TOBACCO CONTROL LEGISLATION

Reinhardt Avenant
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Overview

• Legislation
• Standards for manufacturing and export
• Advertising and packaging
• Public places
• Health Warning Signs
• Children
• The Workplace
• Tobacco Control in the City of Cape Town
• E-cigarettes
TOBACCO PRODUCTS CONTROL ACT (ACT 83 OF 1993)
AMMENDED BY:
• Act 12 of 1999
• Act 23 of 2007
• Act 63 of 2008

REGULATIONS:
• Smoking in Public Places (R975 of 2000)
• Tar and Nicotine Content (R974 of 2000)
• Point of sale of Tobacco Products (R976 of 2000)
• Labelling, Advertising and Sale of Tobacco Products (R1148 of 1995)
• Reduced Ignition Propensity Cigarettes (R429 of 2011)
TOBACCO CONTROL LEGISLATION IN SOUTH AFRICA

PROPOSED NEW REGULATIONS

Smoking in Public Places and Certain Outdoor Public Places (R264 of 2012)
Display of Tobacco Products at the Point of Sale (R634 of 2012)

PROPOSED DRAFT REGULATIONS

Regulations Relating to Graphic Health Warnings
STANDARDS FOR MANUFACTURING AND EXPORT
Standards for the manufacturing of tobacco products
Act 23 of 2007, Section 3A (1) & (2)

- No person shall manufacture a tobacco product unless it complies with such standards as may be prescribed.
- Every manufacturer of a tobacco product shall provide such information about the product and its emissions to the Minister and the public as may be prescribed, in the prescribed manner and within the prescribed time.

- Maximum R1 000 000
Standards for export of tobacco products
Act 23 of 2007, Section 3 (a), (b)

No person shall export a tobacco product from the Republic unless the tobacco product meets the product and testing standards of the country of final destination. If no such standards exist in the country of final destination, the provisions of this section apply.
ADVERTISING AND PACKAGING
Advertising of tobacco products
Act 63 of 2008, Section 3 (1) (a)

No person shall advertise or promote, or cause any other person to advertise or promote, a tobacco product through any direct or indirect means, including through sponsorship of any organisation, event, service, physical establishment, programme, project, bursary, scholarship or any other method.

Maximum fine: R1 000 000
Promotion of organised activities
Act 63 of 2008, Section 3 (2) (a)

No manufacturer, importer, distributor or retailer of tobacco products shall

- organise or promote any organised activity that is to take place in whole or in part in the Republic;
- make any financial contribution to any organised activity that is to take place, or is taking place, or has taken place in whole or in part in the Republic;

- Maximum R1 000 000
Charitable financial contributions or sponsorships
Act 63 of 2008, Section 3 (3)

A manufacturer or importer of a tobacco product may make a charitable financial contribution or sponsorship, provided that such contribution or sponsorship is not for the purpose of advertisement.

Maximum R1 000 000
Prescribed notices on tobacco products
Act 63 of 2008, Section 3 (10)

• No person shall sell or offer to sell tobacco products at retail, unless the prescribed notices are displayed.

• Maximum R1 000 000
PUBLIC PLACES
No person may smoke any tobacco product in any indoor, enclosed or partially enclosed areas which is open to the public, and includes a workplace and public transport.

Individual smoker: Maximum fine R500.
Requirements for Smoking Areas

- The designated smoking area does not exceed 25% of the total floor area of the public place.
- The designated smoking area is separated from the rest of the public place by a solid partition and an entrance door on which the sign "SMOKING AREA" is displayed, written in black letters, at least 2cm in height and 1,5 cm in breadth, on a white background;
- The ventilation of the designated smoking area is such that air from the smoking area is directly exhausted to the outside and is not re-circulated to any other area within the public place;
Special arrangements with regard to public places

The Minister may prohibit the smoking of any tobacco product in any prescribed outdoor public place, or such portion of an outdoor public place as may be prescribed, where persons are likely to congregate within close proximity of one another or where smoking may pose a fire or other hazard (FIFA 2010 World Cup)

Maximum fine: R500
HEALTH WARNING SIGNS
Prescribed public announcements

The owner of or person in control of a public place or employer in respect of a workplace, shall display the prescribed signs and shall make the prescribed public announcements in order to inform any person who enters or who is in or on such place or area of any prohibition on smoking.

Owner of a restaurant, pub, bar and employer in respect of a workplace:
Maximum fine: R50 000
Requirements for warning signs

• "SMOKING OF TOBACCO PRODUCTS IS HARMFUL TO YOUR HEALTH AND TO THE HEALTH OF CHILDREN, PREGNANT OR BREASTFEEDING WOMEN AND NON-SMOKERS. FOR HELP TO QUIT PHONE (011) 720 3145"

• "ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED AND MAY BE LIABLE TO A FINE";
CHILDREN
Children under the age of 12 in motor vehicles

• No person may smoke in any motor vehicle car when a child under the age of 12 years is present in that vehicle.

Maximum fine: R500
Private dwellings used for childcare activities

- No person may smoke any tobacco product in a private dwelling if that private dwelling is used for any commercial childcare activity, or for schooling or tutoring.

The smoker: Maximum of R500

The owner of the crèche: Maximum R50 000
No children under 18 allowed in Smoking Areas

The owner of or person in control of a public place or an outdoor public place prohibited for smoking by the Minister of Health, or an employer in respect of a workplace shall ensure that no person under the age of 18 years is present in any portion of the workplace where smoking is permitted or in the area within a public place in or on which smoking is permitted.

Parents note:
Spur respectfully requests that you do not allow any children under the age of 18 into the Smoking Section.
Selling of tobacco products to children under 18

No person shall sell or supply any tobacco product to any person under the age of 18 years.

The owner or person in charge of any business shall ensure that no person under the age of 18 years in his or her employ or under his or her control, as the case may be, shall sell or offer to sell any tobacco product on the business premises.

Maximum fine: R1 000 000
Toys or confectionary resembling tobacco products

No person may sell or supply any confectionary or toy that resembles or is intended to represent any tobacco product.

Maximum fine: R1 000 000
Requirements applicable to vending machines

It shall be the responsibility of any person during such time as he or she is responsible for or has control of the premises in which any vending machine is kept to ensure that no person under the age of 18 years makes use of any such machine.

Maximum fine: R1 000 000
Illegal to sell tobacco products at health establishments and places of instruction

No person shall sell or offer to sell tobacco products in
• any health establishment including any pharmacy;
• any place where a person under the age of 18 years receives education or training.

• Maximum fine: R1 000 000
THE WORKPLACE
An employer must ensure the following:

- Employees **may object** to smoking in the workplace in contravention of this Act without retaliation of any kind;
- employees who **do not want to be exposed** to tobacco smoke in the workplace are not so exposed;
- it is **not a condition of employment**, expressly or implied, that any employee is required to work in any portion of the workplace where smoking is permitted;
- employees are **not required to sign any indemnity** for working in any portion of the workplace where smoking is permitted.
Employers must have a written policy on smoking in the workplace

- Employers must have a written policy on smoking in the workplace
- Any employer, owner, licensee, lessee or person in control of any public place or part of a public place may totally prohibit smoking in that place.
THE CITY OF CAPE TOWN
Enforcing agencies

- Environmental Health Practitioners:
  - awareness and education about the dangers of smoking
  - Restaurants and public places
- South African Police Services, Metro Police and Cape Town Traffic Services:
  - adults smoking in cars with children under the age of 12
  - night clubs
  - Selling of cigarettes to children

Lodge complaints to: 086 010 3089
The City of Cape Town and Tobacco Legislation

1 July 2014 to 31 December 2014:

- 6307 inspections of formal food premises, including checking for compliance with tobacco legislation
- 6224 in compliance (99%)
- Number of complaints: 45
- Number of complaints/enquiries around electronic cigarettes: 8
- Number of compliance notices issued: 29
- Number of fines issued: 4
- Fines to be increased to R5 000
- Most common complaints:
  - Doors to smoking areas left open
  - Smoking under verandas
  - Smoking close to entrances to buildings
  - Smoking in pubs and bars
E-CIGARETTES
E-Cigarettes

- **Tobacco product definition (Tobacco Products Control Act)**
  “A product that is intended for human consumption containing tobacco…”

- **Electronic nicotine delivery systems (ENDS)**
  ENDS are designed to deliver nicotine to the respiratory system
  Contains tobacco-derived substances in which tobacco is not necessary for operation
  A by product of tobacco, but does not contain tobacco

- **Conclusion**
  The Regulations relating to Smoking of Tobacco Products in Public Places are not applicable to ENDS