by the Royal Bhutan Army and the Royal Body Guard empowered to implement any Act, Rules and Regulations under the purview of RBA and RBG including imposing fines, checking vehicle, search and arrest and detention of a person in violation of laws of the land in Bhutan, under their jurisdiction;
- m. **“Transporter”** means any person who violates section 11(e) of the Act.

ANNEXURE I
AUTHORIZED PORT OF ENTRY (DECLARATION POINTS)

- a) Paro Airport, Customs Declaration Point;
- b) Main gate or pedestrian gates in Phuentsholing;
- c) Main gate or pedestrian gate in Samtse;
- d) Main gate in Gelephu;
- e) Main gate in Samdrupjongkhar;
- f) Any other entries declared by Bhutan Narcotic Control Agency as authorized port of entry, through public notification.

ANNEXURE II

LIST OF REVENUE AND CUSTOMS OFFICES FOR PAYMENT OF TAX AND DUTY OF IMPORTATION OF TOBACCO AND TOBACCO PRODUCTS

- a) Regional Revenue and Customs Office, Paro International Airport;
- b) Regional Revenue and Customs Office, Phuentsholing;
- c) Regional Revenue and Customs Office, Samtse;
- d) Regional Revenue and Customs Office, Gelephu;
- e) Regional Revenue and Customs Office, Samdrupjongkhar;
- f) Any other such offices designated as the authorized port of entry by Department of Revenue and Customs from time to time.

**ANNEXURE III
INFRINGEMENT NOTICE**

This Notice shall be quadruplicate

Notice No.....

Issued under the Authority of Rule 74 of the Tobacco Control Rules and Regulations 2013

- a) Full Name:.....
- b) CID No:.....
- c) License No:.....
- d) Designation:
- e) Name of the Entity:.....
- f) Address:.....
- g) Mobile Number:
- h) Spouse Mobile No.....

Details of the Offence

Contravened Section..... of TCA and Rule noof this Rule.

THE FINES FOR THIS INFRINGEMENT IS Nu..... (In words..... and is payable to theThis notice is delivered personally.

The fine was realized on the spot:

Yes:.....

No:

If no: Any documents or identification items seized from the offender.....

.....

Name of the Law Enforcement Officer:.....

Designation:.....

Agency:.....

Dated Signature:

TERMS AND CONDITIONS

The following terms and conditions shall apply to this Notice

1. Payment

- a. You shall deposit the fines imposed, to the address as mentioned in this notice within 24 hours for violation of Sections 3, 48 of the Act and/or Rule 94 and 95 and Fourteen days for violation of Sectionof the Act and/or Ruleof this Rule, from the date of issuance of this notice.
- b. If you pay the fines within the period prescribed upon the issuance of this notice, no further action will be taken against you in respect of this notice.

2. Further Action

- a. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to BNCA within **Twenty Four Hours** for violation of Section 3 of the Act and/or Rule 3 of this Rule and Fourteen **Days** for violation of Sectionof the Act and/or Ruleof this Rule, after the issuance of this notice and thereafter this notice will become final and binding.
- b. Notwithstanding 2(a) of this Notice under terms and conditions, when the fine is imposed by a **Joint Inspection** comprising of not less than three law enforcement agencies or more than four officials from at least two law enforcement agencies, the decision of the **Joint Inspection Team** shall be final and binding.

3. Non-payment of Fee

- a. If you do not pay the fines within the period prescribed after the issuance of this notice, no further notice shall be served.
- b. Failure to pay the fines as per this notice, BNCA shall forward the case to Royal Court of Justice thereafter in accordance with Rule 87.

ANNEXURE IV
AUTHORIZED AGENCIES TO REALIZE FINES IMPOSED ON VIOLATION OF
ANY PROVISIONS OF THE ACT AND THIS RULE

- a) Regional Revenue and Customs Offices, Department of Revenue and Customs, Ministry of Finance;
- b) Regional Trade and Industries Offices, Ministry of Economic Affairs;
- c) Road Safety and Transport Authority Regional Offices or Base Offices , Ministry of Information and Communications;
- d) Bhutan Agriculture and Food Regulatory Authority, Ministry of Agriculture and Forest;
- e) Department of Forest and Park Offices;
- f) Dzongkhag Accounts, Dzongkhag Administration;
- g) Dungkhag Accounts, Dungkhag Administration; and
- h) Any other such agencies authorized by the Bhutan Narcotic Control Agency, in absence of any of the above agencies.

**ANNEXURE V
SEIZURE MEMO**

Bhutan Narcotic Control Agency
Royal Government of Bhutan

SL NO.	TYPE OF TOBACCO	BRAND NAME	QUANTITY AND UNIT	VALUE	COUNTRY OF ORIGIN
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

SEIZED BY :

2. Name:.....

3. Designation:.....

4. Organization:

5. Signature:

6. Any remarks:

SEIZED FROM:

1. Name:
2. CID NO./License No:
3. License Type:.....
4. Mobile No:.....
5. Spouse Mobile No:
6. Present Address:
7. **Signature:**

WITNESS:

1. Name:.....
2. Occupation:.....
3. CID No.
4. **Signature:**

ANNEXURE VI DISPOSAL RECORD

Bhutan Narcotic Control Agency
Royal Government of Bhutan

SL NO.	TYPE OF TOBACCO AND BRAND NAME	QUANTITY AND UNIT	VALUE	REMARKS
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

DISPOSAL COMMITTEE

1.Name:

2. Name:

Designation:

Designation:.....

Agency:.....

Agency:.....

Signature:.....

Signature:.....

3. Name:

Designation:.....

Agency:.....

Signature:.....

4. Name:

Designation:.....

Agency:.....

Signature:.....

5. Name:

Designation:.....

Agency:.....

Signature:.....

6. Name:

Designation:.....

Agency:.....

Signature:.....

We, hereby declare that above tobacco and tobacco products are disposed by
(technology/method).....and
recorded in accordance with the Rule in this form.

ANNEXURE VII
HANDING-TAKING OVER OF TOBACCO AND TOBACCO PRODUCTS

SL NO.	TYPE OF TOBACCO	BRAND NAME	QUANTITY AND UNIT	VALUE	COUNTRY OF ORIGIN
1					
2					
3					
4					
5					
6					
7					
8					

HANDED OVER BY :

1. Name:
2. Designation:
3. Organization:.....
4. Judgment No. (If applicable).....
5. Email Address:
6. Phone No:..... Mobile No.....
- 7. Signature and Seal:**
- 8. Date..... Month..... Year.....**

HANDED OVER TO:

1. Name:
2. Designation:
3. Organization:.....
4. Judgment No. (If applicable).....
5. Email Address:
6. Phone No:..... Mobile No.....
7. **Date**..... **Month**..... **Year**.....
8. **Signature:**

Published by Bhutan Narcotic Control Agency

1st Edition 2011

2nd Edition 2013

P.O Box No.429, Lungtenzampa, Thimphu

Fixed Line: +975-2-335371/336577 Fax: +975-2-335370

Website: www.bnca.gov.bt

Printed@KUENSEL Corporation Ltd.