

Statutory Instrument 264 of 2002

[CAP. 15:09

Public Health (Control of Tobacco) Regulations, 2002

ARRANGEMENT OF SECTIONS

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IT is hereby notified that the Minister of Health and Child Welfare has, in terms of section 94 of the Public Health Act (Chapter 15:09], made the following regulations:-

Title and date of commencement

1. (1) These regulations may be cited as Public Health (Control of Tobacco) Regulations, 2002.  
  
(2) These regulations shall come into operation on the 31<sup>st</sup> of October, 2002.

## Interpretation

### 2. In these regulations-

"adult" means a person who has attained the age of 18;

"advertising" includes any communication by or on behalf of a tobacco company to consumers which has the aim of encouraging them to select one brand of tobacco over another;

"cigarette" means any product that consists wholly or in part of cut, shredded or manufactured tobacco or any tobacco derivative and rolled in a single wrap of paper that is capable of being smoked without further fabrication or processing;

"consumer" when used in connection with "advertisement" it refers to the person to whom the advertisement is directed as well as to any other person who reasonably can be expected to be reached by the advertisement and, when used in connection with sponsored activities, it refers to those who are Permitted to attend the particular event;

"designated area" means an area designated in terms of section 3 or 4 as an area in which smoking is not permitted;

"food premises" means any premises licensed in terms of the Shop Licences Act [Chapter 14:17] where food is prepared or sold for consumption on or off the premises with or without any further preparation;

"minor" refers to any person under the age of 18;

"public premises" means any premises whatsoever, other than private residential premises, to which any person or class of persons has access or is entitled to be;

"person" refers to an individual or other entity, including a corporation, association, society, trust or other such organization;

"point -of -sale advertising" refers to advertising that is located within or attached physically to a retail outlet for cigarettes;

"promotion" refers to the sale or other distribution of merchandise bearing a cigarette brand name or logo as well. as other activities, such as sampling, intended to promote the sale of a particular brand of cigarettes to adult consumers;

"retailer" means a person or other entity engaged in a business that includes the sale of cigarettes to consumers;

"sampling" refers to the free distribution of tobacco product to promote the sale of a product being sampled;

"sell" includes the supply of cigarettes in exchange for monetary consideration as well as barter and exchange transactions;

"smoking" means being in possession of a lighted pipe, cigar, cheroot or cigarette and includes the taking of snuff orally or nasally;

"sponsorship" refers to any public or private contribution to a third party in relation to an event, team or activity made with the aim of promoting a brand of tobacco product, which event, team or activity would still exist or occur without such contribution.

***Control of smoking in public premises***

3. (1) No person shall smoke in" –
- (a) any educational or health care facility, theatre, cinema, museum, youth centre, library or place of worship or public meeting hall;
  - (b) subject to subsection (2), any other public premises or food premises.
- (2) The manager or person in control of any public premises or food premises may designate an area within the premises as an area in which smoking is permitted.
- (3) The area designated in terms of subsection (2) shall-
- (a) not exceed twenty per centum of the total floor area in which it is situated; and
  - (b) be so situated as to ensure that the principal area is not contaminated by any smoking in the designated area.

***Control of smoking on public transport***

4. No person shall smoke on any-
- (a) passenger aircraft; or
  - (b) passenger train; or
  - (c) vehicle for the conveyance of passengers for hire or reward.

***No smoking signs***

5. The manager, owner or person in charge of-

- (a) any public premises referred to in section 3; or-
  - (b) aircraft, train or vehicle referred to in section 4;
- shall prominently display clearly legible visible signs indicating areas in which smoking is prohibited or permitted.

***Trading of tobacco to or by minors prohibited***

6. (1) No person shall sell or give or make as a prize or promotion any tobacco product or tobacco promoting product to a person who has not attained the age of eighteen years.

(2) Every person who sells tobacco or tobacco products by retail shall prominently display, in the vicinity of the tobacco or tobacco products and at the cash sales point, a notice to the effect that the sale of tobacco or tobacco products to a person who has not attained the age of eighteen years is prohibited and the sign shall also carry the prescribed health message.

(3) No person shall permit or cause any person who has not attained the age of eighteen years to sell or give away tobacco or tobacco products or participate in any form of advertising or promotion of any tobacco or tobacco-related product.

9 ***Health message on use of tobacco and product ingredients***

7. (1) No person shall sell or distribute any tobacco or tobacco products to any person except in a container on which is prominently displayed the messages-

- (a) "Smoking is harmful to health"-for cigarettes, cigars, loose tobacco; or
- (b) "Smoking causes cancer"-for nasal and oral snuff; or
- (c) "Tobacco is addictive"-for snus.

(2) No person shall in any way whatsoever advertise, promote " or commend the use of tobacco without the accompanying message and-

- (a) in the case of an auditory advertisement, the warnings shall be clearly audible; or
- (b) the warning label should have the following font sizes for the following sizes-

- (i) 16 point if the container is less than 37 cm<sup>2</sup>; or
- (ii) 21 point if the container is greater than 37 cm<sup>2</sup> and less than 85 cm<sup>2</sup>; or
- (iii) 33 point if the container is greater than 85 cm<sup>2</sup>.

(3) Every tobacco product shall bear accurate information on the percentage of the tar and nicotine content and any other ingredients of the brand of the tobacco product concerned clearly visible on the package or container and all advertising shall be in line with the guidelines set out in the Schedule.

***Promotions for tobacco products***

8. (1) Participation in promotional offers and competitions by the general public will be conditional upon evidence of age eligibility.
- (2) Only adults shall be permitted access to promotional events.
- (3) Sample tobacco products may not be offered to a person who has not attained the age of eighteen years.
- (4) Warning message as set out for tobacco products must be prominently included on any promotional material and at any venue where a promotion is staged.
- (5) Trade marks, logos or other identifiable associated features, of tobacco product packaging may not be used except where the product itself is identified and promoted, with the appropriate health warnings.
- (6) No promotion shall take place at any educational establishment, health facility or any religious facility.
- (7) No person shall sell any unpackaged tobacco product.

***Imported tobacco products***

9. All imported tobacco products shall carry appropriate health messages in English.

***Exemptions***

10. (1) The Minister may, on application being made to him in writing, exempt any person from complying with section 3 or 4 if he is satisfied that the exemption is not likely to result in-
- (a) the creation of a condition which is offensive, injurious or dangerous to the health of any person or class of persons due to smoking; or
- (b) the contamination of any thing intended for human consumption.
- (2) An application referred to in subsection (1) shall specify the grounds upon which it is made.

***Inspection and enforcement***

11. It shall be the duty of-
- (a) medical officers, environmental health officers and environmental technicians employed in the Ministry of Health and Child Welfare or by any local authority; or

- (b) any police officer;
- (c) any other person generally or specifically authorized by the Minister or by the local authority concerned, to conduct any inspections and ensure that the provisions of these regulations are complied with.

***Establishment of Tobacco Control Committee***

12. (1) There shall be a Committee to be known as the Tobacco Control Committee, consisting of twelve members appointed by the Minister of whom-

- (a) there shall be appointed to represent health workers employed by the State, mission and/or local authority health facilities; and
- (b) one shall be appointed to represent health workers in private practice; and
- (c) one shall be appointed to represent voluntary associations engaged in activities associated with the tobacco industry; and
- (d) three shall be appointed to represent manufacturers and distributors of tobacco products; and
- (e) one shall be appointed to represent the tobacco growers; and
- (f) one shall be appointed to represent the Ministry of Industry and International Trade; and
- (g) one shall be appointed to represent the Ministry of Lands, Agriculture and Rural Resettlement; and
- (h) one shall be appointed to represent the Consumer Council of Zimbabwe.

(2) Members of the Committee shall be appointed for a period of three years and on such conditions as the Minister may fix at the time of their appointment.

***Functions of the Committee***

13. The functions of the Committee shall be-

- (a) to advise the Minister on policies for the protection of youth from smoking;
- (b) to advise the Minister on the development of informational and educational materials and programmes for the protection of youth from smoking;
- (c) to advise the Minister on the general policy to be adopted in relation to the control of tobacco management and curricula for students in the health professions;
- (d) to advise and report to the minister on matters relating to the enforcement of these regulations;
- (e) to review reports of contraventions or other matters concerning these regulations and to report to the Minister;
- (f) to advise the Minister on action to be taken in terms of these regulations against any person found to be contravening these regulations;
- (g) to monitor the enforcement of these regulations;

- (h) to cause the conducting of any research on matters relating to tobacco control;
- (i) to examine and screen informational and educational materials and warnings in terms of sections 7,8 and 11 so as to recommend appropriate action to be taken in relation thereto;
- (j) to perform any other function in relation to tobacco control imposed on the Committee by the Minister.

***Vacation of office by Committee members***

14. A member of the Committee shall cease to be a member- ;

- (a) after giving the Minister such notice of his intention to resign as may be fixed in his conditions of appointment or after giving such other period of notice as he and the Minister may agree; or
- (b) upon the Minister requiring him to vacate his office on the ground that-
  - (i) he has conducted himself in a manner .that renders him unsuitable as a member; or
  - (ii) he has failed to comply with condition of his office fixed on his appointment as member; or
  - (iii) he has ceased to represent the interests he was appointed to represent; or ~
  - (iv) he has become physically or mentally incapable of efficiently performing his functions as a member;
  - (v) he has been absent for three consecutive meetings without a valid excuse; or
  - (vi) he has a criminal record. " ,~

***Chairman, vice-chairman of and secretary to Committee***

15. (1) The Minister shall designate one member of the Committee to be the chairman of the Committee and another member to be vice-chairman.
- (2) Subject to subsection (3), the chairman shall preside at all meetings of the Committee.
  - (3) Whenever the chairman is for any reason unable to perform any of his functions as chairman, the vice-chairman shall perform such functions in his place.
  - (4) The Environmental Health Co-ordinator in the Ministry of Health and Child Welfare shall provide secretarial services to the Committee.
  - (5) If at any meeting of the Committee the chairman and vice-chairman are both absent, the members present shall elect one of their number to preside at the meeting.

***Meetings and procedure of Committee***

16. (1) The Committee shall hold its first meeting on such a date and place fixed by the Minister, and thereafter, shall meet for the dispatch of its business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit.

(2) The Committee shall meet at least four times a year.

(3) The chairman of the Committee may at any time and I shall, at the request in writing of no fewer than three members, convene a special meeting of the Committee, which meeting he shall convene for a date not sooner than seven days nor later than thirty days after receipt of the request.

(4) A majority of members shall constitute a quorum at a meeting of the Committee.

(5) All acts, matters, things authorized or required to be done by the Committee may be decided by a majority vote at a meeting of the Committee at which a quorum is present.

(6) At all meetings of the Committee every member present / shall have one vote on each question before the Committee, and in the event of an equality of votes, the chairman shall have, in addition to a deliberative, a casting vote.

(7) Any proposal circulated among all members of the Committee and agreed to by a majority shall be of the same effect as a resolution passed at a duly constituted meeting of the Committee and shall be incorporated into the minutes of the next succeeding meeting of the Committee:

Provided that, if any member requires that the proposal be placed before a meeting of the Committee, this subsection shall not apply to the proposal.

***Offences***

17. Any person who contravenes section 3, 4, 5, 6 or 7 shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.



**SCHEDULE (Section 7)**

<b>COLUMN A</b>	<b>COLUMN B</b>	<b>COLUMN C</b>	<b>COLUMN D</b>
<i>Type of package or advertisement</i>	<i>Position of warning referred to in Part A of Annexure 1 and area to be occupied by it</i>	<i>Position of warning referred to in Part B and area to be occupied by it</i>	<i>Position of Information referred to in Annexure 2 and area to be occupied by it</i>
<b>Package containing cigarettes cigars or loose tobacco</b>	Position: On the front at the top across the full width of the package  Area: 15% of the front of the package	Position: On the back at the top across the full width of the package  Area: 25% of the back package	Only manufactured cigarettes.  Position: On one of the long sides of the package.  Area: 20% of one of the long sides of the package. Excluding the part that forms part of the lid (if any)
<b>Package containing a single cigar</b>	Position: On the package  Area: 15% of the surface area of the package	Nil	Nil
<b>Container or package for snuff or chewing tobacco</b>	Position: Special warning embossed or printed at the top across the full width of the container or package  Area: 15% of the lid or the surface area of the container or package	Nil	Nil
<b>Written, pictorial or visual advertisement</b>	Position: At the top across the full width of advertisement.  Area: 10% of the advertisement.	Nil	Position: At the top, across the width of the advertisement (if applicable)  Area: 2% of the advertisement.
<b>Film, video or cinema advertisement</b>	Position: At the top across the full width of the screen  Duration: At the beginning of the advertisement for at least 10 seconds: again as soon as a tobacco product is shown for at least 10 seconds at the end for least 15 seconds.	Position: At the bottom across the full width of the screen.  Area: 80% of screen  Duration: At the end of the advertisement simultaneously with Part A of the warning for at least 15 seconds.	Position: At the top under the warning across the full width of the screen  Area: 2% of the screen  Duration: At the end simultaneously with Part A of the warning for at least 15 seconds.

<b>COLUMN A</b>	<b>COLUMN B</b>	<b>COLUMN C</b>	<b>COLUMN D</b>
<b>Radio and spoken advertisement</b>	Position: At the end of the advertisement after the information  Duration. Of sufficient duration for the warning lobe clearly understood in the same voice and speed as the rest of the advertisement	Nil	Position. At the end of the advertisement before the warning  Duration: As set out in Column B

*ANNEXURE I***MESSAGES**

**Danger: Smoking is harmful to health**

Tobacco smoke contains many harmful chemicals such as carbon monoxide, cyanide, nicotine and tar, which can cause disease and death. Non-smokers and ex-smokers, on average, live longer and are healthier than smokers

Tobacco is addictive

Nicotine in tobacco is a drug which acts on the brain and nerves. Most smokers are dependent on nicotine that is why they feel uncomfortable and get cravings when they go without smoking for a while /

Causes cancer (special warning on snuff and chewing tobacco)

ANNEXURE 2  
INFORMATION

For packages containing manufactured cigarettes the following, shall be the information:

.....mgs tar  
.....mgs nicotine

As per Government agreement method.

The amount of tar and nicotine in the smoke of a cigarette shall for the purposes of this Annexure be determined in accordance with the International Standards Organisation's methods.

ISO	4387: 1991	3308: 1991	7210: 1983	3402: 1991
	8243: 1991	110315: 1991	3400: 1989	10362: 1991
	10362-2: 1994	2971: 1987	6486: 1931	6565: 1983

The tests shall be carried out at any reputable laboratory at the expense of the manufacturer or importer.