

SMOKING (CONTROL OF ADVERTISEMENTS AND SALE OF TOBACCO) ACT.txt
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SMOKING (CONTROL OF ADVERTISEMENTS AND SALE OF TOBACCO) ACT
(CHAPTER 309)

HistoryAct 10 of 1993->1994 REVISED EDITION->2003REVISED EDITION

An Act to prohibit advertisements relating to any tobacco product or its use, to
control the use of tobacco products by young persons, to control the sale,
packaging and trade description of tobacco products and for matters connected
therewith.

[31st May 1993] Arrangement of Provisions[Jump to: Front Page /
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SMOKING (CONTROL OF ADVERTISEMENTS AND SALE OF TOBACCO) ACT

(CHAPTER 309)

An Act to prohibit advertisements relating to any tobacco product or its use, to

control the use of tobacco products by young persons, to control the sale, packaging and trade description of tobacco products and for matters connected therewith.

[31st May 1993]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Tobacco (Control of Advertisements and Sale) Act.

Interpretation

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

"advertisement" includes any notice, circular, pamphlet, brochure, programme, price-list, label, wrapper or other document and any announcement, notification or intimation to the public or any section thereof or to any person or persons made –

(a) orally or in writing;

(b) by means of any poster, placard, notice or other document affixed, posted up or displayed on any wall, billboard or hoarding or on any other object or thing;

(c) by means of producing or transmitting sound or light and whether for aural or visual reception or both;

(d) by means of any writing on any vehicle, ashtray, calendar, cigarette-lighter, clock or any other object or thing; or

(e) in any other manner whatsoever;

"advertisement relating to any tobacco product" means any advertisement referred to in section 3(1) which has not been approved under section 3(2);

"authorised officer" means any officer or person appointed under section 19;

"Authority" means the Health Sciences Authority established under the Health

Sciences Authority Act (Cap. 122C);

"Chief Executive" means the person appointed under section 15 of the Health Sciences Authority Act (Cap. 122C) to be the Chief Executive of the Authority;

"cigarette" means any product which consists in whole or in part of cut, shredded or manufactured tobacco, or any tobacco derivative or substitute, rolled up in paper, tobacco leaf or other material and which is in such form

as to be capable of immediate use;

"emission" means any substance that is produced when a tobacco product is used;

"imitation tobacco product" means any of the products referred to in section

16 (1);

"newspaper" includes any magazine, journal, periodical or any other publication containing news, intelligence, information or reports of occurrences, or any remarks, observations or comments in relation either to such news, intelligence, information or occurrences or to any other matter of interest to the public or any section of the public, issued in any language at regular or irregular intervals;

"packaging" , in relation to any product or article, means any container and

any other packaging material in which or with which the product or article is supplied, and includes –

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(a) the box, carton, cylinder, packet, pouch, tin or other receptacle which contains the product or article;

(b) where any such receptacle is or is to be contained in one or more other receptacles, each of the other receptacles;

(c) wrapper or wrapping of any nature or form;

(d) any accompanying leaflet, brochure or other written material; and

(e) any written, printed or graphic representation that appears on or with, or is attached to, the product or article or any part of its packaging;

"premises" includes any place or building or part thereof;

"publish" , with its grammatical variations, in relation to an advertisement, includes issuing, showing, displaying, exhibiting or making known an advertisement in any manner whatsoever;

"smoking" , with its grammatical variations, means inhaling and expelling the smoke of any tobacco product and includes the holding of any tobacco product which is alight or emitting smoke;

"tobacco product" means any cigarette, cigar or any other form of tobacco, or any tobacco derivative or substitute, including any mixture containing tobacco, or any tobacco derivative or substitute, but excludes any medicinal

product registered under the Medicines Act (Cap.176);

"tobacco substitute" means any article, object or thing that contains nicotine, but excludes tobacco, tobacco derivatives and any medicinal product registered under the Medicines Act;

"use" , in relation to any tobacco product, means smoking, chewing, inhaling, ingesting or otherwise introducing the tobacco product or any of its constituents or emissions into the human body (whether by oral means or otherwise);

"writing" includes painting, inscription, printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form.

[4/2001; 35/2002]

PART II

CONTROL OF ADVERTISEMENTS RELATING TO TOBACCO PRODUCTS

Prohibition on advertisements relating to tobacco products

3. -(1) Except as provided in subsection (2) or section 22, any person who publishes or causes to be published or takes part in the publication of any advertisement -

(a) containing any express or implied inducement, suggestion or request to purchase or to use any tobacco product;

(b) relating to any tobacco product or its use in terms which are calculated, expressly or impliedly, to lead to, induce, urge, promote or encourage the use of the tobacco product; or

(c) which mentions, illustrates or depicts -

(i) the name or trade name of any person associated or concerned with the manufacture, distribution or marketing of any tobacco product;

(ii) a brand name of or trade mark relating to any tobacco product; or

(iii) any pictorial device commonly associated with a brand name of or trade mark relating to any tobacco product,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) The Minister may, in his discretion, approve, for such time and upon such conditions as he may think fit, the publication of an advertisement or class of advertisements which mentions or refers to the brand name associated with or the name or trade name of a person associated or concerned with the manufacture, distribution or marketing of a tobacco product -

(a) as the sponsor of an event or as congratulating another person or thing on an achievement of or event relating to such person or thing; or

(b) for the purpose of promoting or identifying any goods or services unconnected with any tobacco product which are manufactured, distributed, marketed or provided by that person.

(3) Subsection (2) shall not apply to any advertisement or class of advertisements which, directly or indirectly, leads to, induces, urges, promotes or encourages the use of any tobacco product.

(4) Where any person fails to comply with any condition imposed by the

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Minister under this section, the Minister may cancel the approval in relation to which that condition was imposed.

(5) Any application for approval under subsection (2) shall be made in such form and with such particulars as may be determined by the Minister.

Defence

4. In any proceedings for a contravention of section 3, it shall be a defence for the person charged to prove that the advertisement to which the proceedings relate was published in such circumstances that he did not know and had no reason to believe that he was taking part in the publication of the advertisement.

Offences by owner and occupier

5. Any person being the owner or occupier of any premises to which the public or any section of the public has access, on payment or otherwise, who knowingly permits or suffers such premises or place or any part thereof to be kept or used for the publication of any advertisement in contravention of section 3 (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Presumption relating to printed documents

6. Where more than 10 copies of a notice, pamphlet, brochure or other printed document, containing an advertisement relating to any tobacco product which has been published, are found in the possession of or in premises occupied by a person who is associated or concerned with the manufacture, distribution or marketing of any tobacco product associated with or related to the brand name, trade name or trade mark mentioned or depicted in the advertisement, he shall be presumed, until the contrary is proved, to have knowingly taken part in the publication of the advertisement in contravention of section 3 (1).

Advertisements in newspapers published outside Singapore

7. -(1) This Part shall not apply to any advertisement relating to any tobacco product contained in a newspaper which is printed or published outside Singapore and is brought into Singapore for sale, free distribution or personal use other than a newspaper of a class or description specified by the Minister by notification in the Gazette.

(2) Notwithstanding subsection (1), no person shall distribute or supply or cause to be distributed or supplied, whether free of charge or otherwise, any newspaper or printed matter containing any advertisement relating to any tobacco product which is printed or published outside Singapore and is brought into Singapore, if such newspaper or printed matter -

(a) forms part of, or is supplemental to, any newspaper that is printed or published in Singapore; and

(b) is supplied or distributed to any purchaser or subscriber of any newspaper that is printed or published in Singapore, whether or not the first-mentioned newspaper or printed matter is supplied or distributed at the same time as, or together with, the newspaper printed or published in Singapore.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

Advertisements not exempted

8. Nothing in section 7 (1) shall be construed as exempting from the provisions of this Act any advertisement relating to any tobacco product contained in any notice, circular, pamphlet, brochure or other printed matter or document which is not a newspaper within the meaning of this Act and which is printed or published outside Singapore and brought into Singapore for distribution solely or mainly for the purpose of announcing or commending the qualities of any brand of tobacco product.

PART III

CONTROL OF SALE OF TOBACCO PRODUCTS

Prohibition on sales promotion of tobacco products

9. -(1) No person shall sell or offer for sale -
- (a) any goods or services with any tobacco product as a free gift;
 - (b) any tobacco product with any other goods or services as a free gift; or
 - (c) any tobacco product packaged or labelled together or otherwise in conjunction with any other goods or services.
- (2) No person shall distribute or give or cause to be distributed or given or assist in the distribution or giving of any free sample of a tobacco product to the public or any section of the public other than to persons who are associated or concerned with the manufacture, distribution or sale of tobacco products.
- (3) No person shall offer or give any tobacco product as a prize in any lottery, raffle, draw, game or competition.
- (4) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

Prohibition on supply to persons below age of 18 years

10. -(1) Any person who, directly or indirectly -
- (a) sells any tobacco product to a person below the age of 18 years;
 - (b) buys or acquires any tobacco product for the purpose of giving it, whether or not for a consideration, to a person below the age of 18 years;

or

- (c) gives or furnishes any tobacco product to a person below the age of 18 years,
- shall be guilty of an offence and shall be liable on conviction for -
- (i) an offence under paragraph (a) to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000;
 - (ii) an offence under paragraph (b) to a fine not exceeding \$2,500 and, in the case of a second or subsequent conviction, to a fine not exceeding \$5,000; or
 - (iii) an offence under paragraph (c) to a fine not exceeding \$500 and, in the case of a second or subsequent conviction, to a fine not exceeding \$1,000.
- (2) It shall be a defence to any prosecution for an offence under subsection (1) if a person proves that he -
- (a) had reasonable grounds to believe and did make reasonable inquiries to ascertain that the person to whom the tobacco product was sold, given or furnished was not below the age of 18 years; or
 - (b) had received from the person to whom the tobacco product was sold, given

or furnished evidence purporting to show that that person was not below the age of 18 years, and that it was reasonable to and he did accept that evidence as correct.

Control of use of tobacco products by young persons

11. -(1) Any person who, being below the age of 18 years, uses any tobacco product in a public place or on a road, or buys or has in his possession, whether for his own use or not, any tobacco product, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$300.

[35/2002]

- (2) Where a police officer or an authorised officer finds in any public place or on a road a person, whom the officer reasonably suspects as being below the

age of 18 years, using or about to use any tobacco product, the officer may seize any tobacco product in the possession of such person.

- (3) In this section -
- "public place" means the premises of a school within the meaning of the Education Act (Cap. 87) or any premises to which members of the public or a section of the public have or ordinarily would have access whether on payment of a fee or otherwise;
 - "road" has the same meaning as in the Road Traffic Act (Cap. 276).

Number of cigarettes in package

- *12. -(1) No person shall -
- (a) import or permit the import of any cigarette for the purpose of sale;
 - (b) distribute or permit the distribution of any cigarette for the purpose of sale;

(c) sell or offer to sell, or permit the sale of or offer for sale of, any cigarette; or

(d) possess any cigarette for the purpose of sale, except in a package that contains not less than the prescribed number of cigarettes.

(1A) Subsection (1) shall not apply to the import of cigarettes into Singapore solely for the purpose of taking them out of Singapore, whether on the same conveyance on which they were brought into Singapore or on another conveyance and whether or not they are landed and kept in any place in Singapore pending their being taken out of Singapore.

*Section 12 shall come into operation on 1st December 2003 (G.N. No. S 100/2003)

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

[35/2002]

(3) In subsection (1) -

"package" -

(a) means any box, carton or other container in which cigarettes are supplied for the purpose of sale; and

(b) includes, in the case where the package is, or several packages are, contained inside one or more larger packages, the smaller package or each of the smaller packages, as the case may be;

"prescribed number of cigarettes" means -

(a) 20 cigarettes, where no other number of cigarettes is specified under paragraph (b); or

(b) where a number of cigarettes is specified under this paragraph by the Minister for the purposes of this section by notification in the Gazette, such number of cigarettes as may for the time being be so specified.

[11A

[35/2002]

Notice of prohibition

13. -(1) Every person who sells or offers for sale any tobacco product by retail (referred to in this section as the retailer) -

(a) shall cause to be displayed suitable and sufficient number of notices of

an adequate size or sizes in conspicuous positions in the premises where the

product is sold, stating to the effect that the sale of any tobacco product to persons below the age of 18 years is prohibited by law; and

(b) shall, if so directed by the Chief Executive, display such notices in such premises, phrase them in such manner or cause them to be of such size, as the Chief Executive may consider fit.

[4/2001]

(2) The retailer may, subject to any direction that may be given by the Chief Executive under subsection (1) (b), in addition to such notices, adopt any means, method or device as he may think fit for bringing such prohibition to the attention of members of the public in the premises.

[4/2001]

(3) A retailer who contravenes subsection (1) or fails to comply with any direction given by the Chief Executive under that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000

and, in the case of a second or subsequent conviction, to a fine not exceeding

\$10,000.

[12

[4/2001]

Prohibition on sale by vending machines

14. -(1) No person shall place or cause or knowingly permit to be placed in any premises a vending machine containing any tobacco product that may be obtained by the insertion of any note, coin, token or similar object.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

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SMOKING (CONTROL OF ADVERTISEMENTS AND SALE OF TOBACCO) ACT.txt
Prohibition on importation, distribution and sale of harmful tobacco products
15. -(1) Notwithstanding anything in this Act but subject to subsection (3),

no person shall import, distribute, sell or offer for sale -

(a) any chewing tobacco;

(b) such other tobacco product, or class of tobacco products, intended, labelled or described as suitable for use other than smoking, as the Minister may by regulations prescribe;

(c) such tobacco product, or class of tobacco products, as the Minister may by regulations prescribe, where the Minister is of the opinion that such product or class of products has or is capable of having the effect of encouraging or otherwise promoting smoking or other uses of tobacco products; or

(d) such tobacco product, or class of tobacco products, as the Minister may by regulations prescribe, where the Minister is of the opinion that such product or class of products has or is capable of having, directly or indirectly, an adverse effect on the health of the public or any section of the public.

(2) Subject to subsection (3), no person shall import, distribute, sell or offer for sale such tobacco product or class of tobacco products as the Minister may by regulations prescribe, being tobacco product -

(a) that contains; or

(b) the emissions of which contain,
any substance in excess of such maximum amounts as may be prescribed for that substance.

(3) Subsections (1) and (2) shall not apply to the import of tobacco products into Singapore solely for the purpose of taking them out of Singapore, whether on the same conveyance on which they were brought into Singapore or on another conveyance and whether or not they are landed and kept

in any place in Singapore pending their being taken out of Singapore.

(4) For the purposes of subsection (2), the Minister may prescribe different

maximum amounts for different substances, in relation to different classes or descriptions of tobacco products.

(5) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) In subsection (1), "smoking" means inhaling and expelling the smoke produced from the combustion of any tobacco product or any part of such tobacco product.

Prohibition of imitation tobacco products

16. -(1) No person shall import, distribute, sell or offer for sale any confectionery or other food product or any toy or other article that is designed to resemble a tobacco product or the packaging of which is designed to resemble the packaging commonly associated with tobacco products.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

[15

Health warnings and labelling

17. -(1) The Minister may by regulations impose requirements for securing that

such tobacco products, and such of their packaging, as may be specified in those regulations be marked with, labelled or accompanied by any warning relating to health, information or description as may be prescribed and control or prohibit the supply of tobacco products with respect to which such requirements are not complied with.

(2) Any person who contravenes the requirements imposed under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

[16

Power to license tobacco retailers, etc.

18. -(1) The Minister may by regulations require any person who -

- (a) imports;
- (b) distributes;
- (c) sells or offers for sale;
- (d) permits to be sold or offered for sale;
- (e) has in his possession for sale,

any tobacco product to be licensed by the Chief Executive.

[35/2002]

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to any of the following matters:

- (a) the class or classes of licences to be granted under regulations made under this section, the form and duration of licences, the terms and conditions upon which and the circumstances in which licences may be granted, held, suspended, cancelled, altered, extended, renewed or replaced and the fees payable in respect thereof;
- (b) a register to be kept of such licences, the particulars to be entered in

the register and for the publication of the names of licensees;

(c) the form and manner in which an application for or renewal of a licence shall be made;

(d) requiring such information or security as he considers necessary in relation to the application for the grant or renewal of a licence;

(e) prescribing the books, records or accounts to be kept by licensees; and

(f) to provide for the exemption of any person or class of persons from the provisions of any regulations made under this section.

(3) Any person who is aggrieved by a decision of the Chief Executive to refuse

to grant or renew a licence or to revoke, suspend or cancel his licence may appeal against the decision to the Minister.

[4/2001]

(4) A person required by regulations made under subsection (1) to be licensed,

who carries out any activity referred to in subsection (1) (a) to (e) without a licence in force in respect of that activity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000.

[17

[35/2002]

Appointment of authorised officers

19. -(1) The Chief Executive may appoint any officer or any person to be an authorised officer for the purposes of this Act.

[4/2001]

(2) In the exercise of his powers and in carrying out his duties under this Act, an authorised officer shall comply with such general or special directions as may, from time to time, be given to him by the Chief Executive.

[18

[4/2001]

(3) Every authorised officer shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

PART IV

ENFORCEMENT AND MISCELLANEOUS

Offences by bodies corporate or unincorporate

20. Where an offence under this Act has been committed by any company or association or body of persons, corporate or unincorporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer thereof or was purporting to act in that capacity shall be guilty of that offence unless he satisfies the court that the offence

was committed without his knowledge or consent.

[19

Immunity from suit

21. No action, suit or other proceedings shall be brought or instituted in any

court against any party to a contract for failing, neglecting or refusing to publish any advertisement relating to any tobacco product, the subject-matter of such contract, where such failure, neglect or refusal is solely attributable to, or occasioned by, the commencement of this Act or any Act

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amending this Act, but nothing in this section shall affect the operation of
the Frustrated Contracts Act (Cap. 115).

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Exemption

22. -(1) The Minister may, in his discretion, either generally or in any particular case, and either permanently or for such period or periods as he may think fit, exempt any person or class of persons, or any premises or type of premises, or any event or occasion or class of event or occasion, or any object or thing or type of object or thing, from all or any of the provisions of this Act.

(2) In granting any exemption under subsection (1), the Minister may impose such conditions as he may think fit.

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Powers of police and authorised officers

23. -(1) Any person reasonably suspected of having committed an offence under this Act may be arrested without warrant by any police officer or authorised officer and produced before a Magistrate's Court or a District Court (referred

to in this section as a Court).

(2) Notwithstanding any other written law, any police officer or authorised officer who, having effected an arrest in accordance with subsection (1), is satisfied as to the identity, name and place of residence of the person arrested may, instead of producing the person before a Court or to a police station, serve upon the person a notice in such form as may be determined under section 32 requiring the person to attend at such Court, at such time and on such date as may be specified in the notice.

(3) For the purpose of satisfying himself as to the identity of the person arrested, the police officer or authorised officer may require such evidence of identity as he may consider necessary to be furnished by the person.

(4) A duplicate of the notice served under subsection (2) shall be prepared by

the police officer or authorised officer, as the case may be, and produced by him to the Court if so required by the Court.

(5) Where an accused person appears before a Court in accordance with a notice

served under subsection (2), the Court shall take cognizance of the offence alleged and shall proceed as though he were produced before it under subsection (1).

(6) If a person upon whom a notice has been served under subsection (2) fails to appear before a Court in accordance with the notice, the Court may issue a warrant for the arrest of that person.

(7) Where a person arrested in pursuance of a warrant issued under subsection

(6) is produced before a Court, the Court shall -

(a) proceed as though he were produced before it under subsection (1); and

(b) at the conclusion of such proceedings, call upon him to show cause why he should not be punished for failing to attend in compliance with the notice served under subsection (2).

(8) If due cause is not shown by the person under subsection (7), the Court may -

(a) order him to pay a penalty not exceeding \$2,000; or

(b) commit him to prison for a term not exceeding one month.

[22

Power to examine and secure attendance

24. -(1) For the purpose of investigating any offence under this Act, the Chief Executive or any authorised officer may -

(a) examine orally any person supposed to be acquainted with the facts and circumstances of the case, and to reduce to writing any statement made by the person so examined; and

(b) require by order in writing the attendance before himself of any person who, from information given or otherwise, appears to be acquainted with the facts and circumstances concerning the case and that person shall attend as so required.

[35/2002]

(2) The person mentioned in subsection (1) (a) shall be bound to state truly the facts and circumstances with which he is acquainted concerning the case except only that he may decline to make with regard to any fact or circumstance a statement which would have a tendency to expose him to a criminal charge or to penalty or forfeiture.

[35/2002]

(3) A statement made under this section by any person shall be read over to him and shall, after correction, if necessary, be signed by him.

[35/2002]

(4) If any person fails to attend as required by an order under subsection (1)

(b), the Chief Executive or any authorised officer may report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order.

[22A

[35/2002]

Power to require tobacco products for testing or analysis and furnishing of information

25. -(1) Any person carrying on a trade or business which consists of or includes the manufacture, distribution, importation or sale of any tobacco or imitation tobacco product shall -

(a) supply free of charge to the Chief Executive or an authorised officer samples of any tobacco product or any imitation tobacco product as the Chief

Executive or authorised officer may require for the purpose of testing, analysis or investigations; and

(b) furnish to the Chief Executive or authorised officer such information as

the Chief Executive or authorised officer may require in respect of those products.

[4/2001]

(2) Any person involved or concerned with the importation, distribution, sale or supply of any newspaper which is printed or published outside Singapore shall furnish to the Chief Executive or an authorised officer such information

as the Chief Executive or authorised officer may require in respect of such newspapers.

[23

[4/2001]

Power to enter premises and inspect and seize advertisements, products, vending machines and documents

26. -(1) The Chief Executive or an authorised officer may, at all reasonable hours, exercise the following powers:

(a) he may, for the purpose of ascertaining whether any offence under this Act has been committed, inspect any advertisement, tobacco or imitation tobacco product or vending machine and enter any premises;

(b) if he has reasonable cause to suspect that an offence under this Act has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in

connection with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or of any entry in, any such books or documents;

(c) if he has reasonable cause to believe that an offence under this Act has

been committed, he may seize and detain any advertisement, tobacco or imitation tobacco product or vending machine for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;

(d) he may seize and detain any advertisement, tobacco or imitation tobacco product, vending machine or document which he has reason to believe may be required as evidence in proceedings for an offence under this Act; and

(e) he may, for the purpose of exercising his powers under this subsection to seize any advertisement, tobacco or imitation tobacco product or vending machine, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act are duly observed, require any person having authority to do so to break open any container or open any

vending machine and, if that person does not comply with the requirement, he

may do so himself.

[4/2001]

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(2) The Chief Executive or an authorised officer may, if he has reasonable cause to believe that an offence under section 3 (1) has been committed in respect of an advertisement relating to any tobacco product –

- (a) require the person reasonably suspected of committing the offence to remove the advertisement from the view of members of the public; and
- (b) if the person fails to do so, cause the advertisement to be so removed.

[4/2001]

(3) The person referred to in subsection (2) shall be liable to pay to the Chief Executive the reasonable costs of removal and disposal of the advertisement which may be recovered as a debt due to the Government.

[4/2001]

(4) In the exercise of his powers under this section, the Chief Executive or an authorised officer shall –

- (a) on seizing any advertisement, tobacco or imitation tobacco product, vending machine or document, inform the person from whom it was seized of such seizure; and
- (b) in the case of tobacco products seized from a vending machine, inform the person whose name and address are stated on the machine as being the proprietor or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

[4/2001]

(5) The Chief Executive or an authorised officer entering any premises by virtue of this section may take with him such other persons and such equipment

as may appear to him necessary.

[24

[4/2001]

Obstruction of officers

27. –(1) Any person who –

- (a) wilfully obstructs, hinders or impedes the Chief Executive or an authorised officer acting in pursuance of this Act;
- (b) wilfully fails to comply with any requirement under section 25 properly made to him by the Chief Executive or an authorised officer; or
- (c) without reasonable cause, fails to give the Chief Executive or an authorised officer any other assistance or information which the Chief Executive or authorised officer may reasonably require for the purpose of the performance of his functions under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[4/2001]

(2) If any person, in giving any such information as is mentioned in subsection (1), makes any statement which he knows to be false, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

\$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[25

Notice of test and intended prosecution

28. Where any tobacco or imitation tobacco product seized under this Act is submitted to a test, the Chief Executive shall –

- (a) if the product is seized, inform the person mentioned in section 26 (4) of the result of the test;
- (b) if the product was purchased and the test leads to the institution of proceedings for an offence under this Act, inform the person from whom the product was purchased or, in the case of a product sold through a vending machine, the person mentioned in section 26 (4) of the result of the test; and
- (c) if as a result of the test proceedings for an offence under this Act are

instituted against any person, allow the person to have the product tested on his behalf if it is reasonably practicable to do so.

[26

[4/2001]

Forfeiture

29. –(1) Any advertisement, product or vending machine seized in exercise of any power conferred under this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any advertisement, product or vending machine seized in exercise of any power conferred by this

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Act shall be made by the court before which the prosecution with regard thereto has been held.

(3) An order for the forfeiture of the advertisement, product or vending machine shall be made if it is proved to the satisfaction of the court that –

(a) an offence under this Act has been committed; and

(b) the advertisement, product or vending machine was the subject-matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of that offence.

(4) In the absence of any prosecution with regard to any advertisement, product or vending machine seized in the exercise of any power conferred by this Act, the advertisement, product or vending machine shall be deemed to be forfeited at the expiration of one month from the date of the seizure unless a

claim thereto is made before then in accordance with subsection (5).

(5) A person asserting that he is the owner of any advertisement, product or vending machine seized and that the advertisement, product or vending machine is not liable to forfeiture may personally, or by his agent authorised in writing, make a claim by giving written notice to the Chief Executive.

[4/2001]

(6) On receipt of such notice, the Chief Executive may direct that the advertisement, product or vending machine be released or may refer the matter to a court for decision.

[4/2001]

(7) All things forfeited or deemed to be forfeited shall be delivered to the Chief Executive and shall be disposed of in accordance with the directions of the Minister.

[27

[4/2001]

Things seized may be delivered to owner or other person

30. The Minister may, upon application made to him in writing through the Chief Executive, order any advertisement, product or vending machine seized in

exercise of the powers conferred by this Act, whether forfeited or taken and deemed to be forfeited, to be delivered to the owner or other person entitled thereto upon such terms and conditions as the Minister may consider fit.

[28

[4/2001]

Protection of officers

31. No person shall be personally liable in respect of any act done by him in the execution or purported execution of this Act and within the scope of his employment if he did it in the honest belief that his duty under this Act required or entitled him to do it.

[29

Forms

32. The Chief Executive may design and utilise such forms as he may think fit for any of the purposes of this Act, and may require any person to complete any of the forms for any such purpose.

[30

[4/2001]

Jurisdiction of court

33. Any offence under this Act may be tried by a District Court or a Magistrate's Court and that Court shall, notwithstanding any other written law, have jurisdiction to impose the maximum penalty provided for by this Act.

[31

Composition of offences

34. –(1) The Chief Executive or any person authorised by the Chief Executive in writing may, in his discretion and subject to such conditions as he considers fit to impose, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding –

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$2,000,

whichever is the lower.

[4/2001; 35/2002]

(2) The Minister may make regulations to prescribe the offences which may be

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compounded.

(3) Where the person reasonably suspected of having committed an offence under

this Act was below the age of 18 years at the time of the alleged offence, a condition that may be imposed under subsection (1) in compounding the offence includes requiring the person and his parents or guardian to attend at such place as the Chief Executive may specify for the purpose of counselling.

[32
[35/2002]

Fees, charges, etc., collected by Chief Executive or authorised officer to be paid to Authority

35. -(1) All fees, charges and other moneys recovered or collected by the Chief Executive or an authorised officer under this Act (including sums collected for the composition of offences under section 34) shall be paid to the Authority.

[4/2001]

(2) In subsection (1), "authorised officer" includes any person authorised by the Chief Executive in writing to compound offences under section 34.

[32A
[4/2001]

Service of summons, notices, etc.

36. -(1) Any notice, order, direction or document required or authorised by this Act to be given or served on any person, and any summons issued by a court in connection with any offence under this Act, may be served on the person -

- (a) by delivering it to him or to some adult member or employee of his family at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;
- (c) by affixing it to some conspicuous part of his last known place of residence;
- (d) by sending it by registered post addressed to him at his usual or last known place of residence or business; or
- (e) where the person to be served is a body corporate -
 - (i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or
 - (ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

[35/2002]

(2) Any notice, order, direction, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, direction, document or summons would, in the ordinary course of post, be delivered and in proving service of the notice, order, direction, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

[32B
[35/2002]

Regulations

37. -(1) The Minister may make such regulations as appear to him necessary or expedient for the purpose of carrying out the provisions of this Act.

(2) All such regulations shall be presented to Parliament as soon as possible after publication in the Gazette.

[33

LEGISLATION HISTORY

1. Act 10 of 1993 - Smoking (Control of Advertisements and Sale of Tobacco) Act 1993

Date of First Reading:18.1.93 (Bill No. 3/93 published on 19.1.93)
Date of Second and Third Readings:26.2.93
Date of commencement:31.5.93

2. Act 4 of 2001 - Health Sciences Authority Act 2001

Date of First Reading:12.1.2001 (Bill No. 3/2001 published on 13.1.2001)

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Date of Second and Third Readings:22.2.2001
Date of commencement:1.4.2001

3. Act 35 of 2002 – Smoking (Control of Advertisements and Sale of Tobacco)
(Amendment) Act 2002

Date of First Reading:1.10.2002 (Bill No. 37/2002 published on
2.10.2002)
Date of Second and Third Readings:31.10.2002
Date of commencement:1.4.2003 (except sections 3, 4, 6 and 8)
1.5.2003 (sections 3 and 8)
1.7.2003 (section 6)
1.12.2003 (section 4)

COMPARATIVE TABLE

The following provisions in the 1994 Revised Edition of the Smoking (Control of Advertisements and Sale of Tobacco) Act have been renumbered by the Law Revision Commissioners in this 2003 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Smoking (Control of Advertisements and Sale of Tobacco) Act.

2003 Ed.	1994 Ed.
3-(2) and (3)	3-(2)
(4) and (5)	(3) and (4)
12	11A
13	12
14	13
15-(1) and (2)	14-(1) and (2)
(3)	(2A)
-	(4) (Deleted by Act 35/2002)
16	15
17	16
18	17
19	18
20	19
21	20
22-(1) and (2)	21
23	22
24	22A
25	23
26-(1)	24-(1)
(2) and (3)	(2)
(4) and (5)	(3) and (4)
27	25
28	26
29-(1)	27-(1)
(2) and (3)	(2)
(4) to (7)	(3) to (6)
30	28
31	29
32	30
33	31
34	32
35	32A
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37	33

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