

TOBACCO CONTROL

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Tobacco Control Act 2009

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Tobacco Control Act 2009

TABLE OF AMENDMENTS

The Tobacco Control Act 2009 No 4 was certified on 20 April 2009 and commenced on 20 July 2009 (s 1(2)) except the provisions specified in Schedule which commence on the dates set out in that Schedule (s 1(3)).

Amending Legislation	Certified	Date of Commencement
Tobacco Control (Amendment) Act 2009 No 6	28 August 2009	28 August 2009
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Tobacco Control (Amendment) Act 2023 No 6	7 June 2023	7 June 2023
Tobacco Control (Amendment) Act 2024 No 11	20 August 2024	20 August 2024

[The next page is 120,601]

An Act to regulate the promotion, sale and use of cigarettes and other tobacco products and for ancillary purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

- (1) This Act may be cited as the *Tobacco Control Act 2009*.
- (2) Subject to subsection (3), this Act came into effect on 20 July 2009.
- (3) Notwithstanding subsection (2), the provisions of this Act specified in Schedule shall not come into force on the commencement date, but shall come into force on the later date specified in the Schedule.
- (4) The Schedule forms part of this Act.

2 Interpretation

In this Act:

‘authorised officer’ means a police officer or a person prescribed under Section 19;

‘certification’ means the certification by the Speaker in accordance with Article 47 of the *Constitution* that the Act has been passed by Parliament;

‘cigarette’ includes any product that:

- (a) consists wholly or partly of cut, shredded or manufactured tobacco or of any tobacco derivative or substance, rolled up in paper; and
- (b) is capable of being immediately used for smoking;

[def subst Act 11 of 2024 s 4, opn 20 Aug 2024]

‘designated smoking area’ means an area approved by an authorised officer in accordance with Section 17;

‘enclosed public place’ means, subject to Section 16 and the Schedule, any enclosed place, including public transport, government offices and their verandas and corridors, airport terminals, and halls to which the public ordinarily has access, and includes restaurants, bars, cafes and public spaces within any hotel, any public place at which a sporting event is being held and any public place covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary, and any place deemed by regulations to be an enclosed public place, but does not include any designated smoking area within an enclosed public place nor any private residence;

‘enclosed workplace’ means, subject to Section 16 and the Schedule, any enclosed place, building or area that is occupied by an employer and that employees usually frequent during the course of their employment, and includes any cafeteria, veranda, corridor, lobby, stairwell, toilet and washroom within such workplace, and also includes any enclosed common areas and any workplace space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides and regardless

of whether the structure is permanent or temporary, and employer-provided vehicles normally used by employees, but does not include any place of residence occupied by an employer or an employee or a vehicle while it is occupied by only one person, and does not include any designated smoking area within an enclosed workplace;

‘hospital’ means any place inside or within the grounds of any hospital;

‘imitation tobacco product’ includes candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco or any toy, food, drink, cartoon character, animal, musical instrument or any other object resembling a tobacco product, e-cigarette or e-cigarette accessory;

[def insrt Act 11 of 2024 s 4, opn 20 Aug 2024]

‘Minister’ means the Minister for Health;

‘occupier’ in relation to an enclosed public place or an enclosed workplace is a person who is or appears to be in control of the public place or workplace;

‘package’ includes a box, tin, packet, or carton but does not include any outer wrapper, cellophane or other transparent material;

‘public space within a hotel’ means any area in or on the hotel premises that is accessible to the public and which is not restricted only to a particular guest or guests;

‘regulations’ means regulations made under this Act;

[def subst Act 6 of 2023 s 4, opn 7 June 2023]

‘restaurant’ means any place or any part thereof where the principal business is the serving of meals or refreshments to the public for consumption at such place;

‘school’ means any place inside or within the grounds of any school;

‘Secretary’ means the Secretary for Health and Medical Services;

[def insrt Act 6 of 2023 s 4, opn 7 June 2023]

‘sell’ includes:

- (a) barter or exchange;
- (b) offer or expose for sale;
- (c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
- (d) supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain;

‘smoking’, with its grammatical variations, means puffing or inhaling and expelling the smoke of any tobacco product and includes the holding of, or control over, any ignited tobacco product;

‘tar’ means the Condensate Particulate Matter (CPM) which results from the ignition of any tobacco product;

‘tobacco’ means any product obtained from the leaf of the *Nicotiana tabacum* or *Nicotiana rusticum* plant or other related plants;

‘tobacco product’:

- (a) means a product comprised in whole or in part of tobacco such as tobacco leaves and any extract of tobacco leaves containing, made, manufactured or derived from tobacco that is intended for human consumption, whether

chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, or comprised mainly of nicotine;

(b) includes any component, part or accessory of a tobacco product such as cigarette papers, tubes, filters, electronic tobacco heating devices and waterpipe, shisha or hookah; and

(c) includes a cigarette;

[def subst Act 6 of 2023 s 4, opn 7 June 2023; am Act 11 of 2024 s 4, opn 20 Aug 2024]

‘tobacco product advertisement’ means any words, whether written, printed, spoken, broadcast, or telecast, including on film, video, visual compact disk, recording or other medium, and any pictorial representation, design, device, visual image, sign, symbol, trademark, brand name or company name, or part of a trademark, brand name or company name, or a combination of 2 or more of the foregoing, used to encourage the use or to notify the availability or to promote the sale of any tobacco product or to promote smoking;

‘trademark’ has the meaning given to it under the *Trademarks Act 2019*;

[def subst Act 6 of 2023 s 4, opn 7 June 2023]

‘vape’ means a device used to inhale vapour containing nicotine including flavouring;

[def insrt Act 6 of 2023 s 4, opn 7 June 2023]

‘vending machine’ means a machine or device that is constructed to contain tobacco products and which can automatically retail any tobacco product upon the insertion of a coin, token, banknote or similar object into the machine or device;

‘waterpipe’ or **‘shisha’** or **‘hookah’** means a form of tobacco consumption that utilises a single or multi-stemmed instrument to smoke flavoured or non-flavoured tobacco, where smoke is designed to pass through water or other liquid before reaching the smoker.

[def insrt Act 6 of 2023 s 4, opn 7 June 2023]

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PART 1A — PROHIBITION ON MANUFACTURE OF TOBACCO PRODUCTS

[Pt 1A insrt Act 6 of 2023 s 5, opn 7 June 2023]

2A Prohibition on manufacture of tobacco products

- (1) A person shall not manufacture a tobacco product for a commercial purpose.
- (2) In this Section, '*manufacture*' includes the production, assembly, preparation or making of a tobacco product.
- (3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$20,000 or a term of imprisonment not exceeding 3 years or both.

[The next page is 120,801]

**PART 2 — PROHIBITION OF ADVERTISING AND PROMOTION OF
TOBACCO PRODUCTS**

3 Prohibition of tobacco including imitation tobacco product advertisements

- (1) A person who:
- (a) displays, exhibits, announces, broadcasts or telecasts, or causes or permits to be displayed, exhibited, announced, broadcast or telecast, or authorises the display, exhibition, announcement, broadcast or telecast to the public of a tobacco including imitation tobacco product advertisement;
 - (b) sells or distributes, or causes or permits to be sold or distributed, or authorises the sale or distribution of, any film, video tape or disk that contains a tobacco including imitation tobacco product advertisement;
 - (c) distributes, permits or causes to be distributed, or authorises the distribution to the public, of any leaflet or document that is or contains a tobacco including imitation tobacco product advertisement;
 - (d) prints or publishes, or causes or permits to be printed or published, or authorises the printing or publication of a tobacco including imitation tobacco product advertisement in any printed publication, book, magazine, leaflet, handbill, newspaper or other printed matter intended for the public;
 - (e) displays, or causes or permits to be displayed, a tobacco including imitation tobacco product in a way that is visible to the public at the point of sale of the tobacco including imitation tobacco product; or
 - (f) displays, or causes or permits to be displayed, a waterpipe, shisha or hookah, or other equipment for sale or use with tobacco including imitation tobacco or a similar substance by any person in a hospital, school, an enclosed workplace or an enclosed public area,
- commits an offence.

[subs (1) am Act 6 of 2023 s 6, opn 7 June 2023; Act 11 of 2024 s 5, opn 20 Aug 2024]

- (2) Subsection (1) does not apply to:
- (a) a tobacco product advertisement in or on a package containing a tobacco product; or
 - (b) any tobacco product advertisement included in any book, magazine, or newspaper printed outside the Republic, or in any radio or television transmission originating outside the Republic, or any film, video recording or visual disk originating outside the Republic, unless:
 - (i) the principal purpose of the book, magazine, newspaper, broadcast, telecast, film, video recording or visual disk is the promotion of the use of a tobacco product or smoking;
 - (ii) the book, magazine, newspaper, broadcast, telecast, film, video recording or visual disk is intended for sale, distribution or exhibition primarily in the Republic; or
 - (iii) in the case of a tobacco product advertisement in any radio or television transmission, the advertisement is targeted primarily at a Nauru audience.

- (3) Subsection (1) does not apply to the display of a price list of a tobacco product which may include the brand name or variant of the tobacco product.

[subs (3) subst Act 6 of 2023 s 6, opn 7 June 2023]

- (4) For the purposes of subsection (3), the price list shall not contain the name of the tobacco company or brand logo, colouring, slogan or other form of text or graphics which may be prescribed by regulations.

[subs (4) subst Act 6 of 2023 s 6, opn 7 June 2023]

- (5) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:

- (a) in the case of an individual:

- (i) forfeiture of any remaining tobacco products; and
(ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or

- (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.

[subs (5) insrt Act 6 of 2023 s 6, opn 7 June 2023]

- (6) A person who contravenes subsection (1):

- (a) is liable to pay a fixed penalty of:

- (i) in the case of an individual, \$1,000; or
(ii) in the case of a body corporate, \$10,000; and

- (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[subs (6) insrt Act 6 of 2023 s 6, opn 7 June 2023]

[s 3 am Act 11 of 2024 s 5, opn 20 Aug 2024]

4 Prohibition on giving or distributing free samples or offering prizes

- (1) A person shall not, for the purposes of inducing or promoting the sale of tobacco products, or smoking generally:

- (a) offer, supply or distribute to any person a free sample of a tobacco product;

- (b) offer any gift or rebate or the right to participate in any contest, lottery or game to the purchaser of a tobacco product in consideration for the purchase of the tobacco product or to any person in consideration for the furnishing of evidence of such a purchase; or

- (c) offer, supply or distribute to the public a free sample of a product that is not a tobacco product but that is intended to promote the sale of tobacco products, or smoking generally.

- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:

- (a) in the case of an individual:

- (i) forfeiture of any remaining tobacco products; and
(ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or

- (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.

- (3) A person who contravenes subsection (1):

- (a) is liable to pay a fixed penalty of:

- (i) in the case of an individual, \$1,000; or
- (ii) in the case of a body corporate, \$10,000; and
- (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[s 4 subst Act 6 of 2023 s 7, opn 7 June 2023]

5 Prohibition on sponsorship

- (1) A person shall not promote or publicise, or agree to promote or publicise, under a contract, agreement, undertaking or understanding with another person, whether or not legally binding:
 - (a) a tobacco product or a trademark or brand name, or part of a trademark or brand name, of a tobacco product; or
 - (b) the name or interests of a manufacturer or distributor of a tobacco product, whether or not the manufacturer or distributor also manufactures or distributes a product other than the tobacco product, in association directly or indirectly with the tobacco product, in exchange for a sponsorship, gift, prize, reward, scholarship or like benefit given or agreed to be given by any other person.
- (2) A person shall not give or agree to give any sponsorship, gift, prize, reward, scholarship or like benefit under a contract, agreement, undertaking or understanding with any other person, whether or not legally binding, in exchange for the promotion of, or an agreement to promote, a tobacco product or a name, interest, trademark or brand name of a tobacco product, or the name or interests of a manufacturer or distributor of a tobacco product, whether or not the manufacturer or distributor also manufactures or distributes a product other than the tobacco product, in association directly or indirectly with the tobacco product.
- (3) A manufacturer, wholesaler, distributor, importer or retailer of a tobacco product, whether an individual or body corporate, shall not provide a promotional discount of tobacco products.
- (4) A person who contravenes this Section commits an offence and upon conviction is liable to:
 - (a) in the case of an individual, a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$25,000.

[s 5 subst Act 6 of 2023 s 8, opn 7 June 2023]

[The next page is 121,001]

PART 3 — PRODUCT REQUIREMENTS

6 Information to be printed on packages of tobacco products — labelling

- (1) A person shall not sell or import any tobacco product in any package that:
 - (a) does not comply with labelling requirements under regulations;
 - (b) contains any information which is likely to represent that the tobacco product is less harmful than other similar products;
 - (c) contains signs, colours, designs or other forms or patterns of such designs as a substitute for any prohibited content on such packaging;
 - (d) includes descriptors depicting flavours; or
 - (e) has written or endorsed on it an expiry date.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:
 - (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.
- (3) For avoidance of any doubt, any labelling required under regulations including health warnings does not remove or diminish the liability of a seller or importer of tobacco products.

[s 6 subst Act 6 of 2023 s 9, opn 7 June 2023]

7 Restrictions on tar and nicotine content

- (1) The level of tar or nicotine in any tobacco product shall not exceed 15 milligrams and the level of nicotine shall not exceed 1.5 milligrams.
[subs (1) am Act 6 of 2023 s 10, opn 7 June 2023]
- (1A) A person shall not sell or import any tobacco product that displays the quantitative information on emission yields.
[subs (1A) insrt Act 6 of 2023 s 10, opn 7 June 2023]
- (2) A person who sells any tobacco product that contains tar or nicotine in excess of the level prescribed by subsection (1), commits an offence.
[subs (2) am Act 6 of 2023 s 10, opn 7 June 2023]

8 Minimum package size

- (1) No person shall sell cigarettes unless they are contained in an unbroken package containing no fewer than 20 cigarettes.
- (2) A person who sells any cigarette that is not contained within an unbroken package prescribed by subsection (1), commits an offence.

[The next page is 121,201]

**PART 4 — RESTRICTIONS ON SALE OF TOBACCO PRODUCTS AND
PRODUCTS RESEMBLING TOBACCO PRODUCTS**

9 Prohibition on supplying tobacco to persons under 20 years

- (1) A person who:
- (a) supplies any tobacco product to a person under the age of 20 years; or
 - (b) purchases a tobacco product for the use of a person under the age of 20 years,
- commits an offence.

[subs (1) am Act 6 of 2023 s 11, opn 7 June 2023]

- (2) The term ‘*supplies*’ in subsection (1)(a), applies only to the supply of a tobacco product by a person who has a direct or indirect pecuniary interest in the sale of tobacco products.

- (3) Every retailer of tobacco products shall post prescribed signs in the prescribed manner stating that it is illegal to sell or supply any tobacco product to persons under the age of 20 years, and any failure to comply with this requirement shall constitute an offence.

[subs (3) am Act 6 of 2023 s 11, opn 7 June 2023]

- (4) It is a defence to a prosecution under subsection (1), if a person proves that he or she had taken all reasonable precautions to ensure that the tobacco product was not sold to a person under the age of 20 years.

[subs (4) am Act 6 of 2023 s 11, opn 7 June 2023]

- (5) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:

- (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
- (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.

[subs (5) subst Act 6 of 2023 s 11, opn 7 June 2023]

- (6) A person who contravenes subsection (1):

- (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and
- (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[subs (6) subst Act 6 of 2023 s 11, opn 7 June 2023]

- (7) [subs (7) rep Act 6 of 2023 s 11, opn 7 June 2023]

- (8) [subs (8) rep Act 6 of 2023 s 11, opn 7 June 2023]

10 Prohibition on supply from vending machines

A person who sells or supplies tobacco products from a vending machine commits an offence and upon conviction is liable to a fine of \$1,000 and forfeiture of the vending machine.

10A Prohibition of online sale of tobacco products

- (1) A person shall not sell or advertise for sale in, or import to, the Republic any tobacco product online or through electronic or digital communication or an electronic system.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:
 - (a) in the case of an individual, forfeiture of any remaining tobacco products and a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.
- (3) For the purposes of proving the offence under subsection (1), any form of electronic or digital communication or any form of payment generated from an electronic system is admissible.
- (4) In this Section:

‘electronic or digital communication’ means any form of communication which is transmitted electronically or digitally and includes any text message, writing, post, photograph, picture, recording, telephone, email or any other matter that is communicated electronically or digitally; and

‘electronic system’ means a device or a group of inter-connected or related devices, including the Internet, one or more of which, pursuant to a program, performs automatic processing of data or any other function.

‘device’ includes:

 - (a) a component of an electronic system such as a computer, mobile phone, graphic card and memory chip;
 - (b) a storage component such as a hard drive, memory card, compact disc and tape;
 - (c) an input device such as a keyboard, mouse, track pad, scanner and digital camera; and
 - (d) an output device such as a printer and screen;

[s 10A insrt Act 6 of 2023 s 12, opn 7 June 2023]

11 Prohibition on supply from restaurants

- (1) A person shall not sell, offer for sale or supply any tobacco product in a restaurant.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:
 - (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.
- (3) A person who contravenes subsection (1):
 - (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and

- (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[s 11 subst Act 6 of 2023 s 13, opn 7 June 2023]

12 Prohibition on confectionery or toys resembling tobacco products

- (1) A person shall not sell, or import into the Republic for sale, confectionery, or a toy, that is designed to resemble a tobacco product.
- (2) A person shall not sell, or import into the Republic for sale, confectionery, or a toy, contained in packaging that is designed to resemble a tobacco product or the packaging of a tobacco product.
- (2A) A person shall not sell or import into the Republic for sale or distribution:
- (a) any product that is not a tobacco product but that has the brand name, logo, trademark or other similar association of a tobacco product; or
 - (b) any counterfeit tobacco product.

[subs (2A) insrt Act 6 of 2023 s 14, opn 7 June 2023]

- (3) For the purposes of any law regulating the importation of goods, a thing described in subsection (1), (2) or (2A) is a prohibited import.

[subs (3) am Act 6 of 2023 s 14, opn 7 June 2023]

- (4) A person who contravenes subsection (1), (2) or (2A) commits an offence and upon conviction is liable to:
- (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.

[subs (4) insrt Act 6 of 2023 s 14, opn 7 June 2023]

- (5) A person who contravenes subsection (1), (2) or (2A):
- (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and
 - (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[subs (5) subst Act 6 of 2023 s 14, opn 7 June 2023]

- (6) In this Section, '*counterfeit tobacco product*' means a tobacco product that imitates, mimics, or copies a tobacco product without right and passes off as genuine.

[subs (6) insrt Act 6 of 2023 s 14, opn 7 June 2023]

12A Prohibition on imitation tobacco products

- (1) A person shall not manufacture, possess, distribute or sell imitation tobacco products in the Republic.
- (2) A person shall not import or export imitation tobacco products into or outside of the Republic.
- (3) For the purposes of any law regulating the importation of goods, a imitation tobacco product is a prohibited import.

- (4) A person who contravenes subsection (1) and (2) commits an offence and upon conviction is liable to:
- (a) in the case of an individual:
 - (i) forfeiture of any tobacco imitation products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any imitation tobacco products and a fine not exceeding \$20,000.

[s 12A insrt Act 11 of 2024 s 6, opn 20 Aug 2024]

[The next page is 121,301]

**PART 4A — PROHIBITIONS OF E-CIGARETTES AND E-CIGARETTE
ACCESSORIES**

[Pt 4A insrt Act 11 of 2024 s 7, opn 20 Aug 2024]

12B Definitions

In this Part:

‘advertise’ includes printing, displaying, exhibiting, announcing, broadcasting, telecasting through film, video tape, disk, leaflet, document, book, magazine, handbill, newspaper or other printed matter or displays or causes or permits to be displayed, an e-cigarette or e-cigarette accessory in a way that is visible to the public or promoting for any purpose;

‘e-cigarette’ means a device whether or not containing nicotine or tobacco that generates or releases or is designed or intended to generate or release, by electronic means, an aerosol or vapour for inhalation by its user in a way that resembles, or produces an experience similar to, smoking and includes vape or a device which resembles a toy, food, drink, cartoon character, animal, musical instrument, vehicle or household or any other object;

‘e-cigarette accessory’ means any of the following:

- (a) a cartridge, capsule, pod or other vessel that contains or that is designed or intended to contain, a liquid, gas, aerosol, vapour or other substance for use in an e-cigarette;
- (b) such a liquid, gas, aerosol, vapour or other substance whether or not containing nicotine or tobacco;
- (c) a heating element designed or intended for use in an e-cigarette; or
- (d) a battery specifically designed or intended for use in an e-cigarette; and

‘sponsorship’ includes:

- (a) the public attribution, acknowledgment, association or identification of an organisation, body or tobacco manufacturer, importer, seller, brand, product with, on, or in connection with:
 - (i) an entertainment, sporting, recreational, educational, cultural, or other public event or work;
 - (ii) a person or team participating in such an event or work, including his or her equipment, clothing, and accessories;
 - (iii) a service provided or contribution made by a tobacco manufacturer importer or seller; or
 - (iv) a building, institution, stadium, organisation or other entity that is not a tobacco manufacturer, importer or seller; and
- (b) the use of e-cigarettes or e-cigarette accessories as a gift, prize, reward, scholarship or like benefit in relation to any matter under paragraph (a).

12C Prohibition on manufacture of e-cigarettes and e-cigarette accessories

- (1) A person shall not manufacture e-cigarettes or e-cigarette accessories in the Republic, for any purpose.

- (2) In this Section, *'manufacture'* includes the production, assembly, preparation or making of electronic cigarettes, vape and imitation tobacco product.
- (3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$20,000 or a term of imprisonment not exceeding 3 years or both.

12D Prohibition of possession, sale or supply of e-cigarettes or e-cigarette accessories

- (1) A person shall not possess, sell or supply an e-cigarette or e-cigarette accessory.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction:
 - (a) in the case of an individual, a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$25,000.

12E Prohibition of advertising of e-cigarettes and e-cigarette accessories

- (1) A person shall not advertise an electronic cigarette or e-cigarette accessory.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction:
 - (a) in the case of an individual, a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$25,000.

12F Prohibition of sponsorship relating to e-cigarettes and e-cigarette accessories

- (1) A person shall not provide sponsorship relating to e-cigarettes and e-cigarette accessories.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction:
 - (a) in the case of an individual, a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$25,000.

12G Prohibition of import of e-cigarettes and e-cigarette accessories

- (1) A person shall not import an electronic cigarette or e-cigarette accessory whether for commercial purpose or personal use.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction:
 - (a) in the case of an individual, a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$25,000.
- (3) For the purposes of any law regulating the importation of goods, an e-cigarette or e-cigarette accessory is a prohibited import.

12H Licence or authorisation shall not be issued for e-cigarettes and e-cigarette accessories

A licence or authorisation under Part 5A shall not be issued or granted for the manufacture, importation, distribution, selling, advertising of e-cigarettes or e-cigarettes accessories in Nauru.

12I Prohibition of smoking of e-cigarettes

- (1) A person shall not smoke an e-cigarette in any place in the Republic.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or a term of imprisonment not exceeding 18 months or both.

12J Enforcement provisions in relation to e-cigarettes and e-cigarette accessories

For the purpose of enforcement of this Part, Sections 19A to 29 of this Act shall apply in relation to e-cigarettes and e-cigarette accessories.

[The next page is 121,401]

PART 5 — SMOKING IN PUBLIC PLACES AND WORKPLACES

13 Prohibition on smoking in enclosed public places and enclosed workplaces

(1) A person shall not smoke a tobacco product in any school, hospital, enclosed workplace or enclosed public place.

[subs (1) subst Act 6 of 2023 s 15, opn 7 June 2023]

(2) Where a person smokes a tobacco product with the approval of the owner or occupier of a school, hospital, enclosed workplace or enclosed public place in contravention of subsection (1), the owner or occupier is deemed to have contravened subsection (1).

[subs (2) subst Act 6 of 2023 s 15, opn 7 June 2023]

(3) It is a defence to a prosecution under subsection (2), if the defendant proves that the defendant did not provide an ashtray, matches, a lighter or any other thing designed to facilitate smoking where the contravention occurred and that:

- (a) the defendant was not aware, and could not reasonably be expected to have been aware, that the contravention was occurring; or
- (b) the defendant requested the person contravening to stop smoking, and informed the person that the person was committing an offence.

(4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:

- (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
- (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.

[subs (4) insrt Act 6 of 2023 s 15, opn 7 June 2023]

(5) A person who contravenes subsection (1):

- (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and
- (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[subs (5) insrt Act 6 of 2023 s 15, opn 7 June 2023]

14 Enclosed workplaces or enclosed public places — display of signs

(1) An owner or occupier of an enclosed workplace or an enclosed public place shall display a ‘*no smoking*’ sign at the enclosed workplace or enclosed public place.

(2) The size and content of the sign under subsection (1) shall be as prescribed by regulations.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:

- (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.
- (4) A person who contravenes subsection (1):
- (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and
 - (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[s 14 subst Act 6 of 2023 s 16, opn 7 June 2023]

15 Smoking in bars, restaurants, cafes and hotels

- (1) Pursuant to Section 1(3) and the Schedule, all bars, restaurants and cafes and all public spaces within hotels shall, 4 years and 3 months after certification, become enclosed public places for the purposes of this Act.
- (2) The licensee of any bar, restaurant, café or hotel may, prior to the date on which such places become enclosed public places under this Act, adopt a 'no smoking' policy in respect of all or part of their business premises, and, provided that if such policy is adopted, signs are displayed that comply with the requirements prescribed for the purposes of Section 14(2) and have been so displayed for not less than 4 weeks, the 'no smoking' policy shall be enforced in accordance with this Act as if the relevant bar, restaurant, café or hotel or the respective part thereof was an enclosed public place.

16 Interim definitions of enclosed public place and enclosed workplace

- (1) Subject to Section 17(3), from the date of certification until 27 months after certification, '**enclosed public place**' shall mean any room or indoor space in any government building, and any other indoor public facility including public transport, and '**enclosed workplace**' shall mean any room or indoor space that is occupied by an employer and that employees usually frequent during the course of their employment but shall not include a vehicle or any place of residence occupied by an employer or an employee.
- (2) From 27 months after certification until 4 years and 3 months after certification, '**enclosed public place**' shall mean any place inside or within the grounds of any government building (including buildings of state owned enterprises and government instrumentalities), airport terminal or other public building or facility, and public transport, but shall not include any designated smoking area, and '**enclosed workplace**' shall mean any place occupied by an employer and that employees usually attend during the course of their employment that is enclosed by a roof and by two or more walls or sides, including any veranda, balcony or corridor with a roof and two or more walls that is in or adjoined to any such place, but shall not include restaurants, bars, cafes or hotels or any place of residence occupied by an employer or an employee nor any designated smoking area.

17 Approval of designated smoking area

- (1) An occupier of any public place or workplace may request an authorised officer to inspect any area that the occupier seeks to have approved as a designated smoking area, and where an occupier makes such request, the authorised officer shall inspect the area and may issue a certificate of approval under subsection (2) for an area at or within such public place or workplace to be a designated smoking area, provided that:
- (a) there shall be no more than one designated smoking area in any public place or workplace unless such public place or workplace covers an area greater than 200 square metres;
 - (b) a designated smoking area:
 - (i) is outdoors and is not covered by a roof or roof-like structure;
 - (ii) is not within 10 metres from any door or window;
 - (iii) occupies not more than 15 square metres;
 - (iv) has sufficient airflow which will minimise exposure to passive smoking;
 - (v) is properly equipped with rubbish bins and ashtrays; and
 - (vi) is clearly signposted as a designated smoking area; and
 - (c) [Repealed]
 - (d) the occupier of any public place or workplace that has a designated smoking area shall ensure that health warning signs in the prescribed form are posted in the designated smoking areas.

[subs (1) am Act 6 of 2023 s 17, opn 7 June 2023]

- (2) Where an authorised officer is satisfied that a proposed designated smoking area complies with the requirements in subsection (1), he or she shall issue a certificate of approval to the occupier which certifies that the requirements of subsection (1) have been complied with and which clearly describes the location and boundaries of the designated smoking area, and shall provide a copy of the certificate of approval to the Minister.
- (3) Notwithstanding the requirements of subsections (1) and (2), an authorised officer may issue a certificate of approval for a designated smoking area within the transit and departure lounge of the airport terminal, provided he or she is satisfied that the proposed designated smoking area is sufficiently separated or sealed off from other public areas within the airport terminal so the risk of involuntary passive smoking by those outside such designated smoking area, is remote.

[The next page is 121,501]

PART 5A — LICENCES

[Pt 5A insrt Act 6 of 2023 s 18, opn 7 June 2023]

17A Licence

- (1) A person shall not import, distribute or sell tobacco products for a commercial purpose without a licence issued under this Part.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:
 - (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$50,000.

17B Classes of licence

On receipt and consideration of an application for a licence, the Secretary may issue a licence in any one of the following classes:

- (a) importer licence;
- (b) distributor licence; and
- (c) retail licence.

17C Importer licence

An importer licence authorises the licensee to import tobacco products including any ingredient, equipment and machinery of tobacco products under the conditions set out in the licence.

17D Distributor licence

A distributor licence authorises the licensee to sell or distribute to retailers tobacco products in cartons under the conditions set out in the licence.

17E Retail licence

A retail licence authorises the licensee to sell to consumers tobacco products under the conditions set out in the licence.

17F Application for a licence under this Part

- (1) An application for a licence under this Part shall be:
 - (a) in the prescribed form;
 - (b) accompanied by evidence of payment of the prescribed fee;
 - (c) accompanied by:
 - (i) in the case of a partnership, a certificate of registration of partnership issued under the *Partnership Act 2018*;
 - (ii) in the case of an individual, partnership or corporation, a current business licence issued under the *Business Licences Act 2017*; and
 - (iii) in the case of a corporation, an incorporation certificate issued under the *Corporations Act 1972*; and

- (d) accompanied by an import licence issued under the *Customs Act 2014*, if applying for an importer licence under this Part.
- (2) The Secretary shall not consider an application for a licence if the prescribed fee required under subsection (1) has not been paid.
- (3) Where information provided by an applicant under this Section is false, misleading or defective in any particular:
 - (a) the applicant commits an offence and upon conviction is liable to a fine not exceeding \$2,000; and
 - (b) if the applicant has been issued a licence, the licence is deemed to have been cancelled.

17G Consideration of application

- (1) The Secretary shall consider the application and inform the applicant of the decision within 7 working days of the lodgement of the application and either:
 - (a) issue a licence; or
 - (b) advise the applicant in writing that the application has been refused and provide reasons for the refusal.
- (2) Where an application is rejected on the grounds that it does not comply with the provisions of this Act, the applicant may appeal in writing to the Minister against that decision and if the Minister is satisfied that the provisions of this Act are not contravened, the Minister may direct that the licence be issued.

17H Suspension of licence

- (1) The Secretary may suspend a licence if:
 - (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence; or
 - (c) the licensee has been convicted of an offence under this Act.
- (2) Before suspending a licence under subsection (1):
 - (a) the licensee shall be given a reasonable opportunity to be heard of the intended suspension; and
 - (b) the Secretary shall provide the licensee with the reasons for which the licence is to be suspended.

17I Cancellation of licence

- (1) The Secretary may cancel a licence if it is in the best interest of the public to do so.
- (2) Without limiting subsection (1), in determining whether it is in the public interest to cancel a licence, the Secretary shall consider whether:
 - (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence;
 - (c) the licensee has been found guilty or convicted of an offence under this Act; or
 - (d) the circumstances of that contravention are such that the licence shall be cancelled.
- (3) Before cancelling the licence under subsection (1), the licensee shall be given a reasonable opportunity to be heard and the Secretary shall provide the licensee with the reasons for which his or her licence is to be cancelled.

17J Duration and renewal of licence

- (1) A licence is valid for 12 months from the date the licence is granted.
- (2) An application for the renewal of a licence under this Part shall be made in the prescribed form and accompanied with evidence of payment of the prescribed fee at least 30 days prior to its expiration.

17K Transfer or assignment of licence

- (1) A licensee shall not transfer or assign a licence issued under this Part except with the prior written approval of the Secretary.
- (2) A licensee seeking approval of the Secretary under this Section shall apply in the prescribed form and provide evidence of payment of the prescribed fee.

17L Licences to be displayed

- (1) A licence shall be displayed in a conspicuous place in or at the licensee's place of business.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to:
 - (a) in the case of an individual:
 - (i) forfeiture of any remaining tobacco products; and
 - (ii) a fine not exceeding \$2,000 or a term of imprisonment not exceeding 12 months or both; or
 - (b) in the case of a body corporate, forfeiture of any remaining tobacco products and a fine not exceeding \$20,000.
- (3) A person who contravenes subsection (1):
 - (a) is liable to pay a fixed penalty of:
 - (i) in the case of an individual, \$1,000; or
 - (ii) in the case of a body corporate, \$10,000; and
 - (b) shall pay the fixed penalty within 14 days after the Tobacco Control Infringement Notice is served on the person by an authorised officer.

[The next page is 121,601]

PART 6 — MISCELLANEOUS

18 Appropriation for tobacco control activities

- (1) Each financial year, a reasonable portion of the total import duty revenue collected on tobacco products in the previous financial year shall be appropriated for the purposes of tobacco control activities.
- (2) In subsection (1), the expression ‘*tobacco control activities*’ means any measure designed to reduce the harm caused by tobacco products, including monitoring and enforcement of this Act and regulations, tobacco education activities, and activities designed to encourage individuals to quit smoking and to assist people in quitting smoking.

19 Authorised officer

- (1) The Minister may, by notice in the Gazette, prescribe a person or persons of a specified class or description to be authorised officers for the purposes of this Act.
- (2) All health inspectors and food inspectors are authorised officers for the purposes of this Act.
- (3) An authorised officer shall, upon request, provide identification that he or she is an authorised officer.

19A Tobacco Control Infringement Notices

- (1) An authorised officer may issue a Tobacco Control Infringement Notice to a person who:
 - (a) commits an offence under this Act that attracts a fine not exceeding \$2,000; and
 - (b) is liable to pay a fixed penalty.
- (2) The Cabinet may make regulations prescribing:
 - (a) fixed penalty offences for which fixed penalties shall be imposed;
 - (b) fixed penalties for corresponding fixed penalty offences;
 - (c) the Tobacco Control Infringement Notice which an authorised officer may serve on a person for a fixed penalty offence;
 - (d) additional penalties to be imposed by the court on a person who has failed to pay the fixed penalty in accordance with a Tobacco Control Infringement Notice;
 - (e) the procedures for dealing with a Tobacco Control Infringement Notice; and
 - (f) any other matter which shall ensure the effective enforcement of a Tobacco Control Infringement Notice.

[s 19A insrt Act 6 of 2023 s 19, opn 7 June 2023]

20 Offences and penalties

A person who contravenes or fails to comply with any provision of this Act creating an offence, upon conviction is liable, where there is no penalty provided; to a fine of:

- (a) in the case of an individual, \$50 for a first offence and \$250 for a second or subsequent offence; and

- (b) in the case of a body corporate, \$500 for a first offence and \$1,000 for a second or subsequent offence.

21 Offences by corporate bodies and trading businesses

- (1) Where a body corporate commits an offence under this Act, each director or other person concerned in the management of the body corporate is also guilty of, and liable to the penalty provided for that offence, unless the director or other person proves that he or she exercised reasonable diligence to prevent the commission of the offence.
- (2) Where an offence is committed under Section 3, 4, 6, 7, 9(1)(a), 9(3), 9(8), 10, 11, 12 or 14(1) by a business that holds a trading licence, whether that business is incorporated or not, both the licensee and the person in charge of the day-to-day management and trade of the business shall be liable to the respective penalties, provided that where one person is both the licensee and the manager, he or she shall not be penalised twice for the same offence.

22 Prosecution

Prosecution for an offence under this Act may be brought by:

- (a) the Director of Public Prosecutions;
(b) or on behalf of the Minister;
(c) a member of the police; or
(d) an authorised officer.

23 Powers of entry, search and seizure

- (1) For the purposes of this Act, an authorised officer may at all reasonable times:
- (a) enter any premises he or she knows or reasonably suspects:
- (i) are being used for the production, manufacture, assembly, preparation, storage or sale of any tobacco product, tobacco product package or tobacco product advertisement; and
- (ii) have been or are being or are likely to be used by a person in connection with a contravention of this Act;
- (b) enter any premises where he or she knows or reasonably suspects that records are kept relating to the sale or manufacture of tobacco products or to tobacco advertisements in contravention of this Act;
- (c) enter any premises which he or she knows or reasonably suspects are being used by a person for the printing, or as an office in connection with the printing, of any newspaper or other publication or for the manufacture or distribution of any videotape or visual disk which contravenes this Act;
- (d) enter any broadcasting or television station which he or she knows or reasonably suspects is associated with any contravention of this Act;
- (e) in any premises entered by him or her:
- (i) search for, examine, take possession of or make copies of or extracts from records relating to any tobacco product or tobacco product advertisement or package supplied or to be supplied or relating to any matter the subject of an investigation under this Act;
- (ii) search for and examine goods found on such premises;

- (iii) seize without payment any tobacco product or tobacco product package or advertisement that contravenes this Act or which he or she reasonably believes or suspects contravenes this Act;
 - (iv) seize without payment any brochures, leaflets, books, writing, documents or other materials that he or she knows or reasonably suspects have been, are being, or are likely to be used to advertise, promote, publicise or package any tobacco product in contravention of this Act;
 - (v) open any room, place or package that he or she knows or reasonably suspects contains any tobacco product or tobacco product advertisement; and
 - (vi) question with respect to matters under this Act, a person he or she finds on such premises; and
 - (f) make such inquiry and examination as he or she believes to be necessary or desirable to assist the discharge or exercise of any function or power under this Act to ascertain whether any contravention of this Act has been, is being or is likely to be committed.
- (2) Subsection (1) does not authorise forcible entry by an authorised officer to any premises except under the authority of a warrant obtained pursuant to subsection (3).
- (3) A Resident Magistrate, if satisfied upon the information of an authorised officer that there is reasonable cause to suspect that any place has been or is being or is likely to be used in connection with a contravention of this Act, or for the keeping of records relating to a contravention of this Act, may issue a search warrant directing the authorised officer to enter the place specified in the search warrant for the purpose of exercising the powers conferred on an authorised officer under this Act.
- (4) For the purpose of gaining entry to any place, an authorised officer may call in aid such persons as he or she considers necessary.
- (5) A search warrant issued under subsection (3) is, for a period of 1 month from its issue, sufficient authority:
- (a) to the authorised officer to whom it is directed, and to all persons acting in aid of the officer, to enter the place specified in the search warrant; and
 - (b) to the authorised officer to whom it is directed to exercise in respect of the place specified in the search warrant all the powers conferred on an authorised officer by this Act.
- (6) Where an authorised officer has taken possession of records or of other property for the purposes of this Act, he or she may:
- (a) in the case of records, retain them for as long as necessary for those purposes but the person otherwise entitled to possession of the records, if he or she so requests, is entitled to be furnished, as soon as practicable, with a copy certified by the authorised officer to be a true copy and such a certified copy shall be received as evidence of the matters contained in it as if it were the original; or
 - (b) in the case of other property subject to this Act, retain the property for as long as necessary for those purposes, and thereafter dispose of it as the court directs, or, if no prosecution results in relation to such property, return the property to the person from whom it was taken.

24 Power to obtain information

- (1) Where an authorised officer has reasonable cause to suspect that a person has information or records in his or her possession that may be relevant to the operation or enforcement of this Act or to the investigation of a suspected contravention of this Act, he or she may require that person, either by oral or written requisition, to provide:
 - (a) any such information; or
 - (b) any such records or copies of the same in the person's possession.
- (2) For the purpose of subsection (1), a person shall be taken to be in possession of:
 - (a) information, if the person has the information or is entitled to access to the information; and
 - (b) records, if the person has them in his or her possession or under his or her control in any place, whether for his or her own use or benefit or for another's use or benefit and although another person has the actual possession or custody of the records.
- (3) A requisition made under subsection (1), may require that the information or records or copies be provided:
 - (a) to the authorised officer or another authorised officer or to an officer of a specified department of the Government;
 - (b) at the place the requisition is made or at another place;
 - (c) immediately or at, by or within, a time specified;
 - (d) in person, or by mail or in another specified manner;
 - (e) by means of, or accompanied by, verification in the form of an affidavit; and
 - (f) in the case of information, orally or in writing.
- (4) A person shall not without reasonable cause:
 - (a) refuse or fail to provide any information, or produce records or a copy as required under this Section; or
 - (b) in response to a requisition made under this Section, provide information, or produce records or copies that is or are false or misleading in a material particular.
- (5) Where a person records or stores any matter by means of a mechanical, electronic or other device, the duty imposed by this Section to produce any records containing those matters shall include a duty to produce the matters in written form if that is demanded.
- (6) A person required to produce a copy of any records under this Section, shall produce a clear reproduction of the records.
- (7) An authorised officer may take notes or copies of or extracts from records or a copy of any records produced under this Section.
- (8) A person who without reasonable cause:
 - (a) fails to provide information, records or copies required under this Section; or
 - (b) provides or produces in response to a requisition under this Section, information, records or copies, that is or are false or misleading in a material particular, commits an offence.

25 Continuing offences

Where a person commits an offence by failing to provide information or to produce records or a copy of any records required under Section 24:

- (a) the obligation to provide the information or produce the records, or copies, continues until the person complies with the requirement notwithstanding that in a particular case a time was specified at, by or within which compliance was required and that time has passed;
- (b) the person commits a continuing offence in respect of each day after the day of conviction during which the failure to comply with the requisition continues;
- (c) the person is liable to a fine of \$50 for each day during which the offence continues; and
- (d) the person may be prosecuted from time to time in respect of the continuing offence, notwithstanding prior conviction for the commission of the initial offence.

26 Obstruction

- (1) A person who obstructs an authorised officer in the exercise of his or her powers under this Act, commits an offence.
- (2) For the purposes of this Act, a person obstructs an authorised officer in the exercise of his or her powers under this Act, if he or she:
 - (a) assaults, abuses, intimidates or insults the authorised officer or any other person assisting the authorised officer in the exercise of his or her powers under this Act;
 - (b) directly or indirectly prevents or attempts to prevent a person from being questioned by an authorised officer or from providing under this Act, any information, records or copies; or
 - (c) in any other way obstructs or attempts to obstruct an authorised officer in the exercise of his or her powers under this Act.

27 Directions may be issued to ensure compliance

- (1) Where:
 - (a) any tobacco product, package, label, tobacco product advertisement, shop or retail place, restaurant, enclosed public place or enclosed workplace or other place or thing does not comply with the provisions of this Act; or
 - (b) any provision of this Act, has not been complied with, an authorised officer may, in writing, direct a person who has contravened the provision by such non-compliance to take, within a specified time not exceeding 14 days, such steps as may be specified to prevent any further contravention and to remedy the matters in respect of which the non-compliance has occurred.
- (2) The issue of a direction under subsection (1), does not affect any proceeding under this Act which has been or may be taken for the non-compliance.
- (3) A person to whom a direction is issued under subsection (1), and who does not comply with the direction, commits an offence.

28 Removal of advertisements and destruction of tobacco products

- (1) Where a person is convicted of an offence under Section 3, the court, in addition to any other penalty, may order:

- (a) that any advertisement be removed or obscured or destroyed by an authorised officer; and
 - (b) that the person convicted shall pay the reasonable costs incurred in removing or obscuring or destroying any advertisement.
- (2) Where a person is convicted of an offence under Section 6, 7 or 8, the court, in addition to any other penalty, may order:
- (a) that the tobacco product be confiscated and destroyed by an authorised officer, and
 - (b) that the person convicted shall pay the reasonable costs incurred in confiscating and destroying the tobacco product.
- (3) Costs payable under subsection (1) or (2), may be recovered in the same way as a fine.

29 **Contracts, agreements or undertaking unenforceable**

- (1) A contract, agreement, undertaking or understanding that is in effect when this Act comes into force cannot, to the extent to which it is inconsistent with this Act, be enforced by a party thereto or by a third party.
- (2) Neither the Republic nor a person is liable to pay any damages or other compensation to any other person in consequence of subsection (1).

30 **Regulations**

The Cabinet may make regulations of limited or general application, not inconsistent with this Act, prescribing matters necessary or convenient to be made for carrying out or giving effect to this Act and, in particular:

- (a) prescribing the warning messages, explanatory information and other information to be displayed on packages containing tobacco, including the position of the information on packages and the size, colour, style, content and nature of these warnings or information;
- (b) prescribing the size, content, colour, style, position, number and nature of information on toxic constituents to be displayed on packages of tobacco products;
- (c) prescribing the size, content, colour, style, position, number and nature of notices to be displayed concerning the prohibition on sales to persons under the age of 18 years;
- (d) prescribing the size, content, colour, style, position, number and nature of notices to be displayed concerning restrictions on smoking in enclosed public places and enclosed workplaces;
- (e) prescribing the entry into and the conduct of inspections at points of sale of tobacco products;
- (f) declaring certain smoking products to be prohibited and prescribing penalties in relation to the sale and/or import of such prohibited smoking products; and
- (g) declaring a place or class or category of places to be '*enclosed public places*' for the purposes of this Act.

31 **Repeal**

The *Prohibition of the Possession of Tobacco by Children Ordinance 1924-1967* is repealed.

[The next page is 121,801]

SCHEDULE

[Section 1(3)]

PHASED IMPLEMENTATION OF CERTAIN PROVISIONS

[Sch 1 am Act 6 of 2009 s 3, opn 28 Aug 2009]

Pursuant to Section 1(3) the provisions specified in the left hand column of the following table shall come into force on the date specified in the corresponding row of the right hand column:

Table of commencement dates

Provision of the Act	Date of commencement
Definition of 'enclosed public place' in Section 2	4 years and 3 months after certification
Definition of 'enclosed public workplace' in Section 2	4 years and 3 months after certification
Section 6	12 months after certification
Section 7	6 months after certification
Section 8	9 months after certification
Paragraph (b) of subsection 9(1), and subsection 9(5)	6 months after certification
Section 11	12 months after certification
Section 12	6 months after certification
Subsection 24(8) and Section 25	3 months after certification, provided that failure to provide information, records or copies in relation to the operation or enforcement or investigation of a suspected contravention of a provision that has not yet commenced shall not be an offence
Section 26	3 months after certification, provided that no offence shall be deemed to have been committed under this Section if it relates to a provision that has not yet commenced
Subsection 27(3)	3 months after certification, provided that it shall not be an offence to fail to comply with a direction wrongfully issued in respect of a provision that has not yet commenced
Paragraph (g) of Section 30	4 years and 3 months after certification

[The next page is 123,001]

Tobacco Control Regulations 2009

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Tobacco Control Regulations 2009

TABLE OF AMENDMENTS

The Tobacco Control Regulations 2009 were notified on 30 July 2009 and commenced on 1 August 2009 (reg 2).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Tobacco Control (Amendment) Regulations 2023 SL 27	26 September 2023	26 September 2023

[The next page is 123,401]

IN EXERCISE of the powers conferred upon it by Section 30 of the *Tobacco Control Act 2009*, the Cabinet hereby makes the following Regulations:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Tobacco Control Regulations 2009*.

2 Commencement

These Regulations come into force on 1 August 2009, subject to the commencement provisions of the Act.

3 Interpretation

In these Regulations:

‘cigar’ means a roll of cut tobacco for smoking enclosed in a tobacco leaf or the leaf of another plant;

‘retail place’ includes a kiosk, cart or any other structure if a tobacco product is offered for retail sale to the public from that kiosk, cart or any other structure;

‘the Act’ means the *Tobacco Control Act 2009*;

‘the Regulations’ means any regulations made under the Act and includes these Regulations; and

‘word’ includes an abbreviation, an initial and a number.

[The next page is 123,601]

**PART 2 — CONDITIONS FOR DISPLAY OF TOBACCO PRODUCT
ADVERTISEMENTS IN SHOPS AND RETAIL PLACES**

4 Point of sale advertising - shops and retail places

For the purposes of Section 3(3) of the Act, a tobacco product advertisement in a shop or other retail place:

- (a) shall be within 1 metre of the point of sale;
- (b) if placed on or near a window, shall face the inside of the shop or other retail place;
- (c) shall not be affixed to the outer side of any outside wall or outer window or door; and
- (d) shall not be larger than 500 square centimetres.

[The next page is 123,801]

PART 3 — DISPLAY OF PRESCRIBED SIGNAGE

5 No-sales-to-children signage

- (1) For the purposes of Section 9(3) of the Act, the prescribed signs relating to the prohibition of the sale of tobacco products to persons under the age of 18 years are the signs set out in Schedule 1, and every retailer of tobacco products shall post within the retail premises or place from which he or she sells tobacco products at least one copy of each of the two prescribed signs.
- (2) The prescribed signs shall be:
 - (a) a minimum A3 in size (420 millimetres in width and 297 millimetres in height); and
 - (b) displayed in a manner that ensures that they are clearly visible:
 - (i) at an entrance to the premises; or
 - (ii) at a point of sale on the premises or retail place.
- (3) Nothing in this Regulation prohibits the use of a sign, in addition to the prescribed signs, that conveys by way of graphics, pictures, symbols or text a message about the prohibition of the sale of tobacco products to persons under the age of 18 years.

6 No smoking signs in schools, hospitals, enclosed public places and enclosed workplaces

- (1) For the purposes of Section 14(2) of the Act, the prescribed requirements for a “no smoking” sign are as follows:
 - (a) that the signs contain:
 - (i) a no smoking symbol, in the form of a red circle and diagonal line printed over a depiction of a cigarette and smoke, the outer diameter of which is at least 70 millimetres;
 - (ii) the phrase “No Smoking” or “Smoking Prohibited” in letters of at least 15 millimetres in height; and
 - (iii) the statement “It is an offence to smoke in a school, a hospital, an enclosed public place or an enclosed workplace”; and
 - (b) that the signs are displayed in such manner as to ensure that a person is reasonably likely to see one or more of them either on entering the school, hospital, enclosed public place or workplace or from within the enclosed public place or enclosed workplace.

[subreg (1) am SL 27 of 2023 reg 4, opn 26 Sep 2023]

- (2) Nothing in subregulation (1), prohibits the use of signs, in addition to those referred to in subregulation (1), that convey by way of graphics, pictures, symbols or text a no smoking message.
- (3) For the purposes of Section 17(1)(d) of the Act, the prescribed requirements for health warning signs to be displayed in designated smoking areas are:
 - (a) that the signs contain the words “Health Warning” at the top, followed by the health warnings listed in column 2 of items 1, 4 and 6 of Schedule 2;
 - (b) that the signs are a minimum of A3 in size 420 millimetres in width and 297 millimetres in height;

- (c) that the text on the signs is black on a white background or white on a red background, and printed in type that is of such a size that the text as nearly as possible fills the background on which it is printed; and
- (d) that the signs are affixed securely to a wall or fixture so that they cannot be easily removed, and positioned inside the designated smoking area in such manner as to ensure that the signs are clearly visible and legible to a person using the designated smoking area.

[The next page is 124,001]

**PART 4 — INFORMATION TO BE PRINTED ON TOBACCO PRODUCT
PACKAGES**

DIVISION 1 — GENERAL

7 Interpretation in relation to packaging

(1) In this Part:

‘corresponding explanatory message’, in relation to a warning message, means the explanatory message that appears in the same item in Schedule 2 as the warning message;

‘explanatory message’ means a message set out in Column 3 of Schedule 2;

‘face’ in relation to retail package of which the outer surface includes 2 or more flat areas that are bounded by edges of the package, means any of those flat areas;

‘flip-top pack’ means a retail package of the kind commonly called a flip-top pack or hinge-top pack;

‘pouch’ means a retail package that is:

- (a) made from flexible material; and
- (b) takes the form of a rectangular pocket with a flap that covers the opening;

‘retail package’:

- (a) means a package in which a tobacco product is sold at retail;
- (b) subject to paragraph (c), if several packages are contained inside a larger package (for example, packets of cigarettes in a carton) and the whole is offered for retail sale as one unit, includes the larger package and each smaller package therein; and
- (c) does not include:
 - (i) a display case that is sold with the tobacco product displayed in it;
 - (ii) a wrapper on, or a package containing, a single cigar; or
 - (iii) a larger package which is formed by an outer wrapper of cellophane or other transparent material;

‘soft pack’ means a retail package of the kind commonly called a soft pack or soft cup; and

‘warning message’ means a message set out in Column 2 of Schedule 2.

(2) For the purposes of these Regulations:

- (a) openings, gaps or edges that are created in a face of a retail package when the package is opened are to be disregarded;
- (b) an area of a surface that bears decorative ridges, embossing, bulges or other irregularities but is otherwise flat is taken to be a flat area;
- (c) a soft pack is taken to be a solid that has all its faces rectangular and that has edges equal in length to the edges of the smallest rectangular solid inside which the pack will fit when it is not compressed;
- (d) a face that has rounded corners but is otherwise square or rectangular is taken to be square or rectangular, as the case requires;

- (e) the surface area of a retail package is the area that would be covered by the outer layer of the package if it were opened out and pressed flat; and
- (f) a cylindrical package includes a package that is, in one plane, elliptical, rather than circular, in cross-section.

8 Retail package shall bear warning message and, in certain cases, explanatory message

Subject to this Division, a retail package of tobacco shall bear:

- (a) a warning message and the corresponding explanatory message; or
- (b) if permitted or required by another provision of these Regulations:
 - (i) a warning message, the same warning message repeated and the corresponding explanatory message; or
 - (ii) a warning message and the same warning message repeated.

9 Messages on certain smaller packages

- (1) Where the largest face of a retail package (other than a retail package of a kind described in item 8 of Schedule 3) has an area of 40 square centimetres or less and would, but for this subregulation, be required to bear an explanatory message, then:
 - (a) an explanatory message need not be printed on that face; and
 - (b) both that face and the face on which the warning message is to be printed, shall bear the same warning message.
- (2) A retail package of a kind described in item 8 of Schedule 3:
 - (a) is not required to bear an explanatory message; and
 - (b) shall bear a warning message printed on the package twice.

10 Format of warning message and explanatory message

Warning message of an explanatory message shall be in the following format:

- (a) the text shall be printed:
 - (i) within a black rectangular or square border of which the lines are no wider than the upper case letter "I" in the 18 point type size of the type face prescribed in paragraph (b); and
 - (ii) on a white background within the border referred to in sub-paragraph (i);
- (b) the text shall be printed in the type face known as Helvetica, in upper case and lower case letters as the text of the message is set out in Schedule 2, in type that is:
 - (i) clear and legible;
 - (ii) subject to paragraph (c), of the same height throughout the message;
 - (iii) black;
 - (iv) of normal weight; and
 - (v) of such a size that the text as nearly as possible fills the background on which it is printed; and
- (c) the headings in the explanatory messages, being a repetition of the corresponding health warnings, shall be in type of a point size not greater than 3 points larger than the type used for the remainder of the explanatory message.

11 Position of warning message and explanatory message

- (1) For a retail package of a kind described in item 1 or 2 of Schedule 3:
 - (a) the warning message is to be printed:
 - (i) on the face of the package specified in the relevant item; and
 - (ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed; and
 - (b) the explanatory message is to be printed:
 - (i) on the face of the package that is opposite to the face on which the warning message is to be printed; and
 - (ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed.
- (2) For a retail package of the kind described in item 3, 5, 6, or 7 of Schedule 3:
 - (a) the warning message is to be printed on the face of the package specified in the relevant item; and
 - (b) the explanatory message is to be printed on the face of the package that is opposite to the face on which the warning message is to be printed.
- (3) For a pouch described in item 4 of Schedule 3, the warning message is to be printed on the face of the pouch specified in the item.
- (4) Where the flap of a pouch described in item 4 of Schedule 3 is, in area, less than 33.33% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed:
 - (a) on the face that is partly covered by the flap when the package is closed; and
 - (b) not in the area that is covered by the flap when the package is closed.
- (5) Where the flap of a pouch described in item 4 of Schedule 3 is, in area, at least 33.33% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed on the outside of the flap.
- (6) For a retail package of a kind described in item 8 of Schedule 3, the 2 warning messages are to be printed on the package as far apart as possible.
- (7) For a retail package of a kind described in item 9 of Schedule 3:
 - (a) the warning message is to be printed on the face of the package specified in the item; and
 - (b) the explanatory message is to be printed as far as possible from the warning message on the package.

12 Area to be covered by warning message and explanatory message

- (1) A warning message that is printed on a retail package of a kind described in items 1 to 7 (inclusive) of Schedule 3, shall cover at least 30% of the area of the face on which it is printed.
- (2) An explanatory message that is printed on a retail package of a kind described in items 1 to 7 (inclusive) of Schedule 3, shall cover at least 30% of the area of the face on which it is printed.
- (3) A warning message that is printed on a retail package of a kind described in item 8 or 9 of Schedule 3, shall cover at least 15% of the total surface area of the package.

- (4) An explanatory message that is printed on a retail package of a kind described in item 9 of Schedule 3 shall cover at least 20% of the total surface area of the package.

13 Orientation of message

The text of a warning message or an explanatory message shall be oriented as follows:

- (a) if the face on which the message is to be printed has other text printed on it, and all, or the majority of, that other text is oriented in one direction, the text shall be oriented in that direction; or
- (b) if paragraph (a) does not apply, the text may be oriented in any direction.

14 Messages not to be obscured, etc

- (1) Where a message that is required by these Regulations to be printed on a retail package is likely to be obscured or obliterated by a wrapper on the package, the message shall be printed on both the wrapper and the package.
- (2) A message, other than a message on a carton, shall not be likely to be obliterated, removed or rendered permanently unreadable when the retail package on which it is printed is opened in the normal way.

15 Use of adhesive labels

- (1) A message that is required by these Regulations to be printed on a retail package may be printed on an adhesive label that is affixed to the retail package.
- (2) Subregulation (1) does not apply to a flip-top pack or a soft pack after 20 April 2010.
- (3) An adhesive label referred to in subregulation (1), shall:
 - (a) comply with these Regulations in all respects other than as specifically set out in this Regulation;
 - (b) be affixed to the face of the package on which the message that it bears is required to be printed, but may be affixed anywhere on that face; and
 - (c) be fastened firmly to the retail package so as not to be easily removable.
- (4) An adhesive label referred to in subregulation (1) may be affixed in any orientation.

16 Messages to appear in rotation

- (1) Each warning message and (where required by these Regulations) the corresponding explanatory message shall be printed in rotation on retail packages of tobacco, so that, during the period of 12 months beginning on 1 January in each year, each message appears as nearly as possible on an equal number of retail packages of each kind of tobacco.
- (2) Tobacco is of different kinds for the purposes of subregulation (1), if:
 - (a) it is sold under different brand names; or
 - (b) it is sold under one brand name but is distinguished in one or more of the following ways:
 - (i) containing or not containing menthol;
 - (ii) being differently flavoured;
 - (iii) having different contents of tar;

- (iv) allegedly differing in “mildness”;
- (v) having or not having filter tips or cork tips;
- (vi) being sold in retail packages containing different numbers of pieces;
or
- (vii) being of different length or mass.

17 Minister may approve variation

- (1) Where, upon receipt and consideration of a written application from a person who imports tobacco or from a manufacturer of tobacco products for permission to sell tobacco products the packaging of which contains messages that do not fulfil all of the requirements prescribed by these Regulations, the Minister determines that the messages on the relevant packaging vary only slightly from the prescribed requirements and are substantially to the same effect as the prescribed requirements, the Minister may approve such variation in packaging.
- (2) A written application made under subregulation (1), shall include all details of the manner in which the proposed packaging varies from the requirements prescribed by these Regulations, and shall include a full scale illustration of all relevant faces and surfaces of the proposed packaging.
- (3) Any approval by the Minister under subregulation (1) of variation in packaging shall be made in writing and published in the Gazette, giving details of the manner in which the approved variation differs from the prescribed requirements.
- (4) Any packaging approved under this Regulation, shall be deemed to comply with the requirements prescribed by these Regulations.
- (5) An approval by the Minister under subregulation (1), shall be valid in respect of the import and sale of the relevant tobacco products by a person, not only by the person who made the application, and, subject to subregulation (6), shall remain valid unless and until it is revoked by the Minister by notice in the Gazette.
- (6) Any revocation of approval under subregulation (5), shall take effect 60 days after it is published in the Gazette.

DIVISION 2 — RETAIL PACKAGES CONTAINING CIGARETTES

18 Message to be printed on the side of a retail package of cigarettes

- (1) For the purposes of this Regulation, a reference to the sides of a retail package containing cigarettes is a reference:
 - (a) in the case of a cylindrical retail package, to those parts of the curved surface of the package that, if the vertical centre-line of the largest brand-name on the curved surface of the package is taken to be at 0 degrees, extend:
 - (i) from 60 degrees to 120 degrees; and
 - (ii) from 240 degrees to 300 degrees,
around the circumference of a flat face of the package;
 - (b) in the case of a package that has 2 faces that are hexagonal or octagonal, and of which all the other faces are square or rectangular, to the square or rectangular faces of the package, other than the front and the back;

- (c) in the case of a carton, to the larger 2 of the 4 faces other than the front and the back; and
 - (d) in any other case, to the surfaces of the package, other than the back and the front, that are vertical when the package is held so that the axis of the cigarettes within it is vertical.
- (2) For the purposes of subregulation (1):
- (a) the front of a retail package (other than a retail package of a kind described in item 8 or 9 of Schedule 3) is that face of the package on which the warning message is required to be printed; and
 - (b) the back of a retail package (other than a retail package of a kind described in item 8 or 9 of Schedule 3) is the face:
 - (i) on which the explanatory message is required to be printed; or
 - (ii) on which the explanatory message would, but for subregulation 9(1), be required to be printed.
- (3) The following message shall be printed on a retail package of cigarettes:
- Smoking exposes you to more than 40 harmful chemicals.
 - These chemicals damage blood vessels, body cells and the immune system.
 - QUIT NOW to reduce your risk of chronic illness or premature death.
- (4) The message required by subregulation (3):
- (a) in the case of a retail package other than a retail package of a kind described in item 8 or 9 of Schedule 3, shall be printed, if:
 - (i) both or all of the sides of the package are the same in area, on one side of the package;
 - (ii) one side of the package is larger than the other or others - on the larger or largest side; or
 - (iii) 2 or more sides of the package are larger than the other or others - on one of those larger sides; or
 - (b) in the case of a retail package of a kind described in item 8 or 9 of Schedule 3, may be printed anywhere on the package.
- (5) The message required by subregulation (3) shall be printed:
- (a) in the type face known as Helvetica, in type that is:
 - (i) clear and legible;
 - (ii) black;
 - (iii) of normal weight; and
 - (iv) of such a size that the text as nearly as possible fills the background on which it is printed; and
 - (b) in upper and lower case, as the text of the message is set out in subregulation (3);
 - (c) if the message is required to appear on the side of the package, oriented so that the lines of type making up the message are parallel to the longest edges of the face on which the message is printed; and
 - (d) on a rectangular or square background of the kind set out in subregulation (6).
- (6) The background referred to in subregulation (5)(d):
- (a) shall be white; and
 - (b) shall occupy:
 - (i) in the case of a retail package other than a flip-top pack, a carton or a package of a kind described in item 8 or 9 of Schedule 3, the whole of one side;

- (ii) in the case of a carton, at least 25% of the side on which the message is printed;
- (iii) in the case of a flip-top pack, the whole of one side except the part of that side that forms the top; or
- (iv) in the case of a retail package of a kind described in item 8 or 9 of Schedule 3, at least 9% of the total surface area of the package.

DIVISION 3 — CIGARS

19 Packages of cigars shall bear certain messages

A retail package containing cigars shall bear:

- (a) a warning message, and the corresponding explanatory message, in accordance with Division 1;
- (b) a warning message, the warning message repeated, and the corresponding explanatory message, in accordance with regulation 20; or
- (c) a warning message and the corresponding explanatory message, in accordance with Regulation 21.

20 Messages on package with hinged lid

- (1) A warning message and explanatory message may be printed on a retail package in accordance with this Regulation if and only if the package has a hinged lid formed by one face of the package.
- (2) A retail package containing cigars bears a warning message and the corresponding explanatory message in accordance with this subregulation if:
 - (a) the warning message is printed on both the outside of the lid and the base of the package;
 - (b) each warning message occupies at least 25% of the area of the face on which it is printed;
 - (c) the explanatory message is printed on the inside surface of the lid;
 - (d) the explanatory message occupies at least 33% of the area of the inside surface of the lid; and
 - (e) the warning message and the explanatory message are otherwise in accordance with Division 1.

21 Messages on other packages of cigars

A retail package containing cigars bears a warning message and the corresponding explanatory message in accordance with this Regulation if:

- (a) the warning message is printed on the face of the package that is specified in Schedule 3, for a package of that kind;
- (b) the corresponding explanatory message is printed on the face of the package that is opposite to the face on which the warning message is, under paragraph (a), to be printed;
- (c) the areas occupied by the warning message and the explanatory message are as set out in the item of Schedule 4, that applies to that package; and
- (d) the warning message and the explanatory message are otherwise in accordance with Division 1.

[The next page is 124,201]

PART 5 — TESTING AND REPORTING ON TAR, NICOTINE AND CARBON MONOXIDE CONTENT OF CIGARETTES

22 Reports on average tar, nicotine and carbon monoxide content of cigarettes

- (1) A person who imports cigarettes to the Republic shall, at least once in each calendar year, submit to the Minister a report which, in respect of each different kind of cigarette product that person has imported to the Republic in the preceding year, provide the following details:
 - (a) the average amounts of tar, nicotine and carbon monoxide, respectively, produced by a cigarette, when cigarettes of that kind are tested according to the testing methods specified in Regulation 23; or
 - (b) if, when cigarettes of that kind are tested according to the testing methods specified in Regulation 23:
 - (i) the average amount of tar produced by a cigarette does not exceed 15 milligrams;
 - (ii) the average amount of nicotine produced by a cigarette does not exceed 1.5 milligrams; and
 - (iii) the average amount of carbon monoxide produced by a cigarette does not exceed 20 milligrams,figures worked out by taking from the columns of Schedule 5, that relate respectively to tar, nicotine and carbon monoxide the lowest figures that are greater than or equal to the average amount of tar, nicotine and carbon monoxide, respectively, produced by a cigarette of that kind.
- (2) A person who imports cigarettes to the Republic shall be deemed to have fulfilled their reporting obligation under subregulation (1), if each manufacturer of tobacco products whose products the person imports submits to the Minister a report that complies with the requirements of subregulation (1) and Regulation 23.

23 Testing methods

- (1) The testing methods to be used for the purposes of Regulation 22(1) to determine the average amount of tar, nicotine and carbon monoxide produced by a cigarette are the following standard methods published by the International Standards Organisation:
 - (a) tar-ISO 4387 (Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine);
 - (b) nicotine-ISO 10315 (Cigarettes-determination of nicotine in smoke condensatesgas chromatographic method); and
 - (c) carbon monoxide-ISO 8454 (Cigarettes-determination of carbon monoxide in the vapour phase of smoke (NDIR method)).
- (2) The testing methods specified in subregulation (1) are to be used in accordance with the following standards published by the International Standards Organisation:
 - (a) ISO 3308 (Routine analytical cigarette-smoking machine-definitions and standard conditions);
 - (b) ISO 8243 (Cigarettes-sampling); and

- (c) ISO 3402 (Tobacco and tobacco products-atmosphere for conditioning and testing).

24 Minister may request testing

The Minister may at any time submit any kind of cigarette to testing in accordance with the testing methods prescribed in Regulation 23, and may send samples of cigarettes to a place outside the Republic for the purpose of such testing.

25 Cigarettes that exceed prescribed limits of tar or nicotine

- (1) Where the results of tests reported to the Minister under Regulation 22 or 24 show that any of the tested products exceed the limits of tar or nicotine levels prescribed under Section 7 of the Act, cigarettes of that kind shall not be sold.
- (2) A person commits an offence under Section 7 of the Act, if he or she sells cigarettes that he or she knows or can reasonably be expected to know exceed the prescribed limits of tar or nicotine levels, notwithstanding that he or she has not yet submitted a report under Regulation 22 or that the cigarettes have not been tested under Regulation 24.

[The next page is 124,301]

PART 6 — LICENCES

[Pt 6 insrt SL 27 of 2023 reg 5, opn 26 Sep 2023]

26 Licence to import tobacco products

- (1) For the purposes of Section 17A of the Act, a person shall not import tobacco products for a commercial purpose unless the person has obtained an importer licence in accordance with the Act and these Regulations.
- (2) For the purposes of Section 17F of the Act, an application for an importer licence shall be made in the form as set out in Form 1 of Schedule 6.
- (3) The fee for an application for an importer licence shall be as set out in Schedule 7.

27 Licence to sell or distribute tobacco products to retailers

- (1) For the purposes of Section 17A of the Act, a person shall not sell or distribute tobacco products to retailers unless the person has obtained a distributor licence in accordance with the Act and these Regulations.
- (2) For the purposes of Section 17F of the Act, an application for a distributor licence shall be made in the form as set out in Form 2 of Schedule 6.
- (3) The fee for an application for a distributor licence shall be as set out in Schedule 7.

28 Licence to sell tobacco products to consumers

- (1) For the purposes of Section 17A of the Act, a person shall not sell tobacco products to consumers unless the person has obtained a retail licence in accordance with the Act and these Regulations.
- (2) For the purposes of Section 17F of the Act, an application for a retail licence shall be made in the form as set out in Form 3 of Schedule 6.
- (3) The fee for an application for a distributor licence shall be as set out in Schedule 7.

29 Renewal of licence

- (1) An application for the renewal of an importer licence, a distributor licence or a retail licence shall be made in the application form for an importer, distributor or retail licence, as the case may be, as set out in Schedule 6.
- (2) The fee for an application for the renewal of an importer licence, a distributor licence or a retail licence shall be the same as the fee for the application for an importer, distributor or retail licence, as the case may be, as set out in Schedule 7.

30 Transfer or assignment of licence

- (1) For the purposes of Section 17K of the Act, an application for the transfer or assignment of a licence shall be in the form as set out in Form 4 of Schedule 6.
- (2) The fee for an application for the transfer or assignment of a licence shall be as set out in Schedule 7.

31 Decision of the Secretary

- (1) Where the Secretary grants an importer licence, distributor licence or retail licence to an applicant, the licence shall be issued in the form as set out in Form 5 of Schedule 6.
- (2) Where the Secretary refuses to grant an importer licence, distributor licence or retail licence to an applicant, he or she shall:
 - (a) inform the applicant of the refusal in writing in the form as set out in Form 6 of Schedule 6; and
 - (b) provide the reason for the refusal.

[The next page is 124,401]

SCHEDULE 1

[Regulation 5]

**PROHIBITION OF THE SALE OF TOBACCO PRODUCTS TO MINORS
SIGNS**

**IT IS ILLEGAL
TO SELL OR SUPPLY A
TOBACCO PRODUCT
TO A PERSON
UNDER 18 YEARS
(Maximum penalty: \$5,000)**

Under 18 No Tobacco	I CAN'T SELL
	YOU CAN'T BUY

[The next page is 124,601]

SCHEDULE 2

[Regulation 8]

WARNING MESSAGES AND EXPLANATORY MESSAGES

Column 1	Column 2	Column 3
Item	Warning message	Explanatory message
1	SMOKING CAUSES LUNG CANCER	SMOKING CAUSES LUNG CANCER Tobacco smoke contains many cancer-causing chemicals including tar. When you breathe the smoke in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer can grow and spread before it is noticed. It can kill rapidly.
2	SMOKING IS ADDICTIVE	SMOKING IS ADDICTIVE Nicotine, a drug in tobacco, makes smokers feel they need to smoke. The more you smoke, the more your body will depend on getting nicotine and you may find yourself hooked. It may be difficult to give up smoking once you are hooked on nicotine.
3	SMOKING KILLS	SMOKING KILLS Smoking is one of the greatest preventable causes of death. Tobacco use kills more than five million people world wide each year. In Australia, tobacco smoking causes more than four times the number of deaths caused by car accidents.
4	SMOKING CAUSES HEART DISEASE	SMOKING CAUSES HEART DISEASE Tobacco smoking is a major cause of heart disease. It can cause blockages in the body's arteries. These blockages can lead to chest pain and heart attacks. In Australia, heart attack is the most common cause of death. Smokers run a far greater risk of having a heart attack than people who don't smoke.
5	SMOKING WHEN PREGNANT HARMS YOUR BABY	SMOKING WHEN PREGNANT HARMS YOUR BABY Poisons in tobacco smoke reach your baby through the bloodstream. If you smoke when you are pregnant, you greatly increase the chance of having a baby with a low birth-weight. Smoking may lead to serious complications which could harm your baby.

Column 1	Column 2	Column 3
Item	Warning message	Explanatory message
6	YOUR SMOKING CAN HARM OTHERS	YOUR SMOKING CAN HARM OTHERS Tobacco smoke causes cancer and poisons people. People who breathe in your tobacco smoke can be seriously harmed. Your smoking can increase the risk of lung cancer and heart disease. Children who breathe your smoke may suffer asthma attacks and chest illnesses.

[The next page is 124,801]

SCHEDULE 3

[Regulation 11]

POSITIONS ON RETAIL PACKAGES WHERE WARNING MESSAGE IS TO BE PRINTED

Column 1	Column 2	Column 3
Item	Type of retail package	Face of the package on which warning message is to be printed
1	Flip-top pack	That face that includes the front face of the flip-top
2	Soft pack	If the brand name is printed on only one of the largest faces, or is printed on larger type on one of those faces, that face; otherwise, either of the largest faces
3	Any other retail package (except a pouch) all the faces of which are rectangular or square	(a) If one of the largest faces of the package forms, or forms part of, a lid – that face. (b) In the case of a carton referred to in the definition of ‘retail package’ in subregulation 7(1), any of the largest faces of the carton. (c) In any other case, that one of the largest faces of the package that is towards a person who holds the package correctly for the purpose of removing its contents.
4	Pouch	That one of the largest faces of the folded package that is not overlapped by the flap of the package.
5	Cylindrical package containing cigarettes or cigars	That part of the curved surface of the package that extends one-twelfth of the circumference of the package each side of the vertical centre line of the brand name label on that surface (or, if that label appears more than once on that surface, the larger or largest of those labels).
6	Cylindrical package containing tobacco	That one of the circular faces that forms, or forms part of, the lid.
7	Package in the shape of a hexagonal or octagonal prism, containing cigarettes or cigars	That one of the rectangular faces of the package that bears the brand name label; or, if that label appears on more than one of those faces, the face on which the larger or largest of those labels appears.

Column 1	Column 2	Column 3
Item	Type of retail package	Face of the package on which warning message is to be printed
8	A retail package: (a) the shape of which is not described in items 1 to 7 (inclusive); and (b) the total surface area of which is less than 145 square centimetres	The package shall bear 2 warning messages, printed as far apart as possible. The messages shall be printed on the face, or faces, of the package that allow this result to be achieved.
9	A retail package: (a) the shape of which is not described in items 1 to 7 (inclusive); and (b) the total surface area of which is at least 145 square centimetres	Any face of the package

[The next page is 125,001]

SCHEDULE 4

[Regulation 21]

AREAS TO BE OCCUPIED BY MESSAGES ON CERTAIN PACKAGES OF CIGARS

Column 1	Column 2	Column 3	Column 4
Item	Area of front and back face of package (cm ²)	Area to be occupied by warning message (cm ²)	Area to be occupied by explanatory message (cm ²)
1	Less than 70	15	20
2	Not less than 70 but less than 90	20	27
3	Not less than 90 but less than 110	25	33
4	Not less than 110 but less than 130	30	40
5	Not less than 130 but less than 150	35	46
6	Not less than 150 but less than 170	40	53
7	Not less than 170 but less than 250	53	70
8	250 or greater	73	96

[The next page is 125,021]

SCHEDULE 5

[Regulation 22]

**FIGURES FOR DESCRIBING AVERAGE AMOUNTS OF TAR, NICOTINE
AND CARBON MONOXIDE**

Tar (milligrams)	Nicotine (milligrams)	Carbon monoxide (milligrams)
1	0.2	2
2	0.3	3
4	0.4	5
8	0.8	10
12	1.2	15
16	1.5	20

[The next page is 125,051]

SCHEDULE 6

[Sch 6 insrt SL 27 of 2023 reg 6, opn 26 Sep 2023]

FORM 1

(Regulation 26(2))

APPLICATION FORM FOR IMPORTER LICENCE FOR TOBACCO PRODUCTS



TOBACCO CONTROL REGULATIONS 2009

APPLICATION FORM FOR IMPORTER LICENCE FOR TOBACCO PRODUCTS

1. DETAILS OF IMPORTER
Importer:
Address:
E-mail:
Phone number:
2. DETAILS OF CONSIGNMENT
Consignor:
Consignee:
Transported by: <input type="checkbox"/> Sea <input type="checkbox"/> Air
Date of Arrival in the Republic of Nauru: / / 20
Vessel Registration/Flight Number:
3. DESCRIPTION OF TOBACCO PRODUCT
Type of tobacco product:
Brand of tobacco product:
Quantity:
4. PURPOSE OF IMPORTATION
Personal / Commercial Use:
5. DECLARATION
I declare that the information I have provided in this application is complete, correct and up to date in every detail.
Signature of importer:
Date:
6. CHECKLIST
<input type="checkbox"/> Evidence of payment of the application fee
<input type="checkbox"/> In the case of a partnership, a certificate of registration of partnership issued under the <i>Partnership Act 2018</i>

<input type="checkbox"/> In the case of an individual, partnership or corporation, a current business licence issued under the <i>Business Licences Act 2017</i>	
<input type="checkbox"/> In the case of a corporation, an incorporation certificate issued under the <i>Corporations Act 1972</i> ; and	
<input type="checkbox"/> Import licence	
7. OFFICIAL USE	
Additional information required: <input type="checkbox"/> Yes <input type="checkbox"/> No	
To be referred to the authorised officer: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Recommendation by authorised officer: <input type="checkbox"/> Approve Application <input type="checkbox"/> Reject Application	
Reason(s) for recommendation:	
Name of authorised officer:	Signature of authorised officer:
Date: / /20	Time:
Decision of Secretary: <input type="checkbox"/> Application Approved <input type="checkbox"/> Application Rejected	
Name of Secretary:	Signature of Secretary:
Date: / /20	Time:

FORM 2

(Regulation 27(2))

APPLICATION FORM FOR DISTRIBUTOR LICENCE FOR TOBACCO PRODUCTS

**TOBACCO CONTROL REGULATIONS 2009
APPLICATION FORM FOR DISTRIBUTOR LICENCE FOR TOBACCO
PRODUCTS**

1. DETAILS OF DISTRIBUTOR

Distributor:

Address:

E-mail:

Phone number:

2. DETAILS OF IMPORTER

Importer:

Address:

E-mail:

Phone number:

3. DESCRIPTION OF TOBACCO PRODUCT

Type of tobacco product:

Brand of tobacco product:

Quantity:

4. DETAILS OF RETAILER

Retailer:

Address:

E-mail:

Phone number:

5. DECLARATION

I declare that the information I have provided in this application is complete, correct and up to date in every detail.

Signature of distributor:

Date:

6. CHECKLIST

- Evidence of payment of the application fee
- In the case of a partnership, a certificate of registration of partnership issued under the *Partnership Act 2018*
- In the case of an individual, partnership or corporation, a current business licence issued under the *Business Licences Act 2017*

<input type="checkbox"/> In the case of a corporation, an incorporation certificate issued under the <i>Corporations Act 1972</i> ; and <input type="checkbox"/> Import licence
7. OFFICIAL USE
Additional information required: <input type="checkbox"/> Yes <input type="checkbox"/> No
To be referred to the authorised officer: <input type="checkbox"/> Yes <input type="checkbox"/> No
Recommendation by authorised officer: <input type="checkbox"/> Approve Application <input type="checkbox"/> Reject Application Reason(s) for recommendation: Name of authorised officer: Signature of authorised officer: Date: / /20 Time:
Decision of Secretary: <input type="checkbox"/> Application Approved <input type="checkbox"/> Application Rejected Name of Secretary: Signature of Secretary: Date: / /20 Time:

FORM 3

(Regulation 28(2))

APPLICATION FORM FOR RETAIL LICENCE FOR TOBACCO PRODUCTS

TOBACCO CONTROL REGULATIONS 2009
APPLICATION FORM FOR RETAIL LICENCE FOR TOBACCO PRODUCTS

1. DETAILS OF RETAILER

Retailer:

Address:

E-mail:

Phone number:

2. DETAILS OF DISTRIBUTOR

Distributor:

Address:

E-mail:

Phone number:

3. DESCRIPTION OF TOBACCO PRODUCT

Type of tobacco product:

Brand of tobacco product:

Quantity:

Personal / Commercial Use:

4. DECLARATION

I declare that the information I have provided in this application is complete, correct and up to date in every detail.

Signature of retailer:

Date:

5. CHECKLIST

- Evidence of payment of the application fee
- In the case of a partnership, a certificate of registration of partnership issued under the *Partnership Act 2018*
- In the case of an individual, partnership or corporation, a current business licence issued under the *Business Licences Act 2017*
- In the case of a corporation, an incorporation certificate issued under the *Corporations Act 1972*; and
- Import licence

6. OFFICIAL USEAdditional information required: Yes NoTo be referred to the authorised officer: Yes No

Recommendation by authorised officer: <input type="checkbox"/> Approve Application <input type="checkbox"/> Reject Application	
Reason(s) for recommendation:	
Name of authorised officer:	Signature of authorised officer:
Date: / /20	Time:
Decision of Secretary: <input type="checkbox"/> Application Approved <input type="checkbox"/> Application Rejected	
Name of Secretary:	Signature of Secretary:
Date: / /20	Time:

Date: / /20

Time:

FORM 5



TOBACCO CONTROL REGULATIONS 2009

(Regulation 31(1))

[IMPORTER / DISTRIBUTOR / RETAIL] LICENCE FOR TOBACCO PRODUCTS

[insert name of applicant] of **[insert district]**, proprietor of **[insert business name]** is hereby licensed to **[import tobacco products / sell or distribute tobacco products to retailers / sell tobacco products to consumers]**.

This licence is valid for 12 months from the date of issue of this licence **[and is subject to the following conditions]**:

[insert conditions, if any]

Secretary for Health and Medical Services

/ /20

Licence no	:	
Licence fee paid	:	
Date licence fee paid	:	
TIN Number	:	

FORM 6**TOBACCO CONTROL REGULATIONS 2009***(Regulation 31(2)(a))***REFUSAL TO GRANT [IMPORTER / DISTRIBUTOR / RETAIL] LICENCE FOR TOBACCO PRODUCTS**

To: [insert name of applicant] of [insert district], proprietor of [insert business name]

Your application for [an importer licence / a distributor licence / retail licence for tobacco products] on [insert date of application] is hereby refused for the following reason(s):

[insert reason(s) for refusal]

You are not authorised to [import tobacco products / sell or distribute tobacco products to retailers / sell tobacco products to consumers].

Secretary for Health and Medical Services

/ /20

[The next page is 125,071]

SCHEDULE 7

(Regulations 26(3), 27(3), 28(3), 29(2) and 30(2))

FEES

[Sch 7 insrt SL 27 of 2023 reg 7, opn 26 Sep 2023]

APPLICATION	FEE
Importer Licence	\$5,000
Distributor Licence	\$4,500
Retail Licence	\$4,500
Transfer or Assignment of Licence	\$4,500

[The next page is 126,201]

Tobacco Control (Authorised Officer) Notice 2015

TABLE OF PROVISIONS

Clause

1	Title
2	Commencement
3	Appointment of Authorised Officer

[The next page is 126,401]

Tobacco Control (Authorised Officer) Notice 2015

TABLE OF AMENDMENTS

The Tobacco Control (Authorised Officer) Notice 2015 SL 6 was notified and commenced on 1 April 2015 (GN No 157/2015; Gaz 41/2015).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 126,601]

1 Title

This Notice may be cited as the *Tobacco Control (Authorised Officer) Notice 2015*.

2 Commencement

This Notice shall commence on the date on which is published in the Gazette.

3 Appointment of Authorised Officer

For the purposes of Section 19(1) of the *Tobacco Control Act 2009*:

- (a) Mr Ralph Hiram is appointed as an authorised officer; and
- (b) shall possess all the powers of an authorised officer for the performance of any duty given under the Act.

[The next page is 130,001]

Tobacco Control (Fixed Penalty Notices) Regulations 2023

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Interpretation
4	Fixed penalty offences
5	Tobacco Control Infringement Notice
6	Service of fixed penalty notice
7	Acceptance of a fixed penalty notice
8	Payment of fixed penalties
9	Failure to pay fixed penalty
10	Court appearances
11	Court may proceed to hearing for failure to attend
12	Jurisdiction
13	List of unpaid fines and costs to be issued by Deputy Registrar of the District Court
14	Consequence of non-payment of penalty and costs
15	Application of the <i>Criminal Procedure Act</i>
	SCHEDULE 1 — FIXED PENALTY OFFENCES AND FIXED PENALTIES
	SCHEDULE 2 — TOBACCO CONTROL INFRINGEMENT NOTICE

[The next page is 130,201]

Tobacco Control (Fixed Penalty Notices) Regulations 2023

TABLE OF AMENDMENTS

The Tobacco Control (Fixed Penalty Notices) Regulations 2023 SL 28 were notified and commenced on 26 September 2023.

Amending Legislation	Notified	Date of Commencement
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[The next page is 130,401]

The Cabinet makes the following Regulations under Section 19A(2) of the *Tobacco Control Act 2009*:

1 Citation

These Regulations may be cited as the *Tobacco Control (Fixed Penalty Notices) Regulations 2023*.

2 Commencement

These Regulations commence on the date they are notified in the Gazette.

3 Interpretation

‘*Act*’ means the *Tobacco Control Act 2009*;

‘*authorised officer*’ has the meaning given to it under Section 2 of the Act;

‘*fixed penalty*’ means the penalty payable by a person served with a fixed penalty notice for the commission of a fixed penalty offence;

‘*fixed penalty notice*’ means the Tobacco Control Infringement Notice;

‘*legal practitioner*’ has the meaning given to it under Section 4 of the *Legal Practitioners Act 2019*; and

‘*Secretary*’ means the Secretary for Health and Medical Services.

4 Fixed penalty offences

- (1) A person who commits a fixed penalty offence under the Act and is served with a fixed penalty notice shall pay the fixed penalty.
- (2) The fixed penalty offences are consolidated and provided in column 2 of Schedule 1.
- (3) The fixed penalties are consolidated and provided in column 3 of Schedule 1.

5 Tobacco Control Infringement Notice

- (1) A fixed penalty notice shall:
 - (a) state the date, time and place of the fixed penalty offence;
 - (b) state:
 - (i) the name of the individual; and
 - (ii) the residential address or district of the individual to whom the notice is served;
 - (c) state the fixed penalty to be paid;
 - (d) state the place where the fixed penalty is to be paid;
 - (e) require the person served with the fixed penalty notice to pay within 14 days of the service of the fixed penalty notice on the person; and
 - (f) state the date of issuance of the fixed penalty notice.
- (2) The Secretary may cause the fixed penalty notice to be printed with serial numbers and in requisite copies.

- (3) A fixed penalty notice which conforms to the requirements of the Regulations is admissible evidence in court for the purposes of any proceedings or administrative action.

6 Service of fixed penalty notice

- (1) An authorised officer shall serve a fixed penalty notice in the form as set out in Schedule 2.
- (2) A fixed penalty notice shall be served to the person who commits a fixed penalty offence.
- (3) The authorised officer who serves a fixed penalty notice shall inform the person served with the fixed penalty notice:
 - (a) of the contents of the fixed penalty notice;
 - (b) that he or she shall pay the fixed penalty or appear in court to contest or defend the fixed penalty notice; and
 - (c) that the fixed penalty shall be paid within 14 days of the service of the fixed penalty notice.
- (4) The authorised officer who serves a fixed penalty notice shall cause a signed copy of the fixed penalty notice to be produced before the Nauru Revenue Office and the court as specified in the fixed penalty notice within 14 days of the service of the fixed penalty notice.
- (5) A person served with a fixed penalty notice by an authorised officer shall accept such notice.
- (6) A person who does not accept a fixed penalty notice when it is served on him or her commits an offence and upon conviction is liable to a fine not exceeding \$1,000 or a term of imprisonment not exceeding 12 months or both, in addition to the fixed penalty.

7 Acceptance of a fixed penalty notice

- (1) Where a proceeding is instituted by serving upon a person a fixed penalty notice and the fixed penalty notice has been accepted by the payment of the fixed penalty within 14 days of the service of the fixed penalty notice, that acceptance shall be deemed a conviction for the offence in respect of which a fixed penalty notice was issued.
- (2) Where a fixed penalty notice served upon a person has not been accepted by the payment of the fixed penalty within 14 days of the service of the fixed penalty notice, the fixed penalty notice shall be regarded for all purposes as a summons issued under the *Criminal Procedure Act 1972*.

8 Payment of fixed penalties

- (1) A person who is served a fixed penalty notice under Regulation 6 shall:
 - (a) pay the fixed penalty to the Nauru Revenue Office; and
 - (b) provide a copy of the official receipt to the Registrar of Courts.
- (2) Where a person provides a copy of the official receipt under subregulation (1), the Registrar of Courts shall not list the person's case before the court.

9 Failure to pay fixed penalty

- (1) Where a person served with a fixed penalty notice fails to pay the fixed

penalty within 14 days of the service of the fixed penalty notice, he or she is summoned to attend court on the date and time provided in Part 3 of the fixed penalty notice.

- (2) Where a person is summoned to attend court, he or she may:
 - (a) represent himself or herself; or
 - (b) be represented by a legal practitioner.

10 Court appearances

- (1) Where a person summoned to attend court pleads guilty to the fixed penalty offence, the court shall:
 - (a) impose a penalty equivalent to the fixed penalty; and
 - (b) order court costs of \$150.
- (2) Where the person is present or represented by a legal practitioner and pleads not guilty, the matter shall be dealt with in accordance with the procedure of the court.
- (3) Where the person does not plead guilty to the offence contained in the fixed penalty notice and subsequently the court determines that the person is guilty of an offence under the Act, the court shall:
 - (a) impose a fine which shall be in excess of the fixed penalty or a term of imprisonment or both; and
 - (b) order court costs of \$150.

11 Court may proceed to hearing for failure to attend

The court may hear and determine any offence under these Regulations where a person fails to attend court by himself or herself or by a legal representative on the date so required by the fixed penalty notice.

12 Jurisdiction

The District Court shall have the jurisdiction to hear and determine any cause or matter under these Regulations.

13 List of unpaid fines and costs to be issued by Deputy Registrar of the District Court

- (1) The Deputy Registrar of the District Court shall from time to time issue a list of unpaid fines and costs to the Secretary and the Director of Public Prosecutions.
- (2) The list under subregulation (1), shall contain but is not limited to the:
 - (a) fixed penalty notice serial or case number;
 - (b) name of the offender;
 - (c) date of the offence;
 - (d) offence in the fixed penalty notice;
 - (e) date of the fine ordered by the court; and
 - (f) amount of the fine ordered by the court.
- (3) The Secretary, upon the receipt of the list under subregulation (1), shall cause to register such fines and costs against the offenders who have obtained importer, distributor or retail licences required under the Act.

- (4) The Secretary shall not issue or renew any licences without a report from the court that no fines and costs in respect of a fixed penalty notice or any other offences under the Act are registered.
- (5) The Director of Public Prosecutions shall upon receipt of the list under subregulation (1), forward such list to the Secretary.
- (6) The Secretary upon receipt of the list under subregulation (5), shall ensure that the fines and costs are registered against the offender's importer, distributor or retail licence.

14 Consequence of non-payment of penalty and costs

Any unpaid penalties and costs under these Regulations shall be a bar to the:

- (a) renewal of any licence under the Act; and
- (b) issuance of a new licence.

15 Application of the *Criminal Procedure Act*

For the purposes of any proceedings under the Act and these Regulations, for any offences, the *Criminal Procedure Act 1972 mutatis mutandis* applies.

[The next page is 131,401]

SCHEDULE 1

(Regulation 4)

FIXED PENALTY OFFENCES AND FIXED PENALTIES

Tobacco Control Act 2009

Section	Fixed Penalty Offence under the Act	Fixed Penalty under the Act	Court Costs
3(1)	Tobacco product advertisements	Individual: \$1,000 Body Corporate: \$10,000	\$150
4(1)	Giving or distributing free samples or offering prizes	Individual: \$1,000 Body Corporate: \$10,000	\$150
8	Selling cigarettes in a broken package	Individual: \$1,000 Body Corporate: \$10,000	\$150
9(1)	Supplying any tobacco product to a person under the age of 20 years Purchasing a tobacco product for the use of a person under the age of 20 years	Individual: \$1,000 Body Corporate: \$10,000	\$150
10A	Prohibition of online sale of tobacco products	Individual: \$1,000 Body Corporate: \$10,000	\$150
11(1)	Selling, offering for sale or supplying any tobacco product in a restaurant	Individual: \$1,000 Body Corporate: \$10,000	\$150
12(1) 12(2) 12(2A)	Selling, or importing into the Republic for sale, confectionery, or a toy, that is designed to resemble a tobacco product Selling, or importing into the Republic for sale, confectionery, or a toy, contained in packaging that is designed to resemble a tobacco product or the packaging of a tobacco product Selling, or importing into the Republic for sale or distribution any product that is not a tobacco product but that has the brand name, logo, trademark or other similar association of a tobacco product Selling, or importing into the Republic for sale or distribution any counterfeit tobacco product	Individual: \$1,000 Body Corporate: \$10,000	\$150
13(1)	Smoking a tobacco product in any school, hospital, enclosed workplace or enclosed public place	Individual: \$100 Body Corporate: \$10,000	\$150
14(1)	Failure to display a “no smoking sign” in enclosed workplaces or enclosed public places	Individual: \$1,000 Body Corporate: \$10,000	\$150

Section	Fixed Penalty Offence under the Act	Fixed Penalty under the Act	Court Costs
17A	Importing, distributing or selling tobacco products for a commercial purpose without a licence	Individual: \$1,000 Body Corporate: \$10,000	\$150
17L(1)	Failure to display licence in a conspicuous place in or at the licensee's place of business	Individual: \$1,000 Body Corporate: \$10,000	\$150

[The next page is 131,601]

SCHEDULE 2

(Regulation 6)

TOBACCO CONTROL INFRINGEMENT NOTICE



<p>PART 1: OFFENCE DETAILS</p> <p>Name of offender:</p> <p>Residential address or district</p> <p>Nature of offence:</p> <p>Date:...../...../20..... Time:..... Place:.....</p> <p>Details of the circumstances alleged to constitute the offence:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Fixed Penalty: \$. Authorised Officer's Signature:</p> <p>Authorised Officer's Name: Issued on this date:...../...../20.....</p> <p>Acknowledgement of Service of Fixed Penalty Notice by: Name and Signature:</p> <p>.....</p> <p><i>(If a person refuses to accept this Fixed Penalty Notice, an Authorised Officer may note the refusal of acceptance)</i></p> <p>Note:</p> <p>1. This Fixed Penalty Notice shall only be served to the offender at the time of the offence or as soon as practicable.</p> <p>2. If the offender refuses to accept the Notice, he or she commits an offence under Regulation 6(6) for which he or she is liable to a fine not exceeding \$1,000 or a term of imprisonment not exceeding 12 months or both, in addition to the fixed penalty.</p>
<p>PART 2: TIME FOR PAYMENT OF PENALTY</p> <p>A. Take notice that the penalty shall be paid to the Nauru Revenue Office within 14 days of the date of service of this Fixed Penalty Notice.</p> <p>B. Contesting this Fixed Penalty Notice: If you intend to contest or defend this Fixed Penalty Notice, you are to appear in person or by a legal representative in court on the date and at the time provided in Part 3.</p>
<p>PART 3: NOTICE TO ATTEND TO COURT</p> <p>Take notice that if you fail to pay the fixed penalty or intend to contest or defend this Fixed Penalty Notice, you are summoned to attend the District Court at Yaren on the day of 20 at am/pm for the hearing.</p>

If you fail to attend the hearing, the court will proceed to the hearing of the Fixed Penalty Notice in your absence and may impose a fine, costs or a term of imprisonment or any of them in accordance with the *Tobacco Control Act 2009*. If you fail to abide by any order of the court, you will be arrested under a committal warrant without any further notice.

AFFIDAVIT OF SERVICE

I, Authorised Officer make oath/solemnly affirm that I did on the . . . day of 20 . . . served the offender this Fixed Penalty Notice at(time) on (date) AND he/she acknowledged service by affixing his/her signature to this Fixed Penalty Notice.

Authorised Officer:

Before me:

(Commissioner for Oaths)

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