

Wednesday, January 10, 2018

Series I, N.º 2



§ 1.25

JORNAL da REPÚBLICA

OFFICIAL PUBLICATION OF THE DEMOCRATIC REPUBLIC OF EAST TIMOR

CONTENTS

TRIBUNAL DE RECURSO :

PRO. NUC 0129/17/TRDIL - N.º 07/CONST/17/TR 2

MINISTÉRIO DA ADMINISTRAÇÃO ESTATAL:

Statutory Order Ministerial N.º 1 /MAE/2018 de 10 de

Janeiro Aprova a Lista de Topónimos para os Municípios de Covalima and Manufahi.....9

MINISTRY OF HEALTH:

Ministerial Statutory Order N.º 2 /2018 of January 10

Regulations for Labeling of Tobacco Products ... 15

Acórdão dos Juízes Deolindo dos Santos, Guilhermino da Silva and Edite Palmira dos Reis que compõem o Colectivo do Tribunal de Recurso:

I. RELATÓRIO.

Sua Excelência, o Presidente do Parlamento Nacional solicita ao Supremo Tribunal de Justiça (actualmente o Tribunal de Recurso) a fiscalização abstracta da constitucionalidade do art.º 15º, n.º 2, do Regimento do Parlamento Nacional, motivado pelo pedido de destituição daquele do cargo de Presidente do Parlamento Nacional, destituição apresentada por 12 deputados da Bancada da Oposição Parlamentar, nos termos do art.º 150 da Constituição, por ser inconstitucional da norma dele constante. Termina o seu requerimento tecendo as seguinte conclusões:

1. As dúvidas de constitucionalidade suscitadas na petition em anexo, apresentada por 12 deputados da Bancada da Oposição Parlamentar - CNRT, PLP e KHUNTO, que pretendem a destituição do Presidente do Parlamento Nacional, antes de decorrido o prazo de 6 meses, com fundamento no art.º 15, n.º 2 do Regimento do Parlamento Nacional n.º 1 /2016 de 11 de Maio (Primeira Alteração do Regimento do Parlamento Nacional), is o objecto da Fiscalização abstracta da Constitucionality, nos termos do art.º 150.º, alínea b), da Constituição.
2. Os 12 deputados da Bancada da Oposição Parlamentar CNRT, PLP e KHUNTO, pretendem a destituição do Presidente do Parlamento Nacional, nos termos e fundamentos do art.º 15, n.º 2 do Regimento do Parlamento Nacional n.º 1/2016 de 11 de Maio, (Primeira Alteração do Regimento do Parlamento Nacional).

Porém, esta pretensão is inconstitucional porque o Pre-sidente do PN ainda se encontra no exercício legítimo das suas funções, uma vez que não decorreu o prazo de 6 meses posterior à sua eleição.

3. Na verdade, o Article 100.º (Dissolução) 1 da Constituição da República dispõe que:

O Parlamento Nacional não pode ser dissolvido nos seis meses posteriores à sua eleição (...) sob pena de inexistência jurídica do ato de dissolução.

Por outro lado, define o art.º 14 do Regimento do Parlamento Nacional n.º 1/2016 de 11 de Maio, (Primeira Alteração do Regimento do Parlamento Nacional),

1. O Presidente representa o Parlamento Nacional, defende os seus direitos e dignity, dirige e coordena os seus trabalhos com imparciality, e exerce authority sobre todos os funcionários, agentes e forças de segurança colocadas ao serviço do Parlamento.
2. O Presidente substitui o Presidente da República nos termos do n.º 1 do Article 82 e do n.º 1 do Article 84 da Constituição.
3. O Presidente tem honras de representante do segundo Órgão de Soberania.
4. O Presidente ser á substituído, nas suas faltas ou impedimentos, rotativamente por um dos Vice-Presidentes.

MINISTERIAL STATUTORY ORDER N.º 2 /2018

January 13

REGULATIONS FOR LABELING OF TOBACCO PRODUCTS

Decree-Law n.º 14/2016 of June 8, of the Regime for Tobacco Control, which entered into force in November of 2016, has the primary purpose of fighting tobacco use, insofar as its provisions are especially aimed at preventing the consumption of tobacco products, as well as raising awareness and education for health.

Whereas the packaging of tobacco is the medium for advertising the product that is most used to reach consumers, the Decree-Law mentioned above accorded special attention to it, and decided upon the use thereof to communicate messages for raising awareness and education for health, chiefly aimed at the youngest bracket of consumers.

However, the implementation of some of the provisions of the aforesaid Decree-Law, notably those concerning packaging and information about the product, are without regulation.

Accordingly, the Government, acting through the Minister of Health, pursuant to what is set forth in Article 12 of Decree-Law n.º 14/2016, of June 8, orders publication of the following statutory order:

**Article 1
Purpose**

This statutory order regulates the labeling of tobacco products, as well as reports on the product to be submitted to the Ministry of Health.

**Article 2
Definitions**

1. The terms and definitions set forth in Decree-Law n.º 14/2016, of June 8, when used in this statutory order, have the same meaning as that which is attributed to them therein.
2. For the purposes of this statutory order, the following definitions shall apply:

a) Decree-Law - Decree-Law n.º 14/2016, of June 8, approving the Regimen for Tobacco Control;

b) Front outside surface:

- i) In relation to a cigarette pack, one of the two largest surfaces of the package that includes the front of the folding lid when there is one;
- ii) In relation to a pouch, the surface that is folded over by the opening of the pouch; or
- iii) For any other package of tobacco, one of the largest surfaces of the package.

c) Back outside surface: – one of the two largest outside surfaces of the cigarette pack, which is diametrically opposite the *Front outside surface*; or for any other package of tobacco products, one of the largest surfaces other than the front one.

d) Upper outside surface (on the top):

- i) In relation to a cigarette pack, one of the smaller surfaces perpendicular to the outside front, back and lateral surfaces;
- ii) In relation to any other package of tobacco, the surface on the top of the package of tobacco. (if any)

e) Upper outside surface (on the bottom):

- i) In relation to a cigarette pack, the surface diametrically opposite the upper outside surface;
- ii) In relation to any other package of tobacco, the outside surface of the bottom of the package of tobacco. (if any)

f) Primary Packaging - a receptacle for retail sale, in which the tobacco product is directly placed;

g) Secondary Packaging - a receptacle, in which the tobacco product in a primary package is placed for retail sale (excluding any transparent wrapping);

h) Lateral outside surface - the two surfaces perpendicular to the front and back outside surfaces of the package of tobacco products, other than the surfaces of the top or the bottom;

**Article 3.º
Labeling and tagging of packaging**

1. The outside surfaces of packages for any tobacco product to be imported, distributed or offered for retail sale in East Timor, must comply with the following requirements:
 - a) The health warnings indicated in Article 13 of the Decree-Law and the respective images, as illustrated in Annex I of this statutory order, which comprises an integral part hereof, must cover 85% of the entire outside front surface of any primary and/or secondary packaging of tobacco, such that:
 - i) The health warning covers 20% of the upper part of the outside front surface; e
 - ii) The image covers 65% of the outside front surface.
 - b) The health warnings indicated in sub-paragraphs a), b), c), d), e) and f) of n.º 1 of Article 13 of the Decree-Law correspond to images I, II, III, IV, V and VI, respectively, of Annex I of this statutory order, which jointly comprise the labeling templates referred to in n.º 1 of Article 12. of the Decree-Law.

- c) The health warning and the respective image must cover 100% of the back outside surface of any package of tobacco, such that:
 - i) The health warning, including the phone number for specialized consultations on quitting tobacco, should cover 20% of the upper part of the back outside surface;e
 - ii) The image should cover the remaining 80% of the back outside surface.
 - d) In relation to cigarette packs and any other packaging of tobacco products with an upper outside surface (on the top) and a lower outside surface (on the bottom), the health warning must cover 100% of the aforementioned surfaces.
2. The information on content of tar, nicotine and carbon monoxide, indicated in n.º 3 of Article 12. of the Decree-Law, must cover 50% of the lower part of outside lateral surfaces on the right side of any primary or secondary packaging for cigarettes and tobacco products.
 3. The bar code and other product information, must be exhibited on packages of tobacco in the lower part of the outside lateral surface on the left side, as follows:
 - a) The bar code must be printed in black and white on the upper part of the space that is provided for it, and must cover 30% thereof.
 - b) The product lot number and information on the place and date of production should occupy 20% of the left outside lateral surface, just below the bar code.
 4. The bar code can be shown on any outside surface of packages of tobacco products other than cigarette packs, as long as it does not conceal any of the health warning.
 5. All health warnings required pursuant to the terms of this statutory order must be presented:
 - a) In one of the official languages;
 - b) In a clear and legible fashion;
 - c) In the Calibri font;
 - d) In upper case letters, or, for the information required by n.º 2 of this article, in a combination of upper case and lower-case letters;
 - e) In white letters on a black background.
 - f) The size of the letters for the information on cigarette packs must comply with what is established in Annex I of this statutory order.
 - g) On secondary packaging, the size of the health warning and other product information should be in proportion to the space provided for them, keeping in mind the typeface indicated in Annex I for cigarette packs, with the understanding that in all cases, they should cover the greater part of the space provided for them.
 6. The health warnings and respective images, as required by this statutory order, can be trimmed, provided that:
 - a) It proves necessary to do so to adjust the image to the respective outside surface of the tobacco package; and
 - b) The overall purpose of the image is not impaired by the trimming.
 7. The brand or logo of the manufacturers/importers of tobacco products can only be placed on the outside front surface, parallel to the lower edge, and occupying up to 15% of the aforesaid surface.
 8. The brand or logo of the manufacturers/importers of tobacco products must be white on a background of Aluminum Gray (RAL9007).
 9. It is strictly prohibited for manufacturers/importers to use the surface mentioned in number 7 to convey messages about the product, particularly through the use of texts, colors or figures, designations, marks and figurative symbols or other signs that suggest that a particular product is less harmful than others, including trademarks such as “light, ultra-light, mild, lower tar, elegant” or the respective translations, as well as any graphic element associated with tobacco or intended to associate it with the descriptions.
 10. All outside surfaces of packages for tobacco products that are not covered by health warnings and the respective images, or the required information as set forth in Annex I of this statutory order, shall be in Aluminum Gray color (RAL9007).
 11. The images associated with the health warnings should be of high quality, at least 300ppi.
 12. What is set forth in this article is applicable to any required adaptations, to the adhesive stickers indicated in number 7 of Article 12. of the Decree-Law.
 13. Without impairment to the obligation to comply with what is set forth in the Decree-Law and in this statutory order, the Ministry of Health may provide producers, importers and/or distributors of tobacco with templates of the approved labels in Annex I of this statutory order in digital format.
 14. The dimensions and technical characteristics of the information that must appear on cigarette packs, as applicable with the necessary adaptations to other packaging for tobacco products, are set forth and illustrated in Annex II of this statutory order.

Article 4

Tests

1. For the purposes of what is set forth in Article 10 of the Decree-Law, manufacturers/importers of products to be sold in East Timor must annually communicate to the Ministry of Health, the average levels of tar, nicotine and carbon monoxide, respectively, produced by their cigarette brands (relating to each one of their varieties), when tested, in accordance with the following standards:

(a) ISO 3308 (Routine analytical cigarette-smoking machine – Definitions and standard conditions); e

(b) ISO 10315 (Cigarettes – Determination of nicotine in smoke condensates – Gas – Chromatographic method).

2. The results of the tests required pursuant to the terms of Article 10 of the Decree-Law should be submitted to the competent departments of the Ministry of Health, within 60 days counting from the end of each calendar year, as per the template established in Annex III of this Statutory Order.

Article 5

Reports on ingredients

1. For the purposes of what is set forth in n.º 1 of Article 11 of the Decree-Law, the report to be submitted to the appropriate Departments of the Ministry of Health, should be drawn up in accordance with the template established in Annex III of this Statutory Order.
2. For the purposes of what is set forth in n.º 2 of Article 11 of the Decree-Law, the report to be submitted to the appropriate Departments of the Ministry of Health, should be drawn up in accordance with the template established in Annex III of this Statutory Order.
3. The reports required pursuant to the terms of n.º 1 of Article 11 of the Decree-Law, must be submitted to the appropriate Departments of the Ministry of Health within 60 days following the end of each calendar year, and the report required pursuant to the terms set forth in n.º 2 of Article 11 must be submitted 30 days prior to the date indicated for the commencement of sales in the Country.

Article 6

Entry into force

This statutory order shall enter into force 120 days after its publication.

Díli, November 10, 2017

Dr. Rui Maria de Araújo

Minister of State and Minister of Health

Annex III

Report template (tests)

Manufacturer or importer:

Calendar year:

Laboratory:

Product:

Brand and name of variety	Tar (mg)	Nicotine (mg)	CO (mg)
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I [full name] residing at [address], [position held in testing laboratory], certify that this report reflects the results of all tests conducted at the laboratory in [place] by or on behalf of, [name of manufacturer] in the year [year] for purposes of compliance with [Regulations].

Place:

Date:

Report template (ingredients)

Manufacturer or importer:

Calendar year:

Name of tobacco product:

Class of tobacco product:

Cigarette / cigarette tobacco / pipe tobacco / cigar / other [specify]*

a) Weight of tobacco by product class:

b) Total weight of additives by product class:

c) List of additives and amounts not exceeded for each brand and brand variety in this declaration:

**Amount not exceeded
(percentage of weight)**

Common botanical or chemical name

I, [full name] residing at [address], [position held], certify that the information recorded in, and/or attached to * this report is correct in compliance with the purposes of [Regulations].

Place:

Date:

Report template (ingredients of new Tobacco Products)

Manufacturer or importer:

Name of tobacco product:

Expected release date:

Class of tobacco product:

Cigarette / cigarette tobacco / pipe tobacco / cigar / other [specify]*

a) Weight of tobacco by product class:

b) Total weight of additives by product class:

c) List of additives and amounts not exceeded brand and brand variety in this declaration:

**Amount not exceeded
(percentage of weight)**

Common botanical or chemical name

I, [full name] residing at [address], [position held], recorded in, and/or attached to * this report is correct in compliance with the purposes of [Regulations].

Place:

Date:

Annex I. Providing illustrative images corresponding to Health Warnings

Smoking kills you

Smoking causes Chronic Lung Disease

Smoking causes impotence

Image A

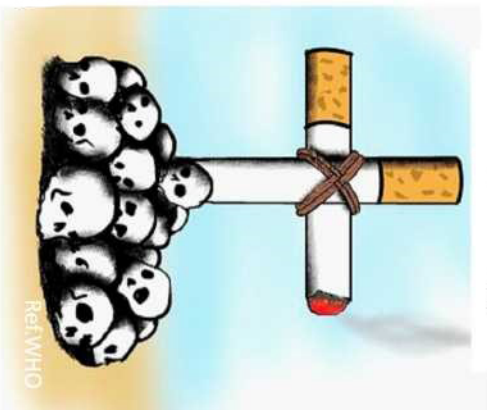


Image B



Image C



Smoking causes Miscarriage

Image D



Smoking causes Cancer

Image E



Smoking causes Heart Disease

Image F



Annex II
EX: Package Template with Technical Characteristics

