

THE TOBACCO CONTROL BILL, 2025

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the protection of present and future generations from the devastating health, social, environmental and economic consequences of tobacco use, nicotine addiction, and exposure to the harmful emissions of tobacco products, tobacco devices, nicotine products or nicotine devices;
- (b) constitute the Tobacco Control Committee and provide for its functions;
- (c) regulate the manufacture, distribution, sale, import of a tobacco product, tobacco device, nicotine, nicotine product and nicotine device;
- (d) provide for the packaging and labelling of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (e) regulate the advertisement, promotion and sponsorship of a tobacco product or tobacco device, nicotine, nicotine product and nicotine device;
- (f) domesticate the World Health Organisation Framework Convention on Tobacco Control; and
- (g) provide for matters connected with, or incidental to, the foregoing.

M. MUCHENDE,
Solicitor-General

The Tobacco Control Bill, 2025

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An Act to provide for the protection of present and future generations from the devastating health, social, environmental and economic consequences of tobacco use, nicotine addiction, and exposure to the harmful emissions of tobacco products, tobacco devices, nicotine products or nicotine devices; constitute the Tobacco Control Committee and provide for its functions; regulate the manufacture, distribution, sale, import of a tobacco device, nicotine, nicotine product and nicotine device; provide for the packaging and labelling of a tobacco product, tobacco device, nicotine product or nicotine device nicotine, nicotine product or nicotine device; regulate the advertisement, promotion and sponsorship of a tobacco product or tobacco device; domesticate the World Health Organisation Framework Convention on Tobacco Control; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISION

5 **1. This Act may be cited as the Tobacco Control Act, 2025, and shall come into operation on the date appointed by the Minister by statutory instrument.**

Short title
and
Commencement

2. In this Act, unless the context otherwise requires—

Interpretation

N.A.B. 40, 2025

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| | “additive” means a substance other than tobacco or nicotine that is added to a tobacco product, tobacco device, nicotine product or nicotine device during processing, manufacturing, packaging, distribution or storage and includes a substance that can be activated at the option of the consumer; | 5 |
| | “advertising and promotion” means any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of directing or indirectly promoting a tobacco product, tobacco device, nicotine product or nicotine device, or tobacco or nicotine use; | 10 |
| Cap. 1 | “Anti Corruption Commission” means the Anti Corruption Commission established under the Constitution; | |
| Cap.1 | “army officer” means an officer of the Defence Force of Zambia established under the Constitution; | 15 |
| Act No.3 of 2012 | “associate” has the meaning assigned to the word in the Anti Corruption Act, 2012; | |
| | “authorised officer” means a person assigned to carry out duties of a law enforcement authority for the purposes of this Act and includes— | 20 |
| | (a) a police officer; | |
| | (b) a customs officer; | |
| | (c) an immigration officer; | |
| | (d) an army officer; | |
| | (e) an Intelligence Officer; | 25 |
| | (f) a Health Inspector; | |
| | (g) a Medical Officer of Health; | |
| | (h) an officer from the Drug Enforcement Commission; | |
| | (i) an officer from the Anti Corruption Commission; | 30 |
| | or | |
| | (j) any other person appointed by the Minister under section 46; | |
| | “Chairperson” means a person appointed as Chairperson of the Committee under section 3; | 45 |
| | “Committee” means the Tobacco Control Committee constituted under section 3; | |

- 5 “conference of parties” means a meeting of the governing body of the World Health Organisation Framework Convention on Tobacco Control comprising of parties to the Convention whose purpose is to regularly review the implementation of the Convention and make decisions to promote its effective implementation;
- 10 “Convention” means the World Health Organisation Framework Convention on Tobacco Control adopted by the 56th World Health Assembly held in Geneva, Switzerland on 23rd May, 2003 and includes its protocols and guidelines;
- 15 “cross border” means, with respect to advertising, promotion and sponsorship, a tobacco product, tobacco device, nicotine, nicotine product or nicotine device which originates within the territory of the Republic and enters another territory or could be received in another territory, through broadcasts or other communication technologies, and a tobacco product, tobacco device, nicotine, nicotine product or nicotine device which originates outside the territory of the Republic and enters the territory or could be received within the territory;
- 20 “customs officer” means an officer appointed by the Commissioner General of the Zambia Revenue Authority to carry out a customs function under the Customs and Excise Act; Cap. 322
- 25 “Drug Enforcement Commission” means the Drug Enforcement Commission established under the Constitution; Cap. 1
- 30 “Emoluments Commission” means the Emoluments Commission established under the Constitution; Cap. 1
- “employee” means a person who, in return for wages or commission, enters into a contract of employment and includes—
- 30 (a) a casual employee;
- (b) a person employed under a contract of apprenticeship made in accordance with the Apprenticeship Act; Cap. 275
- (c) an independent contractor; or
- (d) a person engaged to perform piece work;

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| | “enclosed” means any space covered by a roof, or closed off by one or more walls or sides, regardless of the type of material used for any roof, wall or side, and whether the structure is permanent or temporary; | |
| | “flavour” means a distinct taste or smell, other than one of tobacco or nicotine, resulting from a natural or artificial additive or a combination of additives, which includes fruit, spice, herbs, alcohol, candy, menthol, mint, chocolate, or vanilla, which is distinct before or during the consumption of the product or use of the device, or a taste or smell that can be activated at the option of the consumer; | 5 10 |
| | “flavouring” means an additive that imparts a taste or smell; | |
| Cap. 295 | “Health Inspector” has the meaning assigned to the words in the Public Health Act; | |
| | “health warning” means a prescribed content or message to be displayed on packaging and labelling, conveying health and other consequences of use of a tobacco product, tobacco device, nicotine product or nicotine device and exposure to their emissions; | 15 |
| Cap. 123 | “immigration officer” has the meaning assigned to the words in the Immigration and Deportation Act, 2010; | 20 |
| | “illicit trade” means a practice or conduct prohibited under this Act which relates to the manufacture, shipment, receipt, possession, distribution, sale, or purchase of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, and includes a practice or conduct directly or indirectly intended to facilitate the manufacture, shipment, receipt, possession, distribution, sale or purchase of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; | 25 30 |
| | “importer” means a person who brings an ingredient or a tobacco product, tobacco device, nicotine, nicotine product or nicotine device into the Republic for sale or distribution within the Republic, and the word “import” shall be construed accordingly; | 35 |
| | “ingredient” includes, where applicable, tobacco, nicotine, paper, filter, an additive, a processing aid, a residual substance after storage or processing, and any substance that migrates from the packaging into the tobacco product, tobacco device, nicotine product or nicotine device; | 40 |

- “Intelligence Officer” has the meaning assigned to the words in the Zambia Security Intelligence Service Act; Cap. 109
- “legally disqualified” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019; Act No. 6 of 2019
- 5 “licensee” means a person granted a licence to manufacture, distribute at wholesale or retail, or sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device under section 21;
- 10 “manufacture” means to fabricate, produce, process, package or label an ingredient, a tobacco product, tobacco device, nicotine product or nicotine device for sale within the Republic, and the word “manufacturer” shall be construed accordingly;
- 15 “Medical Officer of Health” has the meaning assigned to the words in the Public Health Act; Cap. 295
- “nicotine” means an addictive substance derived from tobacco leaf and includes the manufactured version of the substance;
- 20 “nicotine device” means a device used for consuming a nicotine product by producing an aerosol or vapour for inhalation and includes part of the system whether or not sold separately;
- 25 “nicotine product” means a manufactured substance or mixture containing nicotine but is not a tobacco product, and includes the cartridge or other receptacle containing the nicotine substance or mixture;
- 30 “occupational activity” means any kind of employment, contract, consulting, or other work or service activity, whether it is gainful or not, and whether it is full time, part time, occasional, temporary, or permanent; Cap.1
- “outdoor” means any space that is not enclosed;
- “permit holder” means a person granted a permit under section 21;
- 40 “packaging and labelling” means the packaging and labelling used in retail sale of a tobacco product, tobacco device, nicotine product or nicotine device;
- “principal display area” means the main surface area on the packaging for a tobacco product, tobacco device, nicotine product or nicotine device normally visible to a consumer;

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| | “public conveyance” means a mode of public transportation used to carry members of the public, usually for reward or commercial gain, and includes a commercial or chartered aircraft, ship, boat, train, bus, taxi, or other means of public transportation; | 5 |
| Cap. 1 | “public officer” has the meaning assigned to the words in the Constitution; | |
| | “public place” means a place accessible to the general public or any place for collective use, regardless of ownership or right of access; | 10 |
| | “public plaza” means an open public space used for gatherings of the public; | |
| Cap. 427 | “regulatory agency” has the meaning assigned to the words in the Business Regulatory Act, 2014; | |
| Cap. 91 | “relative” has the meaning assigned to the word in the Anti Corruption Act, 2012; | 15 |
| | “responsible for tobacco control” means a person involved in, contributing to, or being in a position to be involved in or contribute to the development, implementation, administration or enforcement of tobacco control policy within Government at the national or at a sub national level and the words “responsibility for tobacco control” shall be construed accordingly; | 20 |
| | “responsible person” means the owner, manager, or other person in charge of a public place, workplace, or public conveyance; | 25 |
| | “retail sale” means the direct sale to the consumer of a tobacco product, tobacco device, nicotine product or nicotine device within the Republic; | |
| | “Secretariat” means the Secretariat of the Committee referred to under section 6; | 30 |
| | “sell” means to supply a tobacco product, tobacco device, nicotine product or nicotine device at wholesale or retail within the Republic for a fee or other consideration, and the word “seller” shall be construed accordingly; | 30 |
| | “smoke” means to inhale, exhale or be in possession or control of an ignited or heated tobacco product, tobacco device, nicotine product or nicotine device or emissions produced by an ignited or heated tobacco product, tobacco device, | |

nicotine product or nicotine device, by any means and “smoking” shall be construed accordingly;

5 “sponsorship” means a contribution to Government, an event, activity, organisation, or individual that has the aim, effect, or likely effect of promoting a tobacco product, tobacco device, nicotine product, nicotine device, tobacco or nicotine use either directly or indirectly;

10 “standardised packaging” in relation to a tobacco product, tobacco device, nicotine product or nicotine device, means—

(a) packaging that has a uniform appearance, a plain colour and texture, and standardised shape, size, means of opening and packaging material;

15 (b) packaging prohibited from having any branding, logos or other promotional elements on, inside or attached to the packaging, product or device, other than the brand name and product name appearing in a standard size, colour and typeface, together with other mandatory information;

20 (c) requirements as to the standard appearance of a tobacco product, tobacco device, nicotine product or nicotine device and the quantity of products contained in a package; and

25 (d) any other requirements that limits or prohibits the features of packaging or the features of a product or device which could be used to distinguish different brands of the product or device for the purpose of promoting that product or device;

30 “State institution” has the meaning assigned to the words in the Constitution;

Cap.1

“tobacco” includes leaves and other natural processed or unprocessed parts of a tobacco plant or expanded and reconstituted tobacco;

40 “tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing the consumption of a tobacco product, nicotine addiction, and exposure to smoke and other harmful emissions from a tobacco product, tobacco device, nicotine product or nicotine device;

45 “tobacco device” means a device used to enable the

consumption of a tobacco product and includes the individual parts of a system, whether or not sold or distributed separately;

“tobacco industry” means a manufacturer, wholesale or retail distributor, seller or importer of a tobacco product, tobacco device, nicotine product or nicotine device, and an entity or individual working on behalf of, or to further the interests of, the tobacco industry but does not include a tobacco grower; 5

“tobacco product” means a product entirely or partly made of the tobacco plant as raw material that is manufactured to be used for smoking, sucking, chewing, inhaling, vaping, snuffing or consuming by any other means; 10

“tobacco use” means any habitual use of the tobacco plant, tobacco product, nicotine product or nicotine device; 15

“Vice Chairperson” means a person elected Vice Chairperson of the Committee under section 3; and

“workplace” means any place used by one or more persons during their employment or work, whether compensated or voluntary, and includes all associated or attached areas, and areas commonly used in or incidental to the course of work, a stairway, elevator, corridor, cafeteria, toilet, vehicle, aeroplane, train, water vessel, mine and tunnel. 20

PART II

THE TOBACCO CONTROL COMMITTEE 25

Constitution
of Tobacco
Control
Committee

3. (1) There is constituted the Tobacco Control Committee which shall be responsible for the implementation of this Act.

(2) The Committee consists of the following part time members appointed by the Minister:

(a) a representative of the ministry responsible for health, who shall be the Chairperson; 30

(b) a representative each from the ministries responsible for—

(i) finance;

(ii) commerce;

(iii) education; 35

(iv) local Government;

(v) environment;

- (vi) information; and
- (vii) youth;
- (c) a representative of the Attorney-General;
- (d) a representative of the National Health Research Authority; and
- (e) a representative of a civil society organisation with relevant knowledge and experience in matters relevant to this Act.
- (3) The ministries, institutions and organisations under subsection (2) shall nominate their representatives for appointment by the Minister.
- (4) The members referred to under subsection (2) shall elect the Vice-Chairperson from among themselves.
- (5) A person shall not be nominated or appointed as a member of the Committee if that person—
- (a) is not a member of senior management in the ministry, institution or organisation referred to under subsection (2),
- (b) is convicted of an offence under any written law and sentenced to imprisonment for a term exceeding six months, without the option of a fine;
- (c) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside the Republic;
- (d) is legally disqualified from performing the functions of a member; or
- (e) is an undischarged bankrupt.
- (6) The Schedule applies to the Committee.
- 4.** The functions of the Committee are to—
- (a) coordinate the development and implementation of a national strategic approach to tobacco control;
- (b) coordinate implementation of the Convention so as to mainstream tobacco control activities in the Republic;
- (c) provide guidance to tobacco control stakeholders on effective implementation of the Convention;
- (d) undertake advocacy for tobacco control;

Functions of
Committee

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| | (e) promote public awareness on the health, social, economic and environmental effects and other related matters of tobacco, tobacco products, nicotine or nicotine products; | |
| | (f) advise Government on matters relevant to this Act; and | |
| | (g) perform any other function that the Committee considers necessary for the better carrying out of the provisions of this Act. | 5 |
| Prohibition of members of Committee from affiliation to tobacco industry | 5. (1) A member of the Committee shall not, in a private capacity, be directly affiliated to the tobacco industry or its subsidiary. | 10 |
| | (2) A member of the Committee who fails to disclose that member's affiliation to the tobacco industry or its subsidiary under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both. | 15 |
| | (3) The Committee shall, where the Committee becomes aware of an allegation of a member's affiliation to the tobacco industry or its subsidiary, submit a report to the Minister recommending the investigation of that member and the member shall not take part in a meetings of the Committee from the date of the recommendation to the Minister until a determination is made by the Minister on the matter. | 20 |
| | (4) The Minister shall, on receipt of the recommendation under subsection (3), notify the member of the allegations and require the member to show cause, within a period of thirty days from the date of the notice, why the member should not be replaced by another member on the Committee. | 25 |
| | (5) The Minister shall, in making a determination on the replacement of a member, consider the submission made by the member under subsection (4). | 30 |
| Secretariat of Committee | 6. (1) The department responsible for tobacco control in the ministry responsible for health shall— | |
| | (a) provide secretarial services to the Committee in the performance of the Committee's functions under this Act; and | 35 |
| | (b) implement the decisions of the Committee. | |
| | (2) The Director in the department responsible for tobacco control in the ministry responsible for health shall— | |

(a) be the focal point person for tobacco control matters;
and

(b) supervise the Secretariat.

(3) The Minister may, in consultation with the Committee,
5 appoint other staff in the ministry responsible for health that the
Minister considers necessary for the performance of the functions
of the Secretariat.

PART III

10 PROTECTION OF TOBACCO CONTROL POLICIES FROM THE COMMERCIAL AND OTHER VESTED INTERESTS TO THE TOBACCO INDUSTRY

7. (1) The ministry responsible for health shall, in setting and
implementing public health policies with respect to tobacco control
protect the tobacco control policies from the commercial interest
and other vested interests of the tobacco industry.

Protection
of tobacco
control
policies

15 (2) The Ministry responsible for health shall, in setting and
implementing public health policies referred to under subsection
(1), consult relevant stakeholders.

20 8. (1) A person who is engaged in an occupational activity
with a State institution responsible for tobacco control shall limit
interactions with the tobacco industry to interaction that is strictly
necessary for the effective regulation of the tobacco industry, a
tobacco product, tobacco device, nicotine, nicotine product or
nicotine device.

Limitation
on
interactions
between
Government
and the
tobacco
industry

25 (2) A State institution responsible for tobacco control shall,
where there is an interaction or contact of any kind with the tobacco
industry, regardless of which party initiates the interaction or control,
ensure transparency in the interaction or contact.

(3) A State institution responsible for tobacco control shall, to
ensure transparency in accordance with subsection (2)—

30 (a) conduct any interactions in a public forum, through public
hearings, with advance public notice, except where
conducting the interaction in a public forum would
jeopardise the effective regulation of the tobacco
industry or is not permissible at law;

35 (b) document the interaction or contact and provide details
about the interaction or contact as may be prescribed;
and

(c) carry out other transparency measures that may be
prescribed.

- (4) A State institution responsible for tobacco control shall grant access to the documentation referred to under subsection 3(b) as prescribed, except where the grant of access to the documentation would jeopardise the effective regulation of the tobacco industry or is not permissible at law. 5
- (5) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.
- Prevention and management of conflicts of interest
9. (1) A State institution shall ensure the screening, disclosure, and management of a tobacco related conflict of interest by a person responsible for tobacco control, which shall, at a minimum, include— 10
- (a) requiring the person to disclose any relevant past occupational activity and any other affiliation with the tobacco industry that may give rise to a conflict of interest by that person; 15
- (b) prohibiting the person from engaging in a concurrent occupational activity with the tobacco industry;
- (c) prohibiting the person from accepting a contribution, gift, favour, or perquisite of any kind from an entity or individual in the tobacco industry; 20
- (d) prohibiting the person from acquiring or maintaining any previously held investment in the tobacco industry; and
- (e) requiring the person to give notice of that person's intent to engage in an occupational activity with the tobacco industry after leaving service in the State institution and placing any appropriate limitations on the occupation. 25
- (2) A person from the tobacco industry shall not be nominated or appointed to serve—
- (a) on a delegation from the Republic to a meeting of a conference of the parties relating to the Convention, its subsidiary bodies or any other bodies established pursuant to decisions of the conference of the parties; and 30
- (b) as a member of a State institution, committee, or advisory group that sets or implements tobacco control or public health policy. 35

10. (1) A tobacco industry shall submit periodic reports to the Minister on—

Reports on tobacco industry activities and practices

- 5 (a) the production, packaging, distribution and selling, whether retail or wholesale, of a tobacco product and tobacco device;
- (b) the production, packaging, distribution and selling, whether retail or wholesale, of nicotine, nicotine product or nicotine device; and
- (c) any other information that may be prescribed.

10 (2) The Minister shall cause the reports submitted under subsection (1) to be accessible to the public.

(3) Despite subsection (2), the Minister shall take reasonable action as is necessary to prevent the disclosure of information that is protected by law, misleading, or that may promote the use of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device.

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11. The Government, through the relevant ministries, may put in place policies to promote as appropriate, economically viable alternatives for tobacco growers and distributors, retailers and individual sellers of tobacco.

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Economical viable alternative

PART IV

INFORMATION, EDUCATION AND COMMUNICATION

12. (1) The ministry responsible for health shall, through a comprehensive nation wide education and information campaign programme, promote public awareness about the health consequences, addictive nature and mortal threat posed by tobacco use and exposure to tobacco smoke.

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Government to undertake information, education and communication

(2) The education and information campaign programme referred to under subsection (1) shall focus on a person and family as the basic social unit and shall be carried out in schools and other institutions of learning, correctional facilities and other places of confinement, places of work and in communities throughout the Republic.

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(3) The ministry responsible for health shall, in collaboration with other relevant State institutions and the private sector, provide training, sensitisation and awareness programmes on tobacco control for community workers, social workers, media professionals, educators, decision makers, administrators and other concerned

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persons for the purposes of dissemination of proper information and education on a tobacco product, tobacco device, nicotine, nicotine product or nicotine device.

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| | (4) A local authority shall, in collaboration with a civil society or organisation, a concerned person and the ministry responsible for health, conduct education and information campaigns on tobacco or nicotine use within a local authority's area of jurisdiction. | |
| Health education on harmful effects of tobacco | 13. The ministry responsible for health shall, in collaboration with the ministry responsible for education, integrate in the curricular information on the health effects, addictive nature and mortal threat posed by tobacco use and exposure to tobacco smoke. | 5 |
| Tobacco control education and dissemination to form part of health care | 14. (1) The ministry responsible for health shall ensure that tobacco control education and information dissemination forms part of health care services by healthcare providers or relevant officers. (2) For purposes of subsection (1), the ministry responsible for health shall provide training for the healthcare provider to acquire skills for proper information dissemination and education on tobacco and nicotine use or exposure to tobacco smoke. | 10 15 |
| PART V | | |
| SMOK-FREE ENVIRONMENTS | | |
| Protection from exposure to tobacco smoke and other emissions | 15. (1) A person shall not smoke in an enclosed workplace, enclosed public place or a public conveyance. (2) Despite the generality of subsection (1), a person shall not smoke in any outdoor area that is— | 20 |
| | (a) within a prescribed distance of a doorway, operable window, or air intake mechanism of an enclosed public place or enclosed workplace; | |
| | (b) within a prescribed distance of a waiting area or queue, or a public transport stop; | 25 |
| | (c) within a prescribed distance of a child care facility or educational or vocational facility at any level of instruction, a health care facility, or playground or amusement park; | 30 |
| | (d) a trading place, public plaza or public park; | |
| | (e) a space for the service or consumption of food or drink or within a prescribed distance of that area; | |
| | (f) a stadium, arena, or performance space, including a seating or standing area for an audience, a concession or vending space on the premises; | 35 |
| | (g) designated by a person responsible for the premises as an area where smoking is prohibited; and | |
| | (h) a public space or workspace as prescribed. | |

(3) A person who contravenes subsections (1) and (2) commits an offence and is liable, on conviction, to a fine not exceeding twenty five thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

- 5 **16.** (1) A responsible person shall ensure—
- Duties of
responsible
person to
public
- (a) that a sign notifying persons on the premises of the prohibitions referred to under section 15 are displayed in a prescribed manner;
- 10 (b) that ash trays are not placed in an enclosed workplace, enclosed public place, public conveyance or outdoor areas where smoking is prohibited;
- (c) that reasonable steps are taken to stop a person from smoking in an area prohibited under section 15; and
- 15 (d) that reasonable measures are put in place to comply with the requirements of this Part.
- (2) The reasonable steps referred to under paragraph (1) (c) shall include—
- (a) directing a person who is smoking to stop;
- 20 (b) discontinuing providing a service to a person if that person refuses to stop smoking;
- (c) directing a person to leave the premises and, in the case of public conveyance, to leave the public conveyance when it is safe to do so; or
- 25 (d) reporting to the law enforcement or other appropriate authority.
- (3) A responsible person shall, where a complaint is made to a responsible person relating to exposure to tobacco smoke and other emissions in an enclosed public place, enclosed workplace, public conveyance or an outdoor area where smoking is prohibited
- 30 occasioned by another person, take appropriate action or reasonable steps as specified under subsection (2).
- (4) A responsible person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to a term of imprisonment not
- 35 exceeding one year, or to both.
- (5) In addition to the penalty under subsection (4), an authorised officer may, where a responsible person fails to comply with subsection (1), order the closure of the premises.

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| Duties of responsible person to employee | <p>17. (1) A responsible person shall ensure that—</p> <p>(a) an employee of a responsible person has the right to make an objection to smoking in the workplace done in a manner that contravenes this Act and the responsible person shall act on that objection; and</p> <p>(b) an employee of a responsible person is not exposed to smoke in the workplace.</p> <p>(2) A responsible person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding four hundred thousand penalty units or to a term of imprisonment not exceeding four years, or to both.</p> | <p>5</p> <p>10</p> |
| Prohibition of sale by vending machine or automated means | <p>18. (1) A person shall not sell or arrange for sale a tobacco product, tobacco device, nicotine product or nicotine device by way of an automated vending machine.</p> <p>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding six months, or to both.</p> | <p>15</p> |
| <p>PART VI</p> <p>APPLICATION FOR A LICENCE OR PERMIT</p> | | |
| Administration of Part | <p>19. (1) The Department responsible for industry in the ministry responsible for industry shall be responsible for the administration of this Part under the general direction of the Permanent Secretary in the ministry responsible for industry.</p> <p>(2) In this Part, unless the context otherwise requires, “Director” means the person appointed as Director in the Department responsible for industry by the Civil Service Commission.</p> | <p>20</p> <p>25</p> |
| Prohibition of manufacture, distribution, sell, import or export of tobacco product, etc. without licence or permit | <p>20. (1) A person shall not manufacture, distribute at wholesale or retail or sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device without a licence issued under section 21.</p> <p>(2) A person shall not import or export a tobacco product, tobacco device, nicotine, nicotine product or nicotine device without a permit issued under section 21.</p> <p>(3) A person shall not sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device to a manufacturer, distributor, importer or exporter without confirming that the manufacturer, distributor, importer or exporter has a valid licence or permit.</p> | <p>30</p> <p>35</p> <p>40</p> |

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

5 **21.** (1) A person who intends to manufacture, distribute at wholesale or retail, or sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device shall apply to the Director for a licence in the prescribed manner and form on payment of a prescribed fee.

Application for licence or permit

10 (2) A person who intends to import or export a tobacco product, tobacco device, nicotine, nicotine product or nicotine device shall apply to the Director for a permit in the prescribed manner and form on payment of a prescribed fee.

(3) The Director shall, within sixty days of the receipt of an application under subsection (1) or (2), grant or reject the application.

(4) The Director shall, where the Director approves an application under subsection (1) or (2), issue the applicant with a licence or permit, respectively, in the prescribed form.

15 (5) The Director shall, where the Director rejects an application under subsection (1) or (2), notify the applicant in the prescribed form, stating the reasons for the rejection.

(6) Where the Director does not inform the applicant of the Director’s decision in respect of an application under subsection (1) or (2) within the period specified under subsection (3), the licence or permit is deemed to have been granted.

22. A licence or permit issued under section 21 is valid for one year from the date of issue.

Validity of licence or permit

23. (1) Subject to subsection (2)—

Renewal of licence or permit

30 (a) a licensee shall, where the licence is about to expire and the licensee intends to continue to carry out the licensed activity, apply to the Director for the renewal of the licence in the prescribed manner and form on payment of a prescribed fee; or

35 (b) a permit holder shall, where the permit is about to expire and the permit holder intends to continue to carry out the activity for which the permit was issued, apply to the Director for the renewal of the permit in the prescribed manner and form on payment of a prescribed fee.

- (2) An application for the renewal of a licence or permit under subsection (1) shall be made three months prior to the expiry of the licence or permit.
- Suspension
or
revocation
of licence or
permit
24. (1) Subject to other provisions of this Act, the Director may suspend or revoke a licence or permit issued under this Part if the licensee or permit holder— 5
- (a) obtained the licence or permit on the basis of fraud, misrepresentation or concealment of a material fact;
 - (b) has ceased to carry on the activity for which the licence or permit was issued; 10
 - (c) fails to comply with a term or condition of the licence or permit; or
 - (d) operates the activity for which the licence or permit was granted in contravention of this Act or any other relevant written law. 15
- (2) The Director shall, before suspending or revoking a licence or permit in accordance with subsection (1), notify the licensee or permit holder of its intention to suspend or revoke the licence or permit and shall—
- (a) give reasons for the intended suspension or revocation; and 20
 - (b) require the licensee or permit holder to show cause, within a period of not more than thirty days, why the licence or permit should not be suspended or revoked.
- (3) The Director shall not suspend or revoke a licence or permit under this section if the licensee or permit holder takes remedial measures to the satisfaction of the Director within the period referred to in subsection (2). 25
- (4) The Director shall, in making its final determination on the suspension or revocation of a licence or permit, consider the submissions made by the licensee or permit holder under subsection (2). 30
- (5) The Director may suspend or revoke a licence or permit if the licensee or permit holder after being notified under subsection (2) fails to show cause or does not take any remedial measures, to the satisfaction of the Director, within the time specified in that subsection. 35
- (6) Where a licence or permit is revoked in accordance with this section, the licensee or permit holder shall surrender the licence or permit to the Director, subject to the conditions that the Director may impose. 40

25. A licence or permit issued under this Part shall not be transferred to a third party. Prohibition of transfer of licence or permit

26. (1) A licensee or permit holder whose licence or permit is destroyed or lost may apply to the Director for a duplicate licence or permit in the prescribed manner and form, on payment of a prescribed fee. Duplicate licence or permit

(2) The Director may, within seven days of receipt of an application under subsection (1), issue a duplicate licence or permit to the licensee or permit holder.

27. (1) The Director shall cause to be kept a register of licences or permits in the prescribed form. Register of licences or permits

(2) The registers shall be kept by the Director at the ministry responsible for industry, and shall be open for inspection by members of the public during office hours on payment of a prescribed fee.

(3) The Director may, on an application by a person, issue to the person a certified extract from the applicable register or a copy of a licence or permit issued to a licensee or permit holder in accordance with this Act on payment of a prescribed fee.

PART VII

PACKAGING AND LABELLING

28. (1) A person shall not manufacture, distribute, sell or import a tobacco product or tobacco device unless the packaging or labelling of the tobacco product or tobacco device— Packaging and labelling of tobacco product or tobacco device

(a) contains health warnings describing the harmful effects of tobacco use and other appropriate messages as prescribed; and

(b) displays prescribed descriptive only information on constituents and emissions.

(2) The health warnings referred to under subsection (1)(a) shall be comprised of text and full colour pictures appearing together.

(3) A person who contravenes subsections (1) and (2) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

Display of health warnings on packaging and labelling of tobacco product or tobacco device

29. (1) A manufacturer or a person who packages or re packages a tobacco product or tobacco device shall cause to be displayed on the packaging and labelling of a tobacco product or tobacco device health warnings on the use of tobacco in the following manner: 5

- (a) the warnings shall cover the proportion of each principal display area as prescribed, and shall be at least seventy five percent of each principal display area;
- (b) the text of the warnings shall be in the English language;
- (c) the visibility and integrity of the warnings shall not be 10 prone to be damaged, concealed, obstructed, covered or changed by any package design feature or mechanism, or by anything supplied by the manufacturer, importer or seller; and
- (d) the visibility of the warnings shall not be obstructed or 15 covered in whole, or in part, by a tax stamp or any other marking.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not 20 exceeding seven years, or to both.

Packaging and labelling of nicotine, nicotine product or nicotine device

30. (1) A person shall not manufacture, distribute, sell, import nicotine, or a nicotine product or nicotine device unless the packaging and labelling of the nicotine, nicotine product or nicotine device contains the following health warnings: 25

- (a) a statement that the product or device contains nicotine which is a highly addictive substance; and
- (b) other health warnings as prescribed.

(2) The health warnings referred to under subsection (1) shall comply with the display requirements specified under section 29. 30

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

31. (1) The Minister may prescribe a set of multiple health warnings to be concurrently displayed on a tobacco product, tobacco device, nicotine, nicotine product or nicotine device for a rotation period.
- 5 (2) The first rotation period shall be for two years and the Minister shall prescribe the subsequent rotation periods.
- (3) Regulations made under this section may create offences in respect of a contravention of the regulations and may for that offence impose penalties not exceeding one hundred thousand
- 10 penalty units or to imprisonment for a term not exceeding one year, or to both.
32. (1) A manufacturer or a person who packages or repackages a tobacco product, tobacco device, nicotine, nicotine product or nicotine device shall, during a rotation period prescribed
- 15 under section 31, ensure that each of the different health warnings—
- (a) in the set for that period appear on the packaging and labelling concurrently; and
- (b) appear on an equal number of retail packages for each brand within each brand family of the tobacco product,
- 20 tobacco device, nicotine, nicotine product or nicotine device for each package size and type.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not
- 25 exceeding one year, or to both.
33. (1) A person shall, at the beginning of the prescribed second and subsequent rotation periods referred to under section 31, continue to sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device in packaging already in circulation in the
- 30 Republic with the health warnings from the last rotation period for a phase in period not exceeding sixty days from the first day of the new rotation period.
- (2) A person shall, at the end of the sixty days referred to under subsection (1), sell a tobacco product, tobacco device, nicotine,
- 35 nicotine product or nicotine device whose packaging and labelling displays the warnings required for the current rotation period.
- (3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding
- 40 one year, or to both.

Rotation of health warnings on packaging and labelling of tobacco product, tobacco device, nicotine, nicotine product or

Packaging and labelling during rotation period

Second and subsequent rotation period

- Prohibition of misleading packaging and labelling of tobacco product, tobacco device, nicotine, nicotine product or nicotine device
- 34.** (1) A person shall not manufacture, distribute, sell or import a tobacco product, tobacco device, nicotine, nicotine product or nicotine device whose packaging and labelling has—
- (a) false, misleading or deceptive information about the tobacco product, tobacco device, nicotine, nicotine product or nicotine device’s characteristics, health effects, hazards or emissions; or 5
 - (b) information that is likely to create an erroneous impression about the tobacco product, tobacco device, nicotine, nicotine product or nicotine device’s characteristics, health effects, hazards or emissions. 10
- (2) A person shall not manufacture, distribute, sell, import a tobacco product, tobacco device, nicotine, nicotine product or nicotine device whose packaging and labelling promotes the tobacco product, tobacco device, nicotine, nicotine product or nicotine device, including the use of— 15
- (a) a term, descriptor, trademark, figurative colour, number, symbol or other sign of any kind, in whole or in part, that directly or indirectly creates or is likely to create the impression that a particular tobacco product, tobacco device, nicotine, nicotine product or nicotine device is less harmful than others; and 20
 - (b) the following terms:
 - (i) low tar;
 - (ii) light; 25
 - (iii) ultra light;
 - (iv) mild;
 - (v) slim;
 - (vi) smooth;
 - (vii) natural; 30
 - (viii) organic;
 - (ix) additives free;
 - (x) extra;
 - (xi) ultra; or
 - (xii) any other term in any language that is likely to mislead a consumer or when used as part of a brand name or trademark. 35

(3) A person shall not cause the appearance of the tobacco product, tobacco device, nicotine, nicotine product or nicotine device to create or to be likely to create an—

- 5 (a) erroneous impression about the tobacco product, tobacco device, nicotine, nicotine product or nicotine device's characteristics, health effects, hazards or emissions; or
- 10 (b) impression that the tobacco product, tobacco device, nicotine, nicotine product or nicotine device is less harmful than another tobacco product, tobacco device, nicotine, nicotine product or nicotine device.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding
15 seven years, or to both.

PART VIII

PRODUCT AND DEVICE SALES

20 **35.** (1) A person shall not sell or offer for sale a tobacco product, tobacco device, nicotine, nicotine product or nicotine device to a person under the age of eighteen years or engage a person under the age of eighteen years to sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device.

(2) The following documents shall be used to verify a person's age:

- 25 (a) a national identity card issued by the Republic or any other country;
- (b) a driving licence issued by the Republic or any other country;
- 30 (c) a passport issued by the Republic or any other country; or
- (d) any other document as prescribed.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not
35 exceeding seven years, or to both.

(4) Despite subsection (1), it shall be a defence if the seller demonstrates that the seller took effective steps to verify that the purchaser was at least eighteen years of age, including requesting and scrutinising any of the documents referred to under subsection
40 (2) and reasonably believed the authenticity of the document.

Prohibition of sale of tobacco product, tobacco device, nicotine, nicotine product or nicotine device to persons under eighteen years

| | | |
|---|---|-------------------------------|
| Display of sign relating to tobacco product, tobacco device, nicotine, nicotine product or nicotine device | <p>36. (1) A seller of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device shall display a sign at the seller’s business premises notifying the public of the prohibition of selling the tobacco product, tobacco device, nicotine, nicotine product or nicotine device to persons under the age of eighteen years.</p> <p>(2) A seller who does not display the sign referred to under subsection (1) commits an offence, and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.</p> | <p>5</p> |
| Prohibition of resemblance of tobacco product, tobacco device, nicotine, nicotine product or nicotine device | <p>37. (1) A person shall not manufacture, distribute, sell or import a sweet, snack, toy or other product that resembles a tobacco product, tobacco device, nicotine, nicotine product or nicotine device.</p> <p>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding four hundred thousand penalty units or to imprisonment for a term not exceeding four years, or to both.</p> | <p>10</p> <p>15</p> |
| Prohibition relating to retail sale of tobacco product, tobacco device, nicotine, nicotine product or nicotine device | <p>38. (1) A person shall not—</p> <p>(a) provide for the retail sale of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device in a manner that makes the tobacco product, tobacco device, nicotine, nicotine product or nicotine device directly accessible to a retail consumer prior to the sale transaction; or</p> <p>(b) sell for retail a prohibited quantity of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device as prescribed.</p> <p>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.</p> | <p>20</p> <p>25</p> <p>30</p> |
| Sale of intact package for tobacco product or nicotine product | <p>39. (1) A person shall sell a tobacco product or nicotine product if the tobacco product or nicotine product is an intact package as follows:</p> <p>(a) in the case of a tobacco product or nicotine product which is sold as a unit—</p> <p>(i) a package containing at least twenty units of cigarettes, smokeless tobacco portion pouches, or other sticks or cartridges of tobacco or nicotine;</p> | <p>35</p> |

- (ii) a package containing at least ten units of cigars;
or
- (iii) a package containing units of pods as prescribed;
or
- 5 (b) in the case of loose tobacco, a package containing at least thirty grams of loose tobacco.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.
- 10 **40.** (1) A person shall sell or import for sale a tobacco product if the package bears the words, “Sales only allowed in Zambia”, or any other marking indicating the origin of the tobacco product and the final destination for sale. Requirements for sale or importation of tobacco product
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.
- 15 (3) The Minister responsible for trade may, on the recommendation of the Minister, prescribe regulations for the prevention of illicit trade of a tobacco product, tobacco device, nicotine product or nicotine device for the purposes of meeting public health objectives.
- 20 **41.** (1) A person shall not deliver, cause to be delivered or send by mail a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, unless the delivery is between a manufacturer or retailer. Prohibition of delivering tobacco product, etc., other than between manufacturer or retailer
- (2) A person shall not advertise an offer to deliver or send by mail a tobacco product, tobacco device, nicotine, nicotine product or nicotine device anywhere within the Republic.
- 25 (3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.
- 30 **42.** (1) A person shall not manufacture, distribute, sell or import a tobacco product or nicotine product that— Prohibitions relating to ingredients or emissions
- (a) has a flavour;
- (b) contains an additive with properties associated or likely to be associated with energy, vitality or reduced health risk, or a health benefit, or is represented or suggested as containing or having the properties of such an additive;
- 35 40

| | | |
|---|--|----|
| | (c) contains an additive with colouring properties for emissions; | |
| | (d) contains a flavouring in any of its components; | |
| | (e) has a technical feature which allows a consumer to modify the smell, taste, intensity of the aerosol or vapour of the tobacco product or nicotine product; or | 5 |
| | (f) is represented or suggested through words, images, pictures, symbols, smells, colours, signs or signals, as a flavoured product, or as having any of the additives or properties referred to in paragraphs (b), (c) and (d). | 10 |
| | (2) A person shall not manufacture, distribute, sell or import a tobacco device or nicotine device that has a technical feature which allows a consumer to modify the smell, taste or intensity of the aerosol or vapour of the tobacco product or nicotine product. | |
| | (3) A person shall not manufacture, distribute, sell or import a stand alone flavouring or other ingredient manufactured for use with a tobacco product, tobacco device, nicotine product or nicotine device that can be added by the consumer. | 15 |
| | (4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both. | 20 |
| Regulations relating to tobacco product, etc. | 43. The Minister may prescribe additional requirements— | |
| | (a) for the number of units of nicotine containing substance or refill substance that may be contained in a package; | 25 |
| | (b) to prevent the sale and access by persons below the age of eighteen years of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, and associated items that promote or are likely to promote tobacco or nicotine use; or | 30 |
| | (c) that are necessary for the better carrying out of the provisions of this Part. | |
| | PART IX | |
| | ADVERTISING, PROMOTION AND SPONSORSHIP | |
| Prohibition of advertising, promoting or sponsoring tobacco product, etc. | 44. (1) A person shall not carry out domestic and cross border advertising, promotion and sponsorship of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, and tobacco or nicotine use, in any form, method or manner. | 35 |

(2) A person shall not, in relation to a tobacco product, tobacco device, nicotine, nicotine product or nicotine device—

- (a) initiate any advertising, promotion or sponsorship;
- 5 (b) produce or publish any advertising, promotion or sponsorship content;
- (c) make content available through the internet or other electronic means;
- (d) disseminate content, advertising, promotion or sponsorship; and
- 10 (e) engage or participate in any sponsorship, provide or receive any sponsorship, or contribute or facilitate any sponsorship.

(3) A person shall, on becoming aware of any advertising, promotion or sponsorship or content in contravention of subsection 15 (2), remove the content or disable access to the content.

(4) Despite the generality of subsection (1) and (2), the following activities shall constitute advertising, promotion or sponsorship of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device:

- 20 (a) communication through audio, visual or audio visual means, or other digital communication platforms of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (b) direct person-to-person communication of a tobacco 25 product, tobacco device, nicotine, nicotine product or nicotine device;
- (c) brand marking of any *indicias* associated with a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- 30 (d) display or visibility of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device at a point of sale;
- (e) sale of a tobacco product, tobacco device, nicotine, 35 nicotine product or nicotine device through a vending machine or the internet;
- (f) product diversification by brand stretching or brand sharing of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (g) product placement, with reference to a tobacco product,

- tobacco device, nicotine, nicotine product or nicotine device, service or trademark in the context of communication in return for payment or other consideration;
- (h) provision or offer of a gift or discounted product with the purchase of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 5
- (i) supply or offer of a free sample of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, including a marketing survey and taste testing; 10
- (j) incentive promotion or loyalty schemes of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (k) competitions associated with a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, or brand names whether requiring the purchase of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device or not; 15
- (l) direct targeting of individuals with promotional and informational material of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 20
- (m) promotion of a discounted tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (n) sale or supply of a toy, snack, sweet, or other non tobacco product or non-nicotine product that resemble a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 25
- (o) payment or other contribution to a retailer to encourage or induce the retailer to sell a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 30
- (p) promotional design features of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
- (q) payment or other consideration in exchange for the exclusive sale or prominent display of— 35
- (i) a tobacco product, tobacco device, nicotine, nicotine product or nicotine device in a retail outlet, at a venue or an event; or
 - (ii) of a particular manufacturer's tobacco product, tobacco device, nicotine, nicotine product or 40s

nicotine device in a retail outlet, at a venue or an event;

- 5 (r) sale, supply, placement and display of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device at an educational institution or hospitality, sporting, entertainment, music, dance or social venue or event;
- 10 (s) provision of financial and other support of any kind to a person or an event or activity, in relation to a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, whether or not in exchange for attribution or acknowledgement, including a corporate social responsibility activity;
- 15 (t) provision of financial or other support to a venue operator or recreational venue to promote a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; or
- 20 (u) any other form of advertising, promotion or sponsorship of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device by a person in the tobacco industry by any method or means that the Committee may determine.
- (5) A person that contravenes this section commits an offence and is liable, on conviction—
- 25 (a) in the case of body corporate or unincorporate body, to a fine not exceeding twenty five percent of its annual turnover; or
- 30 (b) in the case of an individual, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.
- (6) A person convicted of an offence under this section is liable for a second and subsequent offence—
- 35 (a) in the case of a body corporate or unincorporate body, to a fine exceeding twenty five percent but not exceeding fifty percent of its annual turnover; or
- 40 (b) in the case of an individual, to a fine exceeding seven hundred thousand penalty units but not exceeding one million penalty units, or to imprisonment for a term not exceeding ten years, or to both.

Incidental
promotional
effect

45. (1) The following, although likely to have an incidental promotional effect, shall not constitute advertising, promotion or sponsorship of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device:

- (a) a plain black and white only price list made available on request to a customer where a tobacco product, tobacco device, nicotine, nicotine product or nicotine device is available for sale, provided the list contains nothing more than the brand name, package quantity, weight, price and any other authorised information under this Act; 5 10
- (b) depiction of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, or tobacco or nicotine use, where the depiction is justified by reasons of legitimate journalistic, artistic or academic expression, except that no branding or *indicia* of branding is depicted and no payment or other consideration is offered or made in exchange for the depiction by a tobacco product, tobacco device, nicotine, nicotine product or nicotine device manufacturer, importer, wholesale or retail distributor or any other person acting on behalf of that manufacturer, importer, or wholesale or retail distributor; 15 20
- (c) genuine political, social, editorial or scientific commentary or publication about a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, or tobacco or nicotine use, except that payment or other consideration shall not be offered or made in exchange for the commentary or publication by a tobacco product, tobacco device, nicotine, nicotine product or nicotine device manufacturer, importer, wholesale or retail distributor or any other person acting on behalf of that manufacturer, importer, or wholesale or retail distributor; 25 30
- (d) information that is necessary for business administration or corporate reporting, except that access shall be limited to the persons who need to receive it for the purpose of the business administration or corporate reporting; 35
- (e) product information made accessible to businesses for a tobacco product, tobacco device, nicotine, nicotine product or nicotine device trader that needs the information for trading decisions, except that access shall be limited to that trader; or 40

- 5 (f) a tobacco product, tobacco device, nicotine, nicotine product or nicotine device's manufacturer's newsletter distributed to a manufacturer's employee, contractor, supplier and other related business partner, except that the distribution shall be limited to those persons.

PART X

ENFORCEMENT

10 46. (1) The Minister may appoint a suitably qualified person to be an authorised officer for the purposes of ensuring compliance with this Act. Appointment of authorised officer

(2) The Minister shall issue an authorised officer with an identification card and a certificate of appointment in the prescribed form which shall be *prima facie* evidence of the authorised officer's appointment.

15 (3) An authorised officer shall, in performing a function under this Act—

- (a) be in possession of the identification card referred to under subsection (2); and
- 20 (b) show the identification card to a person who requests to see the identification card or is the subject of an investigation for the purposes of this Act.

47. (1) An authorised officer may, under the authority of a warrant, for the purpose of enforcing this Act, at any reasonable time and without notice enter and inspect— Powers of authorised officer

- 25 (a) a workplace, public place or public conveyance;
- (b) a public place or workplace where a tobacco product, tobacco device, nicotine, nicotine product or nicotine device is manufactured, tested, stored, packaged, labelled, received, distributed, supplied, sold or otherwise found or is likely to be found;
- 30 (c) a public place or workplace where equipment or material used in the manufacture, storage, packaging, sale or testing of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device is found or is likely to be found;
- 35 (d) any other public place or workplace that is necessary for the authorised officer to enter and inspect for the purposes of this Act.

- (2) An authorised officer may, in performing a function under this Act—
- (a) open, examine and test an equipment, tool, material, package or any other item that the authorised officer reasonably believes is used, or is capable of being used, for the manufacturing, packaging, labelling, storage, distribution, advertising or promotion of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 5
 - (b) question a manufacturer, distributor, import of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 10
 - (c) take samples of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, and the packaging of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device, and cause them to be analysed by an accredited laboratory in accordance with testing standards and methods as prescribed; 15
 - (d) in collaboration with a law enforcement agency, stop and search a commercial aircraft, vessel, ship, vehicle or other mode of transportation or storage which the authorised officer reasonably believes that it contains a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 20
25
 - (e) open, examine and test a tobacco product, tobacco device, nicotine, nicotine product or nicotine device found on a commercial aircraft, vessel, ship, vehicle or other mode of transportation or storage referred to under paragraph (d); 30
 - (f) on notice in the prescribed form, enter any premises where the authorised officer reasonably believes that there has been non compliance with this Act; or
 - (g) take any other action that is reasonable and necessary for the effective and efficient enforcement of this Act. 35
- (3) A court may issue a warrant on an application by an authorised officer if it appears from written information given by that authorised officer, on oath or affirmation, that there are reasonable grounds to believe that this Act has been, or is likely to be, contravened. 40

(4) An authorised officer who removes anything from any premises shall—

- (a) issue a receipt for anything removed to the owner or the person in control of the premises; and
- 5 (b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

48. (1) A person shall not—

- 10 (a) delay or obstruct an authorised officer in the performance of the authorised officer's functions under this Act;
- (b) refuse to give an authorised officer reasonable assistance as the authorised officer may require for the purpose of performing the authorised officer's functions;
- 15 (c) impersonate an authorised officer or present oneself to be an authorised officer; or
- (d) wilfully give an authorised officer false or misleading information in answer to an inquiry made by the authorised officer;
- 20 (e) conceal or destroy evidence that is, or is likely to be, useful in an investigation under this Act; or
- (f) refuse to give an authorised officer any evidence or information legally required to be given in accordance with this Act or any other written law.

Prohibition of obstruction, etc, of authorised officer

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

49. An authorised officer may, where a tobacco product, tobacco device, nicotine, nicotine product or nicotine device does not meet the requirements of this Act, confiscate the tobacco product, tobacco device, nicotine, nicotine product or nicotine device.

Confiscation of tobacco product, tobacco device, nicotine, nicotine product or nicotine device

PART XI

GENERAL PROVISIONS

- Appeals **50.** (1) A person aggrieved by a decision of the Director under this Act shall appeal to the Minister responsible for commerce and industry. 5
- (2) The Minister responsible for commerce and industry shall, within thirty days of the receipt of an appeal under subsection (1), hear and determine the appeal.
- (3) A person aggrieved by a decision of the Minister shall, within fourteen days of the receipt of a decision under subsection (2), appeal to the High Court. 10
- Forfeiture of proceedings of crime **51.** (1) Subject to the Forfeiture of Proceeds of Crime Act, 2010, where a person contravenes this Act, the following may be liable to be confiscated and forfeited:
- (a) an item that contain an advertisement or promotion of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 15
- (b) tobacco product, tobacco device, nicotine, nicotine product or nicotine device packaged or labelled in a manner that does not comply with the requirements of this Act; 20
- (c) tobacco product, tobacco device, nicotine, nicotine product or nicotine device owned by or under the control of that person;
- (d) equipment, machinery, raw materials, components, packaging and labelling material, and any other item used to manufacture a tobacco product, tobacco device, nicotine, nicotine product or nicotine device; 25
- (e) tobacco product, tobacco device, nicotine, nicotine product or nicotine device or component that fail to conform with the requirements of this Act; or 30
- (f) tobacco product, tobacco device, nicotine, nicotine product or nicotine device for which an applicable tax or duty has not been paid or has not legally entered the Republic. 35
- (2) Where a person derives monetary or financial benefit, directly or indirectly, from an act or omission that constitutes a violation under this Act, the profit gained shall be forfeited in addition to any other penalty imposed.

52. Where an offence under this Act is committed by a body corporate or unincorporate body, and the director, manager or shareholder of that body is suspected to have committed the offence and is charged of that offence, that director, manager or shareholder of that body corporate or unincorporate body is liable, on conviction, to the penalty specified for the offence unless the director, manager or shareholder proves to the satisfaction of the court that the act consisting the offence was done without the knowledge, consent or connivance of the director, manager or shareholder or that the director, manager or shareholder took reasonable steps to prevent the commission of the offence.
53. A person who commits an offence for which a penalty is not provided is liable, on conviction, to a fine not exceeding three hundred thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.
54. (1) The Minister may make guidelines for the better carrying out of the provisions of this Act.
- (2) The guidelines referred to in subsection (1) shall, on publication in the *Gazette*, be binding on all persons regulated under this Act.
55. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.
- (2) Despite the generality of subsection (1), regulations made under subsection (1) may provide for—
- (a) additional requirements or prohibitions related to incidental promotion;
 - (b) the appropriate messages for a tobacco product or tobacco device on its packaging and labelling which contains health warnings describing the harmful effects of tobacco use;
 - (c) health warnings required on packaging and labelling of nicotine products and nicotine devices;
 - (d) images depicting the health hazards and health effects of the use of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device;
 - (e) the constituents and emissions information on packaging and labelling for a tobacco product, tobacco device, nicotine, nicotine product and nicotine device;

Offence by
body
corporate or
unincorporate
body

General
penalty

Guidelines

Regulations

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- (f) additional prohibitions on misleading promotion of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device by way of its packaging and labelling or by means of the appearance of the device or product itself; 5
- (g) the content, size, font, colours, print quality, layout, design, placement, display, rotation requirements, and all other details for the health warnings, constituents and emissions information required or authorised under this Act; 10
- (h) electronic samples of the health warnings, constituents and emissions information;
- (i) requirements restricting or prohibiting promotional aspects, of a tobacco product, tobacco device, nicotine, nicotine product or nicotine device by means of their packaging and labelling or by the appearance of the products or devices; 15
- (j) requirements for standardised packaging and standardisation of the appearance of the products and devices; 20
- (k) requirements and procedure for submission by a tobacco product, tobacco device, nicotine, nicotine product, nicotine device manufacturers, importers, and wholesale distributors of their packaging and labelling for a brand within each brand family of the product or device for each package size and type destined for sale in the Republic; 25
- (l) additional requirements related to the quality of units of tobacco, nicotine substance or refill substance that shall be contained in a package; 30
- (m) additional requirements to prevent access by persons below the age of eighteen to tobacco product, tobacco device, nicotine product and nicotine device;
- (n) contents, composition, and emissions of a tobacco product or nicotine product, including limits on and prohibition of any additive or ingredient; 35
- (o) design, including restrictions or prohibitions on any feature of a tobacco product, nicotine product, tobacco device and nicotine device;

- (p) requirements for product content and emissions for the tobacco products and nicotine products;
- 5 (q) requirements for the testing and the methods to be used to assess conformity with standards of tobacco products, and nicotine products and nicotine devices;
- (r) information on manufacturers and importers of tobacco product, tobacco device, nicotine product or nicotine device and the submission of reports to the Minister from the manufactures and importers including—
- 10 (i) the means, manner, timing, and frequency of any required report; and
- (ii) any additional information that the Minister may request for purposes of the report; and
- 15 (s) additional measures to protect tobacco control from the commercial and other vested interests of the tobacco industry.
- 20 **56.** (1) A person engaged in the business of manufacturing, distributing or selling a tobacco product, tobacco device, nicotine, nicotine product or nicotine device before the commencement of this Act shall, within six months from the date of commencement of this Act, apply for a licence.
- (2) A person shall, within ninety days of the commencement of this Act, comply with section 42.

Savings and
transitional
provisions

SCHEDULE
(Section 3(6))

ADMINISTRATION OF THE TOBACCO CONTROL COMMITTEE

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| Tenure of office and vacancy | <p>1. (1) A member of the Committee shall hold office for a term of three years and may be reappointed for a further and final term of three years.</p> <p>(2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until a successor is appointed, but in no case shall any extension of the period exceed three months.</p> <p>(3) The office of a member becomes vacant if the member—</p> <p style="padding-left: 20px;">(a) dies;</p> <p style="padding-left: 20px;">(b) is adjudged bankrupt;</p> <p style="padding-left: 20px;">(c) is absent, without reasonable excuse and without the prior approval of the Committee, from three consecutive meetings of the Committee of which the member has had notice;</p> <p style="padding-left: 20px;">(d) resigns, on giving one month's notice in writing, to the Minister;</p> <p style="padding-left: 20px;">(e) is directly or indirectly affiliated to, the tobacco industry or its subsidiary;</p> <p style="padding-left: 20px;">(f) is legally disqualified from performing the functions of a member; or</p> <p style="padding-left: 20px;">(g) is convicted of an offence under this Act or any other law and sentenced to imprisonment for a term exceeding six months without the option of a fine.</p> <p>(4) The Minister shall, where the office of a member becomes vacant before the expiry of the term of office, appoint another member to replace the member who vacates office but that person shall only hold office for the unexpired term of that office.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> |
| Proceedings of Committee | <p>2. (1) Subject to this Act, the Committee may regulate its own procedure.</p> <p>(2) Five members shall form a quorum at a meeting of the Committee.</p> <p>(3) The Committee shall meet for the transaction of its business at least once in every three months at a place and time that the Chairperson may determine.</p> | <p>35</p> |

(4) The Chairperson may, call for a meeting of the Committee on giving notice of not less than fourteen days or where one third or more of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.

(5) There shall preside at a meeting of the Committee—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice Chairperson; or
- (c) in the absence of the Chairperson and the Vice Chairperson, another member that the members present may elect from among themselves for the purpose of that meeting.

(6) A decision of the Committee on any question shall be by a majority of the members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to that person's deliberative vote.

(7) The Committee may invite a person whose presence is in the Committee's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.

(8) The validity of any proceeding, act or decision of the Committee shall not be affected by any vacancy in the membership of the Committee or a defect in the appointment of a member or by reason that a person not entitled to do so took part in the proceedings.

(9) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.

3. (1) The Committee may, for the purpose of performing its functions under this Act, constitute sub-committees and delegate any of its functions to the sub-committees as the Committee considers necessary.

Sub-committees

(2) The Committee may appoint as members of a sub-committee persons who are or are not members of the Committee, except that at least one member of the Committee shall be a member of a sub-committee.

(3) A member of a sub-committee shall hold office for a term that the Committee may determine.

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| | (4) Subject to any specific or general direction of the Committee, a sub-committee may regulate its own procedure. | |
| Allowances | 4. A member of the Committee or a sub committee shall be paid an allowance that the Emoluments Commission may, on the recommendation of the Minister, determine. | 5 |
| Disclosure of interest | 5. (1) A person who is present at a meeting of the Committee or sub committee at which any matter is the subject of consideration and in which matter that person or that member of the person’s relative or associate is directly or indirectly interested in a private capacity shall, as soon as practicable after the commencement of the meeting, disclose the interest and shall not, unless the Committee or sub committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter. | 10 |
| | (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which the disclosure is made. | 15 |
| Prohibition of disclosure of information to unauthorised persons | 6. (1) A person shall not, without the consent in writing given by, or on behalf of the Committee, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication, or information, which relates to, or which has come to the knowledge of that person in the course of, that person’s duties. | 20 |
| | (2) A person who contravenes subparagraph (1), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both. | 25 |
| | (3) A person who, having information which to that person’s knowledge has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both. | 30 |
| Immunity | 7. An action or other proceeding shall not lie or be instituted against a member of the Committee, a member of a sub committee or a member of the Secretariat for or in respect of an act or thing done or, omitted to be done, in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act. | 35 |
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