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Legal Notice No. 12 of 2019

**REPUBLIC OF THE GAMBIA**

**THE TOBACCO CONTROL ACT, 2016**

**THE TOBACCO CONTROL REGULATIONS, 2019**

**IN EXERCISE** of the powers conferred by Section 44 of the Tobacco Control Act, 2016 on the Minister of Health these Regulations are made.

**TOBACCO CONTROL ACT, 2016**  
**TOBACCO CONTROL REGULATIONS, 2019**  
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## PART I - PRELIMINARY

### 1. Citation and commencement

These Regulations may be cited as the Tobacco Control Regulations, 2019 and shall come into operation, upon the expiry of 3 months from the date of its publication in the Gazette, unless otherwise specified by the Minister in relation to certain provisions in these regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires-

"Act" means the Tobacco Control Act, 2016;

"exposure" means the subjection of a person to an environment where smoking is taking place, has taken place or that contains the remains of any used tobacco product including, among others, cigarette stubs;

"financial year" means the period of twelve months ending on the 31<sup>st</sup> day of December each year;

"health warnings and messages" means the health warnings and messages referred to in section 14 (2) of the Act and the First Schedule to these Regulations and other such health messages as may be specified by the Minister of Health;

"point of sale" means a point within any fixed or movable premises where tobacco products are offered for sale or where a display cabinet, tray or other product or retail space in which a tobacco product is held pending sale.

"principal display area" includes in the case of-

- (a) box type packages, two equal sized largest surface areas of the box that may be displayed or visible under normal conditions of sale or use;
- (b) pouch type packages, the entire surface area of the pack that may be displayed or visible under normal conditions of sale or use;
- (c) conical or cylindrical type of packages, the entire curved area of the pack that may be displayed or visible under normal conditions of sale or use;
- (d) any other form or type of package, the entire surface area of the



pack that may be displayed or visible under normal conditions of sale or use; and

- (e) the surfaces of any tobacco product delivery system that may be displayed or visible under normal conditions of sale or use.

"second-hand smoke" means smoke emitted from the burning or heated end of a cigarette or any other tobacco products, in combination, with the smoke exhaled by the smoker;

"pictures" means such graphics as defined under the Act, specified under these Regulations or as the Minister of Health and Social Welfare may from time to time specify;

"Tobacco Products" as defined in the Act;

"Electronic Nicotine Delivery System" as defined in the Act.

## **PART II – PACKAGING AND LABELING**

### **3. Health warnings and messages**

(1) A person who manufactures, imports, distributes or sells a tobacco product shall ensure that every package containing the tobacco product bears health warnings and messages required under section 14 (2) of the Act and as set out in the First Schedule of these regulations.

(2) A picture required under regulation 3 (1) shall be in full colour with contrasting colours for the background in a manner that maximizes visibility, noticeability and legibility of elements of health warnings and messages in the approved layout and design.

(3) The manufacturer, importer, distributor or seller of a tobacco product shall ensure that the health warnings and messages required under regulation 3 (1) are permanently affixed to the products' packaging and not susceptible to being removed, damaged, concealed, obstructed, obscured, disrupted (except during temporary opening of the packaging), covered, or changed by any package feature or mechanism, by any tax or other stamps or required markings, or by anything supplied by the manufacturer, importer or retail seller.

(4) No person shall sell any device or any other thing that is intended to or may likely be used to cover, obscure, mask, alter, or otherwise detract from the display of specified health warnings and messages under the Act or these Regulations.

### **4. Requirements for constituents and emissions information on tobacco product packaging and labelling**

(1) Constituents and emissions statements prescribed by the Minister shall be legibly and visibly displayed on the lateral sides of tobacco products' packaging.

(2) No quantitative information on constituents or emissions or information other than that prescribed may be displayed or suggested anywhere on or in the



tobacco product packaging and labelling, including when used as part of a brand name or trademark.

## **5. Rotation of specified health warnings and messages**

(1) The manufacturer, importer, distributor or seller of a tobacco product shall ensure that the specified health warnings and messages and constituents and emissions statements required under these Regulations are rotated every twenty-four months.

(2) During a rotation period, each of the prescribed health warnings and messages and constituents and emissions statements in the set for that period shall appear concurrently, with each warning or message and each constituents and emissions statement displayed on an equal number of retail packages for each brand within each brand family for each package size and type.

(3) When an old set of health warnings and messages and constituents and emissions statements are being replaced by a set of new ones, both sets may continue to be used during a sixty-day transition period. After this sixty-day period, only tobacco products in packaging and labelling with the new health warnings and messages and constituents and emissions statements shall be imported, manufactured, distributed for sale, or sold in The Gambia.

(4) For the purposes of regulation 5 (1), the twenty-four month rotational period of the health warnings and messages, constituents and emissions statements shall be a period of twenty-four months ending from the date of commencement of the new health warnings and messages, constituents and emissions statements.

(5) No later than ninety days prior to the end of the twenty-four month rotation period, the Minister shall issue and make electronically available the new sets of health warnings and messages, constituents and emissions statements.

## **6. Format of health warnings and messages**

(1) The health warnings and messages required on all packages shall be in the form of a text message, and a full-colour picture as set out in the First Schedule of these Regulations.

(2) The text of the health warnings and messages on the front face of a package shall—

- (a) be printed in white on a black background;
- (b) be printed in the font type known as Helvetica, in uppercase and lower-case letters;
- (c) be in type that is—
  - (i) clear, visible and legible;
  - (ii) subject to paragraph (d), of the same font size throughout the message;



- (iii) white;
- (iv) of normal and bold weight;
- (v) of a size that makes the text, as nearly as possible, fill the background on which it is printed; and
- (d) comprise 33% of the required health warnings and messages as provided in section 14(2) of the Act.

(3) The text of the health warning and message on the back face of a package shall be –

- (a) printed in black on a white background with black rectangular border, which is outside of the required size of the health warning message;
- (b) printed in the font type known as Helvetica, in upper-case and lower-case letters as set out in the First Schedule of these Regulations;
- (c) in type that is–
  - (i) clear, legible and visible;
  - (ii) subject to paragraph (d), of the same font size throughout the message;
  - (iii) black;
  - (iv) of normal weight;
  - (v) of such a size that the text as nearly as possible fills the background on which it is printed; and
- (d) comprise 33% of the required health warnings and messages as provided in section 14(2) of the Act.

(4) The text of the health warning and message placed on the front face of the package shall be in English.

(5) The text of the health warning and message placed on the back of the package shall be in English.

(6) The picture health warnings and messages shall comprise the remaining space of the required health warnings and messages as provided in section 14(2) of the Act.

(7) The format of the pictures in the health warning and messages shall be formatted as provided for in the First Schedule of these Regulations.

(8) A manufacture or importer shall submit a sample package to the Minister displaying the health warnings and messages and the constituents and emissions statements for approval.

## **7. Prohibitions on misleading packaging and labelling**

(1) A person shall not manufacture, sell, distribute, or import a tobacco product,

for sale in The Gambia, whose package carries a name, brand name, text, trademark or pictorial or any other representation or sign which suggests that the tobacco product is less harmful to health than other tobacco products.

(2) The prohibition in regulation 7 (1) includes the use of -

- (a) descriptors, words, or terms such as "light", "ultra light", "mild", "low tar", "smooth", "slim", "extra", "ultra", "natural", "menthol", "cool", and other terms or phrases in any language that are likely or intended to mislead consumers, including when used as part of a brand name or trademark;
- (b) any figurative, trademark, colour or colour combination, number, image, symbol, or other sign of any kind in whole or part that is likely or intended to mislead consumers, including when used as part of a brand name or trademark; and
- (c) other package design or feature that is likely to mislead consumers.

### **8. Product identification markings**

(1) The package of every tobacco product shall contain a code marking, whether by batch numbering or otherwise through which the place, the date of manufacture, manufacturer and country of origin may be determined and for the purpose of tracking and tracing of tobacco products.

(2) A manufacturer or importer shall, upon request, provide the Minister with such information as shall be required to enable the Minister to interpret the code marking on a tobacco product for the purpose of any of the Minister's functions under the Act or these Regulations.

### **9. Technical repository**

The Minister shall maintain-

- (a) a technical repository containing the required health warnings and messages and constituent and emission statements as well as related technical information to facilitate the implementation of the Act and these regulations; and
- (b) a digital storage device which shall have the required health warnings and messages and constituent and emission statements and any guidance documents on the application of these health warnings and messages and constituent and emission statements under this Part and which shall be available to any interested person.

## **PART III - PROHIBITION OF SUPPLY OF TOBACCO PRODUCTS TO AND BY MINORS**

### **10. Notices at Point of Sale**

(1) The sale of any tobacco product to or by persons under the age of eighteen



years is prohibited by the Act.

(2) Pursuant to regulation 10 (1), all distributors, whole sellers and retailers shall display a notice that bear the words 'The sale of or the availing of a tobacco product to a person under the age of eighteen years is prohibited by law'.

(3) The notice shall -

- (a) bear the word "**NOTICE**" in capital letters and red colour font below which the message in (2) shall follow;
- (b) the message in (2) shall be in black colour font on a white background;
- (c) bear a black border around it;
- (d) be clear, indelible, legible and visible;
- (e) bear a health text warning;
- (f) be predominantly displayed at the point above the level of the counter, shelf or container from which these products are stored for sale or sold; and
- (g) the notice shall be formatted as provided for in the Fifth Schedule of these Regulations.

#### **11. Storage of tobacco products at point of sale**

(1) Any person offering for sale or selling any tobacco product shall ensure that such products are stored at the point of sale in a way that -

- (a) any part of any tobacco product shall not be visible to the public from outside the sellers' premises or inside the sellers' premises in any area where the public has access;
- (b) any tobacco product shall be stored at the point of sale under an opaque front counter, or above or behind the front counter, or in an opaque cabinet; and
- (c) any part of any tobacco product shall only be temporarily visible at the point of sale during the sales transaction.

#### **12. Tobacco product price list**

(1) Price lists allowed at places where tobacco products are sold pursuant to Section 12 (5) of the Act shall meet the following requirements -

- (a) price list shall be no larger than 14.8 cm x 21 cm; and
- (b) Content of the price list shall be limited to -
  - (i) the prices of the tobacco products available for sale at the location, by brand and package quantity, and



- (ii) the pictorial health warning and corresponding text warnings prescribed by the Minister.

(2) The text of the information in clause (2) shall be in black Times New Roman font no larger than 11 point size, on a solid white or beige background; provided that lines may be used to separate the text entries.

(3) The price list shall contain no other text, images, symbols, colors, signs, other content, including any trademark or brand imaging, in whole or part, of any tobacco product.

(4) Each page of the price list shall carry a different pictorial health warning and corresponding text prescribed by the Minister, which shall be surrounded by a black border no more than .25 cm. The warning shall occupy the entire top 50% of the page, as illustrated in template in the Forth Schedule.

(5) Price lists shall conform to the layout of the template provided in the Forth Schedule.

(6) Any price list shall be kept behind the counter at the cash register or other place designated by the owner or manager and shall be accessible to customers only upon request.

#### **PART IV - INFORMATION TO BE PROVIDED BY MANUFACTURERS AND IMPORTERS**

##### **13. Product disclosure**

(1) A manufacturer or importer shall, at the end of each calendar year, provide the Minister, for each type of tobacco product and for each brand manufactured or imported in addition to the requirements of Section 42 and Fifth Schedule to the Act -

- (a) a list of all the ingredients that the tobacco product contains including the quantities of those ingredients per unit of tobacco product and ingredients present in tobacco product components such as filters, glue and papers for each brand;
- (b) a statement of the reasons for the inclusion of those ingredients which shall indicate for each ingredient-
  - (i) its function; and
  - (ii) its category;
- (c) all toxicological data available to the manufacturer concerning the ingredients of that tobacco product in the case of products intended to be burnt, heated or unburnt or of products not intended to be burnt, heated or unburnt which shall for each ingredient-
  - (i) refer in particular to their effects on health;
  - (ii) include any effects produced in combination with any of the other



ingredients of that product that are not produced by that ingredient alone; and

(iii) include any addictive effects.

#### **14. Offence under this Part**

A person who declares false information under this Part commits an offence and is liable to a fine or imprisonment as provided in Section 41 of the Act.

### **PART V - PROTECTION AGAINST EXPOSURE TO SECONDHAND TOBACCO SMOKE**

#### **15. Prohibition of smoking in public places, workplaces and public transport in outdoor spaces**

No person shall smoke within 100 metres of any openings, structures, doors, windows, outlets and inlets, other air intake mechanisms, a waiting area, queue, place of service or consumption of food drinks, immovable facilities in unenclosed public or work places and areas designated as non-smoking by the person responsible for such premises.

#### **16. Notice on prohibited smoking area**

A notice displayed pursuant to section 11 of the Act shall –

- (a) bear the words 'Smoking in these premises is prohibited and an offence' in black colour on a white background and followed by a no smoking sign composed of a black burning cigarette encircled in red as set out in the First Schedule of the Act;
- (b) of a size that makes the warning as nearly as possible fill the background as which it is printed;
- (c) bear the word 'WARNING' in capital letters, in red colour fonts on a white background;
- (d) be clear, indelible, legible and visible;
- (e) bear the words 'Penalty, GMD 3,000- or imprisonment for a term of 3 months or both' appearing at the bottom of the notice;
- (f) consist of at least A3 paper size in buildings; A4 in buses, ferries and trains; A5 in cars;
- (g) be posted at the main entrance, other entrances and (prominent) locations of a prohibited smoking area;
- (h) have a black border around it; and
- (j) the notice shall be formatted as provided for in the Second Schedule

of these Regulations.

## **PART VI - ENFORCEMENT**

### **17. Forms**

- (1) Authorized officers shall use forms set out in the Third Schedule for the purposes of confiscating any tobacco product pursuant to section 28(f) of the Act.
- (2) Where an authorized officer effects confiscation and stores any tobacco products in the same premises pursuant to section 36 of the Act, the officer shall use form A set out in the Third Schedule of these Regulations.
- (3) Where a product has been confiscated and the owner, manufacturer, importer, distributor, dealer, of the seized tobacco products shall forfeit ownership to the State for destruction pursuant to section 36 of the Act or disposal pursuant to section 39 of the Act, an officer shall use form B set out in the Third Schedule of these Regulations.
- (4) In discharging the inspection powers conferred under sections 29(d) of the Act, an authorized officer shall use forms C and D set out in the Third Schedule of these Regulations.
- (5) In discharging the inspection powers conferred under sections 33 of the Act, an authorized officer shall use form E.
- (6) All confiscated tobacco products shall be destroyed in an environmentally-friendly manner at the cost of the owner.

## **PART VII - MISCELLANEOUS PROVISIONS**

### **18. Public reporting of contraventions**

- (1) Every public authority involved in tobacco control shall establish mechanisms to enable any person to report the contravention of the Act and these Regulations and expeditiously take action in accordance with these Regulations.
- (2) No disciplinary or other adverse actions shall be instituted against any person who reports the contravention as required by the Act and these Regulations.

### **19. Offences**

Any person who contravenes or facilitates the contravention of these Regulations commits an offence punishable under the Act.



**FIRST SCHEDULE (r. 3,4,5,6,7)**

**LIST OF PRESCRIBED TEXT HEALTH WARNINGS AND MESSAGES**

The following text health warnings and messages shall be accompanied by corresponding pictures in the application of these Regulations -

Smoking causes impotence

Smoking causes miscarriage

Smoking causes deadly lung diseases

Smoking clogs the arteries and causes heart attacks and strokes.

Smoking causes cancer

This is what dying of lung cancer looks like

Smoking causes death

Tobacco is addictive

Tobacco smoke is harmful to children

Smoking causes diabetes

Smoking accelerates aging

Smoking causes slow and painful death

Smoking increases the risk of sudden infant death syndrome

Smoking causes skin cancer

Smoking causes infertility

Tobacco use leads to poverty

Smoking pollutes the environment

Cigarette ash causes bush fires

Cigarette smoke triggers asthma attacks

**SECOND SCHEDULE(r, 10, r 15)**

**POINT OF SALE NOTICE**

Notice on prohibited smoking area "Include here a design of the notice required by the corresponding section of the regulation

**POINT OF SALE NOTICE (ON AN A3, A4, A5 PAPER)<sup>1</sup>**

It is against the law for retailers to sell or give tobacco products to persons under the age of 18, and to permit to sell tobacco products by persons under the age of 18 *(this statement shall occupy 50% of the A3, A4, A5 paper).*

Add a specified health message such as tobacco causes cancer *(the specified health warnings and messages to be rotated equally and regularly shall occupy the other 75% of the A3,A4,A5 paper)*

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<sup>1</sup> The Paper sizes are in the A series of paper defined in ISO 216: 1975



THIRD SCHEDULE ( r 16)

Under Section 28(f) of the Tobacco Control Act, 2016

CONFISCATION FORM (A)

To .....

Whereas I have reason to believe that the stock of goods detailed below which is/are at the premises of ..... do not meet the provision of Tobacco Control Act, 2016.

**DETAILS OF THE GOODS**

Name of the manufacturer/distributor/importer .....

Address.....

Physical location .....

Goods are marked/branded as follows.....

Physical seal .....

Description of goods .....

Quantity .....

Now therefore I ..... an authorized officer under section 26 of the tobacco control Act 2016, hereby confiscate and detain the said goods under section 28(f) of the tobacco control Act 2016.

Name of authorized officer .....

Designation.....

Tobacco Control Regulations, 2019

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Signature.....

Date .....

Manufacturer/Distributor/importer/trader

Name .....

Designation .....

Signature ..... Date .....

**WITNESS**

Name .....

Designation .....

Signature.....

To be filled in duplicate.



**Under Section 39 of The Gambia's Tobacco Control Act, 2016**  
**VOLUNTARY FORFEITURE FORM - (B)**

To: The Authorized officer:

.....

(Designation and full address of the Authorized Officer)

I hereby agree to the voluntary forfeiture of the article(s) mentioned below located at the Premises of .....situated at.....

I agree that these may be destroyed or otherwise disposed of as may be directed Pursuant to section 39 of the Tobacco Control Act, 2016.

Name of article(s) with quantity and /or number.

Date.....

Signature.....

Name and address of the owner representative or the person in whose possession the Article was at the time of seizure.

Name:.....

Address.....

Under Section 29(d) of The Gambia's Tobacco Control Act, 2016.

**SAMPLE SUBMISSION FORM - (C)**

Product: .....

Packaging .....

Labeling/Identification.....

Trade mark .....

Date of manufacture .....

Date expiry .....

Content declared .....

Batch No.....

Any other marking .....

Quantity submitted .....

Purposes of testing .....

Name of laboratory.....

Parameters to test.....

Name of submitting officer: .....

Address.....

Tel..... E-mail: .....

Sample reference number.....

Receiver's name.....

Signature..... Date.....



**Under Section 29(d) of Tobacco Control Act, 2016**  
**SAMPLE COLLECTION FORM - (D)**

Name of product.....

Brand name.....

Name of manufacturer/Dealer.....

Address.....

Batch No.....

Sample size.....

Sampling method .....

Reason for collecting sample  
.....  
.....

Remarks.....

Name of collecting officer collecting sample .....

Designation .....

Signature..... Date.....

Name of witness Designation: .....

Signature..... Date.....

**Under Sections 33 of the Tobacco Control Act, 2016**

**DISCLOSURE FORM - (E)**

To.....

I hereby declare the following stock of goods detailed below which is/are at the premises of

..... as  
goods required to comply with the provisions of the Tobacco Control Act, 2016.

**DETAILS OF THE GOODS**

Name of the manufacturer/distributor/importer .....

Address.....

Physical location .....

Goods are marked/branded as follows.....

Physical seal .....

Description of goods .....

Quantity .....

Manufacturer/Distributor/importer/trader

Name .....

Designation .....

Signature ..... Date .....

I .....

an authorized officer under section 26 of the Tobacco Control Act 2016, hereby confirm the disclosed goods are products that shall comply with the provisions of



the Tobacco Control Act 2016.

Name of authorized officer .....

Designation .....

Signature .....

Date .....

**AUTHORIZATION FORM - (F)**

**Under Sections 31 of the Tobacco Control Act, 2016**

It is hereby certified that:.....

under the requirements of the Tobacco Control Act is authorized to perform the following duties/actions:.....

..... in compliance with the provisions of the Act. This authorization will be valid for a period of ..... days/months/years.

Dated this ..... day of.....20.....

Signature ..... Name of authorized officer.....

Designation.....



**FORTH SCHEDULE**

**TOBACCO PRICE LIST FORMAT**

**PRICE LIST (ON AN A3, A4, A5 PAPER)**

Add a specified health message such as tobacco causes cancer (the specified health warnings and messages to be rotated equally and regularly shall occupy at least 75 % of the A5 paper).

Add price list in black and white (the price list shall occupy 25% of the A5 paper).

HON. AHMADOU LAMIN SAMATEH  
MINISTER OF HEALTH



**HON. AHMADOU LAMIN SAMATEH**  
**MINISTER OF HEALTH**