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OF CYPRUS

24(I) of 2017

THE PROTECTION OF HEALTH (CONTROL OF SMOKING)
LAW, 2017
(English translation)

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NOTE FOR THE READER

The publication of the Office of the Law Commissioner is an English translation of Law No.24(I) of 2017 enacted in Greek.

However useful the English translation of the Law is in practice, it does not replace the original text of the Law since only the Greek text of the Law published in the Official Gazette of the Republic of Cyprus is authentic.

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The Protection of Health (Control of Smoking) Law, 2017

L.24(I)/2017

Arrangement of sections

Section

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ANNEX I

ANNEX II

No.24(I) of 2017

THE PROTECTION OF HEALTH (CONTROL OF SMOKING) LAW, 2017

Preamble. For the purposes of harmonization with the European Union acts titled:

Official
Journal of E.U:
L.152,
20.06.2003,
p.16. "Directive 2003/33/EU of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products"

Official Journal of
E.U:
L.127,
29.04.2014,
p.1. "Directive 2014/40/EU of the European Parliament and of the Council of 3th April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC" and

Official Journal of
E.U:
L.360,
17.12.2014,
p.22. "Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products",

The House of Representatives enacts as follows:

Short
title. 1. This Law may be cited as the Protection of Health (Control of Smoking) Law, 2017.

Interpretation. 2. For the purposes of this Law, unless the context otherwise requires-

"license of operation" means license of operation of an establishment, issued under section 6 of the Catering and Entertainment Establishments Law;

29(I) of 1985
214 of 1991
104(I) of 1999
90(I) of 2000
151(I) of 2005
65(I) of 2007.

" license of tobacco selling" means license for trading or selling of tobacco products, issued under the provisions of Part XI of the Excise Duty Law;

9(I) of 2004
208(I) of 2004

245(I) of 2004
262(I) of 2004
126(I) of 2005
65(I)) of 2006
144(I) of 2006
6(I) of 2007
139(I) of 2007
140(I) of 2007
156(I) of 2007
22(I) of 2008
39(I) of 2008
64(I) of 2008
91(I) of 2008
30(I) of 2010
51A(I) of 2010
119(I) of 2010
169(I) of 2012
186(I) of 2012
25(I) of 2013
42(I) of 2013
84(I) of 2013
110(I) of 2013
43(I) of 2014
89(I) of 2017
124(I) of 2017
128(I) of 2017
140(I) of 2018
39(I) of 2019
76(I) of 2020.

"minor" means a person who has not attained the age of eighteen years;

"open external area" means each area which is not internal or closed and shall be provided with adequate natural oxygenation for the purposes of this definition , adequate natural oxygenation exists in every area not covered by roof, permanent or temporary and in every area covered by roof , it has at least one side open permanently , which corresponds at least to twenty per cent (20%) of the overall perimeter walls or sides of the open external area concerned;

"competent authority" means the Minister of Health, unless it is otherwise provided for in this Law or in the Regulations made thereunder ;

"aromatic" means additive that grants extra smell or taste;

" placing on the market " means to make products, irrespective of their place of manufacture, available to consumers located in the Union, with or without payment, including by means of distance sale and in the case of cross-border distance sales, the product is deemed to be placed on the market in the Member State where the consumer is located ;

"cross border distance sales" means distance sales of products to consumers where, at the time the consumer orders the product from a retail outlet, the consumer is located in a Member State other than the Member State or the third country where that retail outlet is established, a retail outlet is deemed to be established in a Member State;

(a) in the case of an individual if he has his place of business in that Member State,

(b) in other case if the retail outlet has its statutory seat, central administration or place of business, including a branch, agency or any other establishment, in that Member State;

"advertising" means any form of commercial communications aimed towards promoting tobacco product;

"addictiveness" means the pharmacological potential of a substance to cause addiction, a state which affect a person' s ability to control his behaviour, typically by instilling a reward or a relief from withdrawal symptoms, or both;

"importer of tobacco products or related products" means the owner of, or a person having the right of disposal over, tobacco products or related products that have been brought into the territory of the Union ;

"import of tobacco products or of related products" means the entry into the territory of the Union of tobacco products or related products, unless the products are placed under a customs

procedure or suspensive status upon their entry into the territory of Union, as well as their release from a customs procedure or suspensive status;

"emissions" means substances that are released when a tobacco or related product is consumed as intended, such as substances found in smoke, or substances released during the process of using smokeless tobacco products;

"Union" means the European Union;

"at a distance service" means service provided without the contracting parties being simultaneously present;

"authorized officer" means member of the Cyprus Police or officer of the Customs Department or Health Services Inspector or Health Services Officer of the Medical Services and Public Health Services or Municipal Health Inspector or other authorised person by the municipal council or Inspector of the Local Councils or officer of the Consumer Protection Services or Labour Inspector of the Department of Labour Inspection or officer of the Cyprus Tourism Organisation;

"outside packaging" means any packaging in which tobacco or related products are placed on the market and which includes a unit packet or an aggregation of unit packets with the exclusion of the transparent wrappings ;

"Committee" means the European Commission;

"enterprise" means every unit irrespective of its legal form that exercises financial activity such as the units exercising craft or other single or family activity, sole private companies or associations of persons exercising financial activity;

" internal or closed area" means each area covered with roof and surrounded from walls or sides, irrespective of the kind of material

being used for the roof, the wall or the sides and irrespective of the permanent or temporary character of the structure;

"electronic cigarette" means a product with a mouth piece that can be used for consumption of nicotine-containing vapor, or any component of that product, including a cartridge, a tank and the device without cartridge or tank and which can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges;

"tobacco" means leaves and other processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco ;

"waterpipe tobacco" means a tobacco product that can be consumed via a waterpipe, is intended for smoking and in case that can be used both via waterpipes and as roll-your own tobacco tobacco , it shall be deemed to be roll-your own tobacco;

"roll-your own tobacco" means tobacco which can be used for making cigarettes by consumers or retail outlets

"chewing tobacco" means means a smokeless tobacco product exclusively intended for the purpose of chewing ;

"pipe tobacco" means tobacco that can be consumed through combustion process and is intended exclusively for pipe use;

"nasal tobacco" means a smokeless tobacco product that can be consumed via the nose;

"consumer" means an individual who is acting for purposes which are outside his or her trade, business, craft or profession;

"manufacturer" means any individual or legal person who manufactures a product or has a product designed or manufactured, and markets that product under their name or trademark;

"retail outlet" means any outlet where tobacco products are placed on the market including by an individual;

"CMR" means carcinogenic, mutagenic, or reprotoxic properties;

"Government Laboratory" means the Government General Laboratory or approved laboratory which is assigned from the Council of Ministers under section 19;

"maximum level" or "maximum level of emissions" means the maximum content or emission, including zero, of a substance in a tobacco product , measured in milligrams;

"smokeless tobacco product" means a tobacco product not involving a combustion process, including chewing tobacco, nasal tobacco and tobacco for oral use;

"small and medium enterprises" means the enterprises set out in the Recommendation 2003/361/EC;

Commission
Recommendation
2003/361/EU of
6th May 2003, in
relation to the
definition of small
and medium
enterprises.
Official Journal of
EU, L 124,
20.5.2003, p.36.

"unit packet" the smallest individual packaging of a tobacco or related product that is placed on the market;

"novel tobacco product" means a tobacco product which is placed on the market after the 19th of May 2014 and which does not fall into the category of cigarettes, roll-your own tobacco, pipe tobacco, water pipe tobacco, cigar, cigarillo, chewing tobacco, nasal tobacco and tobacco for oral use;

"nicotine" means the nicotinic alkaloids;

"substantial change of circumstances" means an increase of the sales volumes by product category by at least 10 % in at least five

Member States based on sales data transmitted in accordance with Article 5(6) or an increase of the level of prevalence of use in the under 25 years of age consumer group by at least five percentage points in at least five Member States for the respective product category based on the Special Eurobarometer 385 report of May 2012 or equivalent prevalence studies; in any case, a substantial change of circumstances is deemed not to have occurred if the sales volume of the product category at retail level does not exceed 2,5 % of total sales of tobacco products at Union level;

"public use vehicle" means bus and taxi;

"packet" in relation to the tobacco product, means any box, packaging, or other receptacle that contains the product and within which the product is intended to be presented for retail sale, excluding any additional packaging or other receptacle, irrespective of whether it is transparent or non transparent and may be rejected with the opening;

"refill container" means a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette;

"tar" means the raw anhydrous nicotine-free condensate of smoke;

"cigarillo" means a small type of cigar with maximum weight three (3) grammars;

"cigar" means roll of tobacco that can be consumed via a combustion process and it is specified as follows:

(a) rolls of tobacco with an outer wrapper of natural tobacco ;

(b) rolls of tobacco with a threshed blend filler and with an outer wrapper of the normal colour of a cigar covering the product in full, including, where appropriate, the filter but not, in the case of tipped cigars, the tip, and a binder, both being of reconstituted tobacco, where the unit weight, not including filter or mouthpiece, is not less

than 2,3 g and not more than 10 g and the circumference over at least one third of the length is not less than 34 mm;

"health warning" means a warning which relates to the adverse effects on human health or other undesired side effects from the use of a product, including the texts warnings, combined health warnings, general warnings and information messages, as provided for in this Law and the Regulations made thereunder;

"products of tobacco" or "tobacco products", mean products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not;

"tobacco products for smoking" means tobacco products other than a smokeless tobacco product;

"tobacco products for oral use" means all tobacco products for oral use, except those intended to be inhaled or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets ;

"Head of the Health Services" means the chief of the Health Services or the officer who takes his place or replaces him;

"additive " or "additive substance", means a substance, other than tobacco, that is added to a tobacco product, a unit packet or to any outside packaging;

"pouch" means a unit packet of roll -your own tobacco, either in the form of a rectangular pocket with a flap that covers the opening or in the form of a standing pouch;

"point of tobacco sale" means each area where tobacco products are sold;

"combined health warning " means a health warning consisting of a combination of a text warning and a corresponding photograph or illustration, as provided for in this Law or in the Regulations made thereunder;

"ingredient" means tobacco, an additive, as well as any substance or element present in a finished tobacco product or related products, including paper, filter, ink, capsules and adhesives;

"age verification system" means a computing system that unambiguously confirms the consumer's age electronically in accordance with the relevant legislation;

"toxicity" means the degree to which a substance can cause harmful effects in the human organism, including effects occurring over time, usually through repeated or continuous consumption or exposure ;

"cigarette" means roll of tobacco which can be consumed through combustion process, can be smoked as it is , is not a cigar or cigarillo, with simple non-industrial handling, inserted into cigarette-paper tubes wrapped in cigarette ;

"third country" means every country which is not a member state of the European Union;

"Health Services" means the Health Services of the Ministry of Health;

"service upon individual request of a recipient of services" means service provided with transmission of data and upon individual request;

"service by electronic means" means service provided at its beginning and it is made accepted to its destination through electronic equipment for processing, including digital compression and storage of data which is transmitted, conveyed, and received

by wire, by radio, by optical means or by other electromagnetic means;

"information society services" means any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services, with the

Annex I. exclusion of the services included in Annex I;

"Minister" means the Minister of Health;

"herbal product for smoking" means a product at basis on plants, herbs, or fruits, which does not contain tobacco and can be consumed through combustion process;

"characterising flavour" means a clearly noticeable smell or taste other than one of tobacco, resulting from an additive or a combination of additives, including, but not limited to, fruit, spice, herbs, alcohol, candy, menthol or vanilla, which is noticeable before or during the consumption of the tobacco product;

"sponsorship" means any public or private contribution to an event or activity to a person intended in promoting a tobacco product;

"non smoking area" means any internal or closed area of a public building, of governmental or semi -governmental services, financial establishment, university, school or other educational institution or institution, airport, port, hospital, including rural agricultural health centre and out-patient clinic , public or private housing for the elderly and persons with disabilities, private clinic, private doctor's office , private dental clinic, private pharmacy, cinema, theatre, video projection room or digital discs, museum, gallery, concert hall, cultural centre, public library, sports establishment, hotel, factory, or other establishment manufacturing packaging and/or selling food, food preparation room, elevator, public toilets, shopping mall, association or club, irrespective of the entrance being free or allowed only for members, kiosk, betting agency,

billiard, billiard hall, hall for activities for minors, including the play centres and other organized areas for interaction of children, internet cafeteria, coffee shop, catering and entertainment establishment including restaurant, café, bar, cabaret, reception center, disco, dancing hall or other catering and entertainment establishment, barber and hair saloon;

"work place" means any internal or closed area being used from persons during their employment or work for remuneration or voluntarily and includes all the connected or associated places for common use by the employees in the course of their work, such as corridors, elevators, common installations, toilettes, changing rooms and waiting rooms and does not include a house ;

Management of batch, cargo or dispatched cargo of tobacco product.

3.-(1) Without prejudice to the provisions of subsection (2), in case where a packet of tobacco product, novelty tobacco product, electronic cigarette, herbal product for smoking or smokeless tobacco product, is not consistent with the specifications set out in this Law or the Regulations made thereunder and is part of a batch, lot or dispatched cargo of tobacco product of the same category or prescription, it is considered that all the packets of tobacco product, novelty tobacco product, electronic cigarette, herbal product for smoking or smokeless tobacco product in the batch in question, lot or in the cargo, do not comply with the specifications set out in this Law or the Regulations made thereunder.

(2) The provisions of subsection (1) do not apply in case where after a detailed assessment there is no data proving that the remaining of the lot, batch or cargo, does not comply with the specifications set out in this Law or the Regulations made thereunder.

Entry in a register of tobacco products enterprises.

4.-(1) The Head of the Health Services shall keep a register into which every enterprise which produces, trades through another member state, imports from a third country or distributes tobacco

products, novel tobacco products, electronic cigarettes, herbal products for smoking or other smokeless tobacco products is registered.

(2)(a) For the purposes of implementing the provisions of subsection (1), the person responsible of every enterprise referred to in the subsection in question, submits to the Head of the Health Services an application for entry in the register accompanied by the necessary supporting or other documents.

(b) The minimum information submitted in accordance with the provisions of paragraph (a) are the following:

(i) The name and address of the enterprise, the address of the premises of the enterprise and the certificate of registration of the company issued by the Registrar of Companies, if the enterprise is a company;

(ii) the manufacturer or importer of the tobacco product, in the case of imported tobacco products of which the manufacturer is not the enterprise referred to in paragraph (i) and;

(iii) catalogue by brand and type of manufactured/imported tobacco products, novel tobacco products, electronic cigarettes, plant products for smoking or smokeless products of tobacco.

(3) The persons responsible for the enterprises referred to subsection (1), ensure that the Head of Health Services shall be informed for any differentiation to the information provided to him concerning the enterprises, including the communication for the production, movement, import and the distribution of novel tobacco products, of any important change to the activities of the enterprise and of the closing of existing establishment:

Provided that, the Head of Health Services deletes from the register provided for in paragraph (a) an enterprise in case where-

(i) an authorized official has verifies the demolition or the transformation of the establishment or its use for other purposes;
or

(ii) the enterprise is operating under a new management, after replacement of the individual or legal person which constituted its management .

Notification of ingredients and emissions.

5.-(1) Any manufacturer, importer, or the person responsible for an enterprise of tobacco products, novel tobacco products, electronic cigarettes, plant products for smoking or smokeless tobacco product, notifies annually to the competent authority the information concerning the ingredients and the emissions of these products which are set out in the Regulations made under this Law.

(2) In addition to the obligations for the notification of information set out in subsection (1), additional obligations are imposed for notification of to the specific additives included in cigarettes and roll -your own tobacco which are included into a priority list in accordance with the provisions of the Regulations made under this Law.

Obligation of manufacturer or importer for indication of warnings on packages.

6.-(1) Each manufacturer, importer or responsible person for any enterprise of tobacco product, novel tobacco product, electronic cigarette, herbal product for smoking or smokeless tobacco product, ensures that to each one of them, the warnings for the damages caused by smoking set out in the Regulations made under this Law are placed:

Provided that, the marking of any tobacco product, novel tobacco product, electronic cigarette, herbal product for smoking or smokeless tobacco product must additionally fulfill the provisions of the Regulations made under this Law.

(2) No person shall be entitled to place the warnings referred to in subsection (1) in different time other than the time at or before of

which the product was packed with any means either by printing or by applying a film or with any other means on any product of tobacco which was manufactured or packed in the Republic:

Provided that, the warnings for the tobacco products, with the exception of cigarettes, the roll-your own tobacco and the water pipe tobacco, may be attached with self-adhesive labels, provided that they are inseparable.

(3) The provisions of subsection (1) do not apply in relation to-

(a) Packets which are available for sale, through the duty free shops of the ports and airports of the Republic to departing passengers and which shall bring warnings and marking in accordance with the Regulations made under this Law or, mutatis mutandis, in the English language and in accordance with the directives which apply in the Union;

(b) packets which are imported by passengers at their arrival in the Republic, for personal use and are exempt from customs duties by virtue of relevant legislation or convention;

(c) packets which are delivered to privileged persons or authorities or organizations which are exempt from custom duties by virtue of relevant legislation or convention.

Prohibition of disposal of tobacco products.

7.-(1) It is prohibited-

(a) to supply tobacco products, electronic cigarettes, novel tobacco products, herbal products for smoking and smokeless products of tobacco to a minor; or

(b) to freely distribute tobacco products, electronic cigarettes, novel tobacco products, herbal products for smoking and smokeless products of tobacco;

(c) to dispose or offer for disposal or agree for disposal or display with the purpose of disposal or possess with the purpose of disposal-

(i) tobacco products for oral use; or

(ii) tobacco products, electronic cigarettes, novel tobacco products, plant products for smoking and smokeless products of tobacco, for which the manufacturer has not complied with the requirements of this Law or the Regulations made thereunder; or

(iii) schematic imitations of tobacco products; or

(d) to distribute or possess or use of any product, like ashtray, lighter, advertising umbrella, pen, or other similar advertising product which-

(i) bear the logo of tobacco products, electronic cigarettes, novel tobacco products, smokeless tobacco products and plant products for smoking; or

(ii) has the shape or design that leads to tobacco products, electronic cigarettes, novel tobacco products, smokeless tobacco products and plant products for smoking;

with the intent to promote tobacco products, electronic cigarettes, novel tobacco products, smokeless tobacco products and herbal products for smoking.

(2) The provisions of subsection (2) do not apply to tobacco products, electronic cigarettes, novel tobacco products, smokeless products of tobacco and plant products for smoking available or intended to be made available for consumption outside the Republic.

(3) (a) Every person who violates the provisions of subsection (1) is guilty of an offence and, in case of a conviction, is liable to a sentence not exceeding two thousand euros (€2.000).

(b) In case of a subsequent conviction of the same person for an offence, in accordance with the provisions of paragraph (a) of subsection (1), the offence is punishable with imprisonment not exceeding six (6) months or with a fine not exceeding three thousand euros (€3.000) or with both such sentences.

Prohibition of advertising.

8.-(1) Without prejudice to the provisions of subsection (3), the advertisement and/or the sponsorship of tobacco products, novel tobacco products, tobacco for oral use, smokeless products of tobacco and plant products for smoking under the form of written, oral, radio, cinematic message or message through information society services is prohibited :

Provided that the prohibition concerning the tobacco products also applies for their ingredients.

(2) The provisions of the Regulations made under the provisions of this Law apply in relation to the advertisement of electronic cigarettes.

(3) The advertisement in the press or in other printed publications intended exclusively for professionals in the tobacco trade, tobacco for oral use, electronic cigarettes, smokeless products of tobacco and plant products for smoking and the advertisements in publications which are printed and published in third countries, as long as the community market is not the principal destination of the publications , are exempt from the prohibition of subsection (1).

(4) Every person who violates the provisions of subsection (1) is guilty of an offence and, in case of a conviction, is liable to a fine not exceeding two thousand euros (€2.000) or to imprisonment not exceeding six (6) months or with both such sentences.

Applications to court by an individual or legal persons or organizations.

9. Any individual or legal person or organization, which has legitimate interest for the termination of advertisements, sponsorships or of any other activities carried out in violation of the provisions of this Law, may file an application to the court for the issue of a prohibitive or mandatory order including an interlocutory order, ordering the termination of the advertisement, sponsorship or other activity, as the case may be.

Prohibition of sale of tobacco from automatic vending machines.

10.-(1) It is prohibited for any person-

(a) To have under his control or possession any automatic vending machine of tobacco product , electronic cigarettes, smokeless tobacco products, novel tobacco products, and plant products for smoking or to allow the installation or use of any such machine in any premises which is under his control or possession; or

(b) to operate any such vending machine of tobacco product, electronic cigarettes, smokeless tobacco products, novel tobacco products and plant products for smoking; or

(c) to import or manufacture for domestic use any automatic vending machine of tobacco product, electronic cigarettes, smokeless tobacco products, novel tobacco products and plant tobacco products.

(2) Any person who violates the provisions of subsection (1) is guilty of an offence and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000).

Prohibition of smoking in certain areas.

11.-(1) The smoking of tobacco products, novel tobacco products, plant tobacco products and the use of electronic cigarette, water pipe tobacco and smokeless tobacco product by any person is prohibited -

(a) In any area of prohibition of smoking with the exception of-

(i) internal or closed areas based on specific specifications to be set up only for waiting areas of boarding passengers in any airport or port of the Republic, to which the entrance to minors is prohibited, unless management of the airports or the ports applies an absolute prohibition of smoking policy; and

(ii)(aa) specifically designed smoking areas in hotels (cigar lounge), with autonomously and independent ventilation and air conditioning system on the basis of specifications set out from the Department of Electromechanical Services of the Ministry of Transport, Communications and Works, provided that, in these areas food is not served and the entrance to persons of less than eighteen (18) years of age and to pregnant women is prohibited;

(bb) specifically designed floors or rooms for smokers to hotels, with autonomously and independent ventilation and air conditioning system on the basis of specifications set out by the Department of Electromechanical Services of the Ministry of Transport, Communication and Works:

Provided that, for the purposes of this paragraph the term "specifications" means the specifications set out by the Department of Electromechanical Services of the Ministry of Transport, Communication and Works; and

(b) in open external areas of:

(i) private or public educational institutions of pre Primary, Primary, Secondary General and Secondary Technical Education;

(ii) hospitals, including urban or rural health center, except from specified open external areas, which are designated by the management of the hospital or the health center and which are not allowed to be located in the entrance or the exit of the hospital or the health center; and

(iii) event halls for minors including playgrounds and other organized places that of children meet.

(2) Notwithstanding the provisions of this Law, the manager or the owner of any open external area may prohibit the smoking in that area.

(3) Without prejudice to the provisions of paragraph (b) of subsection (1) and subsection (2), smoking is allowed in open external area tangential to an internal or closed area, where smoking is prohibited under this Law, provided that there is a permanent separation installation of the two areas, which may be connected between them by an automatically-closing door or with a double door:

Provided that smoking is permitted in the open external area tangential to an internal or closed area without the requirement of the installation of permanent separation of the two areas, when the open external area tangential to the internal or closed area has at least one side permanently open, and when this is required, such additional permanent opening, that when added the total permanent opening to correspond to a percentage more than thirty per cent (30%) of its total perimeter walls or sides or it is fully open.

(4) Any person who is responsible in a place to which smoking is prohibited under the provisions of subsection (1) and (3) of this section and of section 14 and where a violation of the said provisions is established, he shall be considered liable for the said violation, unless he proves that he took all the necessary measures to prevent smoking in that area:

Provided that the notification of the prosecution authorities by or on behalf of the above person, is considered as satisfactory

evidence for the taking of the necessary measures in order to prevent smoking.

(5) For the purposes of implementation of the provisions of this section the prohibition of use of electronic cigarette device, applies also for electronic cigarettes not containing nicotine.

(6) Any person who violates the provisions of this section is guilty of an offence and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000).

Prohibition of smoking in to public use or private use vehicles carrying minors.

12.-(1) The smoking by any person of tobacco products, novel tobacco products, plant products for smoking and the use of electronic cigarette, water pipe tobacco and smokeless tobacco product is prohibited in :

(a) A public use vehicle; and

(b) a private use vehicle in which a minor is a passenger

(2) Any person who violates the provisions of this section is guilty of an offence and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000).

Warning signs in no smoking places.

13.-(1) Every person having under his control or possession any area of prohibition of smoking or work place, shall affix a warning sign in a prominent place in that area, to which it is written legibly and clearly that smoking is prohibited.

(2) For the purposes of this section, reference to a warning sign to smoking shall include also the use of electronic cigarette and water pipe tobacco.

(3) Any person who violates the provisions of this section is guilty of an offence and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000).

Prohibition of smoking in workplaces.

14.-(1) The smoking of tobacco products, novel tobacco products, plant products for smoking and the use of electronic cigarette, water pipe tobacco and smokeless tobacco product is prohibited to all work places:

Provided that the use of electronic cigarettes in the specialized sale stores for the purpose of testing is not prohibited.

(2) Any person who violates the provisions of this section, is guilty of an offence and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000).

Obstruction of officers in the exercise of their duties.

15. Any person who obstructs, prevents or harasses any authorized officer during the exercise of any duty or power assigned to him under the provisions of this Law or the Regulations made thereunder or attempts to do any of the above mentioned, is guilty of an offence, and, in case of conviction, is liable to a fine not exceeding two thousand euros (€2.000) or to imprisonment not exceeding six (6) months or to both such sentences.

Powers of an authorized officer.

16.-(1) Any authorized officer may in any reasonable time-

(a) Enter into an area where smoking is prohibited to assure the compliance with the provisions of this Law;

(b) enter, inspect, investigate and carry out check in any premises or other place, excluding houses, in which he has reasonable ground to believe that any tobacco product, novel tobacco product, electronic cigarette, including comprehensive replacement, plant product for smoking or smokeless tobacco product in respect to which the provisions of this Law are being applied or of the Regulations made thereunder, community regulations or decisions, is manufactured, packed, boxed or is placed for sale ;and

(i) examine any such product;

(ii) examine anything for which he has reasonable ground to believe that is used or can be used during the said manufacturing, packaging, boxing or placing for sale;

(iii) examine any method applied in the premises or in another place in relation to the manufacturing, packaging boxing or placing for sale of the said products and any other control method that is applied in the premises or other places, and its results ;

(iv) evaluate the control methods applied in the premises or other places and their results ;

(v) control the persons employed in the premises or other places;

(c) stop, enter, inspect, investigate and carry out control in any means of transport and open to examine any receptacle , packet, box, package, wrapping or other packaging, for which he has reasonable ground to believe that it transfers or contains any tobacco product, novel tobacco product, electronic cigarette, including and the replacement comprehensives, plant product for smoking, or smokeless tobacco product in respect to which the provisions of this Law or the Regulations made thereunder are applied;

(d) examine and take a sample or samples of any product which is referred in paragraphs (b) and (c) without any payment in accordance with the provisions of section 18;

(e) enter into any premises or other place or any means of transport, carrying with him any equipment or materials he deems necessary for the exercise of any other power which is granted to him under the provisions of this section;

(f) examine any data registered in electronic format on magnetic means or books or documents, which are situated in any premises or other place referred to in paragraph (b) or to any means of transport referred to in paragraphs (c) and (e) and for which he has

reasonable ground to believe that they contain information or entries in relation to any tobacco product, novel tobacco product, electronic cigarette, including and the replacement comprehensives, plant product for smoking or smokeless tobacco product in relation to which the provisions of this Law or the Regulations made thereunder are applied and to receive their copies or extracts;

(g) withhold or bind for as long as it is necessary, any tobacco product, novel tobacco product, electronic cigarette, including the replacement containers, herbal product for smoking, smokeless tobacco product, in relation to which he has reasonable ground to believe that any provision of this Law or the Regulations made thereunder has been violated and to instruct that the said product shall remain or be transferred in any place designated by him;

(h) confiscate and/or to destroy any tobacco product, novel tobacco product, electronic cigarette including the replacement containers, plant product for smoking or non smokeless tobacco product in case of non compliance with the provisions of this Law or the Regulations made thereunder.

(2) Notwithstanding the provisions of subsection (1), any authorized officer may issue a written instruction to the person concerned in order to proceed to the withdrawal or revocation from the market of a tobacco product, novel tobacco product, electronic cigarette, including and of the replacement containers, plant product for smoking and smokeless tobacco product, which do not comply with the specifications set out in the provisions of this Law or the Regulations made thereunder.

(3) The cost for the destruction of a product under the provisions of paragraph (h) of subsection (1), shall be borne by the owner of the product, who has the obligation to pay to the Accounting Office of the Department or Service or Organization to which the authorized officer who imposed the destruction, is working the cost

of the expenditures, and in case where the owner denies or omits to comply with his obligation, the Director /Head of Department, Service or Organization, as the case may be, may take judicial measures for the recovery of the amount due as a civil debt owed to the Republic.

(4) For the purposes of facilitating the authorized officer in the execution of his duties, each manufacturer or importer of tobacco products, novel tobacco product, electronic cigarette including and of comprehensive replacements, plant product for smoking and smokeless tobacco product, is required to provide to the authorized officer the requested samples within a reasonable time

(5) For the purposes of exercising the powers assigned to him under the provisions of this section , any authorized officer who is not a member of the Police may be accompanied by a member of Police.

Right to
object.

17.-(1) Every affected person who is not satisfied by a decision taken in accordance with the provisions of paragraphs (g) and (h) of subsection (1) and of subsection (2) of section 15, may, within three (3) working days from the written notification of the decision to him, and subject to the provisions of subsection (6), file an objection to the Director/Head of the Department, Service or Organization to which the authorized officer who issued the decision is working and to designate as a member of the committee that will examine and decide upon the objection, an expert who has special knowledge and expertise on the matter under examination.

(2) The objection is being examined as quickly as possible from a Redress Committee, hereinafter referred to as "the Redress Committee" which is composed by three (3) authorized officers to which the one who issued the contested decision is not included and who are hierarchical superior or at least of equal degree with

him, and potentially, by one expert designated by the person who objects , in accordance with the provisions of subsection (1):

Provided that the participation fees of the expert shall be borne by the person who objects.

(3) The authorized officers participating in the Redress Committee shall be appointed for this purpose by the Director/Head of Department, Service or Organization where the authorized officer who issued the contested decision is working.

(4) The Redress Committee may upon the examination of the objection, if it considers it necessary, proceed to any examinations, in addition to any other tests which may have been carried out previously.

(5) The decision of the Redress Committee is taken by the majority of the authorized officers comprising it, and by the expert that may be designated from the person who objects, it is final and has immediate effect.

(6) The person who objects at the time of the submission of his objection, shall be required to pay the specified fees to the Accounting Office of the Department, the Service or Organization in which the authorized officers who issued the contested decision works and in case the objection is being accepted from the Redress Committee, the paid fees shall be returned to the person who objects.

(7) In case where the decision of the authorized officer concerns products the value of which does not exceed the specific fee, the submission of objection in accordance with the provisions of this section is not possible.

Sampling of tobacco products.

18.-(1) The sampling of tobacco products is carried out in accordance with the international standard ISO 8243:2006, as this is amended or replaced from time to time:

Provided that for the novel tobacco products, electronic cigarettes, including the replacements containers, plant products for smoking or smokeless tobacco products, the sampling is carried out in accordance with the international or other practices.

(2) The sampling is carried out by an authorized officer without payment of any price:

Provided that, the cost of the samples shall be borne by the manufacturing or import or disposal enterprise of the tobacco products.

(3) After the completion of sampling, the authorized officer issues a receipt for all the samples he received free of charge and delivers it to the person responsible for the enterprise.

(4) The receipt referred to in subsection (3) may be used from the person responsible for the enterprise for the return of any tax paid to the Republic of Cyprus for the products received as a sample under the provisions of this Law.

(5) The sampling of the tobacco products, novel tobacco product, electronic cigarettes including the replacement comprehensives, plant products for smoking or smokeless tobacco products to be tested shall be carried out in the premises of their manufacturing or import or disposal enterprises.

(6) The samples shall be subjected to the Government Laboratory as soon as possible.

Laboratory
tests.

19.-(1) Subject to the provisions of subsection (7), the samples taken in accordance with the provisions of section 18, are analyzed and /or tested by the Government Laboratory.

(2) Once the analyses have been completed the chemist who carried out the analysis or/and examination, issues and sends or delivers to the authorized officer who submitted the sample, a

certificate which indicates the result of the analyses or/and test carried out and which is drawn up according to the relevant standardized procedures of the Government Laboratory to which he is serving or working.

(3) The authorized officer who carried out the sampling shall notify in writing as quickly as possible the result of analysis or/and test to the person responsible for the enterprise from which the sample was taken .

(4) In case where the person responsible of the manufacturing /or enterprise and /or import and distribution of the sampled product, is not satisfied from the result of analysis and /or test, he is entitled within ten (10) days from the date of which the result of the analysis carried out and/or the test has been notified to him, to object in writing against the analysis and or the test to the Director of the Government Laboratory:

Provided that, the person who objects is entitled to submit his objection only upon payment to the Director of the Government Laboratory of the fee determined by him from time to time.

(5) In case of submission of an objection in accordance with subsection (4), the Director of the Government Laboratory within five (5) working days shall appoint a committee consisting of three (3) chemists serving in the Government Laboratory which does not include the chemist who carried out the analysis the result of which the objection concerns or other person that participated in the carrying out of that analysis.

(6) The committee appointed in accordance with the provisions of subsection (5) -

(a) On the date of its appointment, shall notify the person who objects in writing about his right to designate a registered private chemist who may participate in the committee representing the

person who objects and for the time and place of the meeting of the committee referred to in paragraph (b);

(b) from the date of its appointment shall study provisionally all the relevant data, shall meet within two working days from the date of its appointment and examine all the procedures carried out during the performance of the analysis and or examination, the result of which is shown on the certificate mentioned in subsection (2) and which concern all the stages from the receipt from a chemist of the Government Laboratory of the sample under analysis and or test until the completion of the analysis and or examination;

(c) shall examine the activities referred to in paragraph (b), in accordance with the relevant standard procedures specified in the quality system and by the manual of quality of the relevant Government Laboratory and the registered proof of the reliability of the analysis and tests;

(d) within two (2) working days from the meeting referred to in paragraph (b), issues a report with its findings, by the majority of the present chemists comprising it and by the private registered chemist;

(e) at the date of the issuance of the report, it sends the report, or deliver copies of it both to the person who objects and to the Director of the Government Laboratory.

(7) The Council of Ministers may, by notification published in the Official Gazette of the Republic, designate laboratory or chemist, that meets the specifications, the criteria and the standards specified by Regulations made under the provisions of this Law based on obligatory standards, community regulations and community decisions, as an approved laboratory, in connection with a specific area, for the purpose of carrying out, in accordance with this section, a test and/or samples examination.

<p>157 ΤΟΥ 1988 24(Ι) ΤΟΥ 1992 20(Ι) ΤΟΥ 2004.</p>	<p>(8) For the purposes of this section , "private registered chemist" means a person registered as a chemist in accordance with the provisions of Registration of Chemists Law, who exercises his profession in the private sector.</p>
<p>Commission of an offence by legal person.</p>	<p>20. In case where an offence is committed by a public law legal person contrary to the provisions of this Law or the Regulations made thereunder, every person who at the time of commission of the offence holds a manager, director, secretary position or appears to act as such, is considered guilty of this offence and is subject to the sentence provided for that offence, unless he proves that the offence has been committed without his consent or complicity or negligence.</p>
<p>Imposing of an out-of-Court fine. 47(Ι) of 1997 82(Ι) of 2000 52(Ι) of 2002 27(Ι) of 2006 96(Ι) of 2010 127(Ι) of 2010 90(Ι) of 2012 99(Ι) of 2012 124(Ι) of 2013 74(Ι) of 2015 44(Ι) of 2016. 20(Ι) of 2017 135(Ι) of 2018 32(Ι) of 2020 35(Ι) of 2020 71(Ι) of 2020 85(Ι) of 2020.</p>	<p>21. The authorized officer may issue notification of an out-of-Court fine in accordance with the provisions of the Out -of - Court Settlement.</p>
<p>Administrative fine imposed by the Head of Health Care Services. Annex II.</p>	<p>22.-(1) In case where the Head of the Health Care Services has reasonable ground to believe that a person violates or omits to comply with the provisions of this Law, of the Regulations made thereunder or of the Commission Implementing Decisions included in Annex II, may impose to that person administrative fine not exceeding eight hundred fifty euros (€850) irrespective of whether there has been criminal liability in accordance with any other provision of this Law or of Regulations made thereunder.</p>

(2) The Head of the Health Services before imposing administrative fine under the provisions of subsection (1), notifies the person concerned for his intention to impose the administrative fine, informing him for the reasons of its imposition and giving him the right to submit representations within a deadline of five (5) working days from the date of notification.

(3) The Head of the Health Services shall impose administrative fine under the provisions of subsection (1) with a reasoned decision-

(a) which specifies the violation or failure to comply with; and

(b) which notifies to the person concerned.

(4) The Minister has power to specify by written instructions to the Head of Health Services the criteria for the calculation of case by case imposed fine, without limiting the discretion of the Head of Health Services, which he exercises within the context of the instructions of the Minister, to freely decide for the amount of the administrative fine, based to case-by case true facts.

(5) (a) Any person to whom an administrative fine has been imposed under the provisions of subsection (1) may, within a deadline of thirty (30) days from the date of communication to him of the decision for the imposition of the administrative fine, appeal to the Minister, requesting the review of the decision concerned, by paying the fee specified by Regulations made under this Law.

(b) In case where a hierarchical appeal is exercised under the provisions of paragraph (a), the Minister examines it, after hearing the applicant or giving him the opportunity to support in writing the reasons on which the appeal is based, decides on the appeal in accordance with the provisions of paragraph (c), within thirty (30) days from the date of the exercise of the appeal and notifies his decision to the applicant.

(c) The Minister may by his decision-

(i) confirm the contested decision,

(ii) annul the contested decision,

(iii) modify the contested decision, or

(iii) proceed to the issuance of a new decision in replacement of the contested decision.

(6) The amount of the administrative fine is collected by the Head of the Health Services in case where there is no recourse before the Administrative Court within the deadline of seventy five (75) days from the date of the communication of the decision for imposition of the administrative fine to the person concerned, or in case where a recourse was lodged, after the issuance of non annulment judicial court decision or in case where a hierarchical appeal is lodged before the Minister on the unsuccessful decision of the hierarchical appeal.

(7) In case of omission of payment of the administrative fine which was imposed under this Law, the Head of the Health Services takes judicial measures for restitution of the amount due as a civil debt due to the Republic.

(8) In case where the Minister annuls the contested decision, the applicant may require from the Head of the Health Services the return of the fees paid in accordance with the provisions of paragraph (a) of subsection (5).

General
sentence.

23. The Court, in addition to any other sentence imposed under the provisions of this Law or the Regulations made thereunder , may-

(a) order the confiscation or the destruction of tobacco products, novel tobacco products, electronic cigarettes, including the

replacement containers plant products for smoking and smokeless products,

(b) annul the license for tobacco sales for a period not exceeding five (5) years, in case of violation of the provisions of paragraph (a) of subsection (1) of section 7,

(c) instruct the confiscation of automatic vending machines, in case of violation of the provisions of section 10.

Powers
of Court.

24. The Court may, after a reasoned decision by any authorized officer, proceed to the issuance of an order suspending the operation of any enterprise, which is regulated by the provisions of the Catering and Entertainment Establishments Law for a period of time not exceeding four (4) days:

Provided that the Court may extend the period of suspension for one or more times, for duration of four (4) or less days.

Infringement of
obligations
provided for in
Regulations.

25. Failure to comply with any obligation which is provided by Regulations made under this Law, constitutes an offence, and in case of conviction, is punishable with a fine not exceeding two thousand euros (€2.000) or imprisonment not exceeding six (6) months or to both such sentences.

Regulations.

26.-(1) The Council of Ministers may issue Regulations for the better carrying into effect of the provisions of this Law and in particular, for regulating or prescribing any matter mentioned therein and which may be regulated or prescribed with Regulations.

(2) Without prejudice to the generality of the provisions of subsection (1), the Regulations made under this Law may provide for-

- (a) the determination of ingredients and the emissions of tobacco products, and the related notification obligations, including the maximum emissions levels to tar, nicotine and carbon dioxide;
- (b) the determination of certain aspects of labeling and packaging of tobacco products, including the health warnings that have to be written on the package units of tobacco products and on every outside packaging, as well as the characteristics of traceability and security applied on tobacco products ;
- (c) the prohibition of disposal to market of oral use tobacco;
- (d) the cross-border distance sales of tobacco products;
- (e) the obligation of submission of novel tobacco products;
- (f) the disposal to the market and the labeling of certain products related to the tobacco products, the electronic cigarettes and the replacement comprehensives and the herbal products for smoking;
- (g) the determination of the places in which the prohibitive or warning signs for the harm of smoking are being placed;
- (h) the determination of the measuring units and content of tobacco products in tar, nicotine and other ingredients;
- (i) the determination of specifications, criteria and standards which a laboratory is required to meet, in order to be assigned from the Council of Ministers as an approved laboratory for the purposes of this Law;
- (j) the approval of licenses for use of accompanying indications to novel tobacco products and electronic cigarettes for the reduced risk or harm to health;
- (k) the level of fees for submission of application for approval of warnings in respect with the harm of smoking;

- (l) the level of fees for the recovery of costs of supervision of the destruction of tobacco products;
- (m) the amount of fees for the right to lodge a hierarchical appeal before the Minister against a decision of the Head of the Health Services or to object to the Director of the Governmental Laboratory against the result of analysis and or sample test ;
- (n) the amount of fees for the manufacturers and importers of tobacco products for the verification of measurements;
- (o) the amount of fees for the manufacturers and importers of tobacco products, for the receipt, the storage, the handling, the analysis and the publication of information regarding the components of tobacco products and their emissions;
- (p) the amount of fees for the manufacturers and importers of tobacco products for the peer review;
- (q) the amount of fees for the manufacturers and importers of tobacco products for the evaluation of whether a tobacco product has characteristic aroma/taste, whether prohibited additives or aromatic substances are used and whether a tobacco product contains additives to quantities that increase to a significant and measurable degree the toxic or addictive impact or the CMR of the relevant tobacco product;
- (r) the amount of fees for the manufacturers and importers of electronic cigarettes and replacement comprehensives for the receipt, the storage, the handling and the analysis of information notified to the competent authority;
- (s) the amount of fees for the manufacturers and importers of novel tobacco products and electronic cigarettes for the examination of an application for granting authorization approval as regards the

use of accompanying indications for reduced risk or harm to health in comparison to the traditional tobacco products; and

(t) the amount of fees for the submission of application for the use of accompanying indications for reduced risk or harm to health from novel tobacco products or from electronic cigarettes.

Repeal.

75(I) of 2002
40(I) of 2003
37(I) of 2004
14(I) of 2008
89(I) of 2009.

27.-(1) From the date of entry into force of this Law, the Protection of Health (Control of Smoking) Law is repealed, without prejudice to any action, act or prosecution made or initiated under the repealed law.

(2) Any procedure or prosecution initiated under the repealed law shall continue on the basis of the provisions of it, which are considered that they continue to apply for the purposes of this subsection .

ANNEX I

(Section 2)

Indicative list of services not covered by the definition of the term "information society service"

1. Services not provided "at a distance"

Services provided in the physical presence of the provider and the recipient, even if they involve the use of electronic devices;

- (a) Medical examinations or treatment at a doctors surgery using electronic equipment where the patient is physically present;
- (b) Consultation of an electronic catalogue in a shop with the customer on site;
- (c) plane ticket reservation at a travel agency in the physical presence of the customer, by means of a network of computers;
- (d) electronic games made available in a video arcade where the customer is physically present;

2. Services not provided "by electronic means"

-Services having material content even though provided via electronic devices:

- (a) Automatic cash air ticket dispensing machines (banknotes, railway tickets);
- (b) access to road networks, car parks, etc., charging for use, even if there are electronic devices at the entrance/exit controlling access and/or ensuring correct payment is made;

- "Off line services " distribution of CD-ROMs or software on diskettes.

- Services which are not provided via electronic processing inventory systems:

- (a) voice telephone services;
- (b) telefax/telex services;
- (c) services provided via telephone / telefax;
- (d) telefax consultation of a doctor;
- (e) telephone/telefax consultation of a lawyer;
- (f) telephone/telefax direct marketing.

3. Services not supplied "at the individual request of a recipient of services"

Services provided by transmitting data without individual demand for simultaneous reception by an unlimited number of individual receivers (point to multipoint transmission):

- (a) television broadcasting services (including near video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
- (b) radio broadcasting services;
- (c) (televised) (Teletext).

ANNEX II

[Section 22 (1)]

Official Journal

Implementing Decisions

Official Journal

of E.U.:

L 252,

29.9.2015,

P.49.

Commission Implementing Decision (EU) 2015/1735 on the precise position of the general warning and the information message on roll-your-own tobacco marketed in pouches.

Official Journal of E.U.:

L 267,

14.10.2015,

p.5

Commission Implementing Decision (EU) 2015/1842 on the technical specifications for the layout, design and shape of the combined health warnings for tobacco products for smoking.

Official Journal of E.U.

L 312,

27.11.2015,

p.5.

Commission Implementing Decision (EU) 2015/2186 establishing a format for the submission and making available of information on tobacco products.

Official Journal of E.U.:

L 309,

20.11.2015,

P.15.

Commission Implementing Decision (EU) 2015/2183 establishing a common format for the notification of electronic cigarettes and refill containers.

Official Journal of the
E.U.:

L 309,

26.11.2015,

p.15.

Commission Implementing Decision (EU) 2016/787 laying down a priority list of additives contained in cigarettes and roll-your-own tobacco subject to enhanced reporting obligations.

Official Journal of E.U.:

L101,

16.4.16,

p.15

Commission Implementing Decision (EU) 2016/586 on technical standards for the refill mechanism of electronic cigarettes.