

THE PUBLIC HEALTH ACT

Regulations made by the Minister under sections 193 and 194 of the Public Health Act

1. These regulations may be cited as the Public Health (Restrictions on Tobacco Products) Regulations 2008.

2. In these regulations –

“advertise” –

- (a) means to publicise any drawn, still or moving picture, sign, symbol, trade mark, manufacturer’s name, logo, brand name, other visual image or message or audible message;
- (b) includes any commercial communication through media or by any other means;

“child” means any person under the age of 18;

“cigar” includes cigarillo;

“green tobacco” has the same meaning as in the Tobacco Production and Marketing Act;

“indoor area” means any space covered by roof or enclosed by one or more walls, whether temporary or permanent;

“leaf tobacco” has the same meaning as in the Tobacco Production and Marketing Act;

“manufactured tobacco” has the same meaning as in the Tobacco Production and Marketing Act;

“package” –

- (a) means any covering, wrapper, container or other enclosure that contains a tobacco product, or cartons, containers or other enclosures that contain tobacco products;
- (b) includes any label and other written or graphic information on or in it;

“promote” –

- (a) means any act intended to or likely to encourage, directly or indirectly, the purchase or use, or to create an awareness;
- (b) includes the offer or supply of a tobacco product free of charge, at a discounted price, as a prize, pursuant to a lottery or otherwise;

“public conveyance” means any means of transport carrying passengers for hire or reward;

“public place” –

- (a) means –
 - (i) an indoor area which is open to the public or any part of the public;
 - (ii) a public conveyance;
 - (iii) a workplace, but excludes an area demarcated for that purpose;
- (b) includes a place specified in the First Schedule;

“smoke” means to inhale, exhale or handle an ignited or heated tobacco product or a tobacco product producing emissions by any means;

“sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use directly or indirectly;

“tobacco product” –

- (a) means any cigarette, cigar or a product composed in whole or in part of tobacco, including tobacco leaves or any extract of tobacco leaves or any mixture containing tobacco;
- (b) includes pipe tobacco, green tobacco, leaf tobacco, manufactured tobacco, cigarette papers, tubes or filters; but
- (c) excludes any product prescribed by a medical practitioner as a nicotine replacement therapy;

“waterpipe” –

- (a) means a device from which smoke of a tobacco product is drawn through water and a long tube;
- (b) includes a hookah;

“workplace” –

- (a) means an indoor area where persons perform their duties of employment or work ;
- (b) includes any common area which is generally used by such persons during the course of their employment or work.

3. (1) No person shall smoke a tobacco product –

- (a) in a public place;
- (b) while preparing, serving or selling food on any premises where the public has access; or
- (c) while driving or traveling in a private vehicle carrying passengers.

(2) Every owner or other person responsible of a public place shall take all reasonable steps to prevent any person from smoking in that public place.

(3) For the purposes of paragraph (2), the reasonable steps to be taken by an owner or a person responsible for a public place shall be –

- (i) to ask that person to stop smoking;
- (ii) where that person does not stop smoking, to ask him to leave the public place; and
- (iii) where that person refuses to stop smoking or to leave the public place, to call the police.

(4) Every owner or other person responsible for a public place shall cause a notice to be conspicuously displayed in the public place in such manner as specified in the Second Schedule.

4. No person shall sell, offer to sell or distribute –
- (a) cigarettes other than in a package which –
 - (i) contains 20 cigarettes;
 - (ii) displays on each side of the package, the health warning in such manner as specified in the Third Schedule;
 - (iii) displays on the front and back display area of the package, the health warning in such manner as specified in the Fourth Schedule;
 - (iv) displays the following words –
Sale allowed in Mauritius only
 - (v) displays, in English and in French, the name of the country where the cigarettes have been manufactured; and
 - (vi) does not display the tar or nicotine content or the carbon monoxide yield;
 - (b) cigars or pipe tobacco other than in a package which displays the health warning in such manner as specified in the Fifth Schedule;
 - (c) a tobacco product in a package on which any warnings, prohibitions or any other wording required under these regulations are obscured in whole or in part;
 - (d) a tobacco product in a package which displays any wording such as “mild”, “low tar”, “light” or any other term or sign that directly or indirectly creates an impression that a particular tobacco product is less harmful than others;
 - (e) a tobacco product by means of an automatic vending machine;
 - (f) sweets, snacks, toys or any other object in the form of, or which are likely to create an association with, cigarettes or cigars.
5. (1) No person shall, directly or indirectly –
- (a) give, sell or offer to sell a tobacco product to a child;
 - (b) allow a child to sell or distribute a tobacco product;

(c) buy or acquire a tobacco product for the purpose of giving it, whether or not for a consideration, to a child.

(2) A seller of a tobacco product may request a buyer to produce proof of his age before any sale of a tobacco product.

(3) For the purpose of paragraph (2), proof of age shall be made by the production of –

(i) a national identity card;

(ii) a passport; or

(iii) a driving licence.

(4) Every seller of a tobacco product shall conspicuously post at the point of sale inside his shop a notice in such manner as specified in the Sixth Schedule, informing the public that the sale of tobacco products to children is prohibited.

(5) No seller of a tobacco product shall display a tobacco product for sale except in duty free shops at the airports of Mauritius and Rodrigues.

6. No person shall –

(a) advertise or cause to advertise –

(i) a trade mark, manufacturer's name, logo or brand name associated with a tobacco product;

(ii) the sale or consumption of a tobacco product;

(iii) any other such thing associated with a tobacco product;

(b) promote or cause to promote –

(i) a trade mark, manufacturer's name, logo or brand name associated with a tobacco product;

(ii) the sale or consumption of a tobacco product;

(iii) any other such thing associated with a tobacco product;

(c) offer any scholarship or any form of sponsorship in relation to –

(i) a tobacco product;

- (ii) a trade mark, manufacturer's name, logo or brand name associated with a tobacco product;
- (iii) any other such thing associated with a tobacco product;
- (d) manufacture, import or sell a tobacco product for use in connection with a waterpipe.

7. Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable –

- (a) to a fine of not less than 5,000 rupees and not more than 8,000 rupees, on a first conviction;
- (b) to a fine of not less than 8,000 rupees and not more than 10,000 on a second conviction;
- (c) to imprisonment for a term not exceeding 12 months, on a third or subsequent conviction.

8. (1) The Road Traffic (Conductors and Drivers of Public Service Vehicles) Regulations 1954 are amended by deleting regulation 5.

(2) The Road Traffic (Conduct of Passengers) Regulations 1967 are amended in regulation 4, by deleting paragraph (o).

(3) The Tobacco Production and Marketing (Import Licence) Regulations 1998 are amended in the Schedule, under the heading "Conditions of Licence", by deleting paragraph (d) and replacing it by the following paragraph –

- (d) every package of cigarettes, cigars or pipe tobacco shall display the health warning in such manner specified in the Public Health (Restrictions on Tobacco Products) Regulations 2008;

(4) The Public Health (Restriction on Tobacco Products) Regulations 1999 are revoked.

9. These regulations shall not apply to any packets of cigarettes or cigars imported or manufactured before the coming into operation of these regulations.

10. Subject to paragraph (2), these regulations shall come into operation on 1 March 2009.

11. Regulations 4(a), (b), (c) and (d) and 8(3) shall come into operation on 1 June, 2009

Made by the Minister on 28 November, 2008.

FIRST SCHEDULE
(regulation 2)

PUBLIC PLACES

1. Outdoor premises of a health institution.
2. Outdoor premises of a pre-primary, primary, secondary or tertiary institution, including any other educational institution.
3. Outdoor premises used for the practice of sports and to which the public has access.
4. Recreational places other than public beaches, including gardens to which the public has access.
5. Cafés, bars, nightclubs and restaurants.
6. Bus stands and bus stations.

SECOND SCHEDULE
(regulation 3(4))
DISPLAY OF NOTICE IN PUBLIC PLACES

The notice shall –

- (a) display the following prohibition in English –
No smoking
- (b) display the following prohibition in French –
Défense de fumer
- (c) display the following warning in English –

Contraveners may be liable to a fine not exceeding Rs 10,000 or to imprisonment for a term not exceeding 12 months – *Public Health (Restrictions on Tobacco Products) Regulations 2008*

- (d) display the following warning in French –

Les contrevenants sont passibles d'une amende n'excedant pas 10,000 roupies ou d'une peine d'emprisonnement n'excedant pas 12 mois – *Public Health (Restrictions on Tobacco Products) Regulations 2008*

- (e) be of the following size for –

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|---|-------------------|
| (i) indoor area | :210 mm x 297 mm; |
| (ii) workplace | :210 mm x 297 mm; |
| (iii) car and van used as public conveyance | :100 mm x 70 mm; |
| (iv) all other vehicles used as public conveyance | :148 mm x 210 mm; |
| (v) places specified in the First Schedule | :400 mm x 300 mm; |

and

- (f) be displayed in such manner and in such template as approved by the Minister.

THIRD SCHEDULE
(regulation 4(a)(ii))

HEALTH WARNING ON EACH SIDE OF PACKAGE OF CIGARETTES

The health warning on each side of every package of cigarettes shall –

- (a) be displayed in English on one side of the package in the following words –

Smoking kills

- (b) be displayed in French on the other side of the package in the following words –

La cigarette tue

- (c) occupy 65 percent of the surface area of each side of the package;
- (d) be displayed in such manner that none of the words of the health warning are severed when the package is opened; and
- (e) be displayed in such manner and in such template as approved by the Minister.

FOURTH SCHEDULE
(regulation 4(a)(iii))

**HEALTH WARNING ON FRONT AND BACK
OF PACKAGE OF CIGARETTES**

1. Subject to paragraph (2), there shall be 8 different health warnings.
2. Every package of cigarettes shall display one health warning at a time.
3. Every package of cigarettes shall display such health warning as the Minister may determine.
4. Every health warning shall –
 - (a) consist of a warning and a picture or pictogram;
 - (b) be displayed in French on the front principal display area of the package and in English on the back principal display area of the package;
 - (c) occupy 40 percent of the front principal display area of the package and 90 percent of the back principal display area of the package; and
 - (d) be displayed in such manner and in such template as approved by the Minister.
5. The warnings in English shall be in the following words –
 - (a) Cigarette is a highly addictive drug;
 - (b) Tobacco smoke harms the health of children;
 - (c) Smoking causes heart diseases;
 - (d) Smoking causes strokes;

- (e) Smoking causes lung cancer;
 - (f) Smoking causes oral mouth cancer;
 - (g) Tobacco use makes you impotent; or
 - (h) Smoking causes a slow and painful death.
6. The warnings in French shall be in the following words –
- (a) La cigarette est une drogue qui crée une forte dépendance;
 - (b) La fumée du tabac nuit à la santé de l'enfant;
 - (c) Fumer provoque les maladies du coeur;
 - (d) Fumer provoque l'attaque cérébrale;
 - (e) Fumer provoque le cancer du poumon;
 - (f) Fumer cause le cancer de la bouche;
 - (g) L'usage du tabac provoque l'impuissance sexuelle; or
 - (h) Fumer cause une mort lente et douloureuse.

FIFTH SCHEDULE
(regulation 4(b))

**HEALTH WARNING OF PACKAGE OF CIGARS
OR PIPE TOBACCO**

The health warning on every package of cigars or pipe tobacco shall –

- (a) be displayed both in English and French on the package;
- (b) be displayed in English in the following words –
Smoking causes cancer, heart disease, bronchitis and early death
- (c) displayed in French in the following words –

- Fumer provoque le cancer, les maladies du coeur, la bronchite et la mort prématurée
- (d) be printed on a white label with black characters, in Helvetica type of not less than 10 font;
 - (e) be displayed in such manner that none of the words of the health warning are severed when the package is opened; and
 - (f) be displayed in such manner and in such template as approved by the Minister.

SIXTH SCHEDULE
(regulation 5(4))

**NOTICE PROHIBITING THE SALE OF
TOBACCO PRODUCTS TO CHILDREN**

The notice prohibiting the sale of tobacco products to children shall –

- (a) display the following warning in English –

The sale of tobacco products to children under the age of 18 is not allowed – *Public Health (Restrictions on Tobacco Products) Regulations 2008*

- (b) display the following warning in French –

Il est interdit de vendre des produits du tabac aux personnes âgées de moins de 18 ans – *Public Health (Restrictions on Tobacco Products) Regulations 2008*

- (c) not be less than 210 mm x 297 mm (A4) in size; and
 - (d) be displayed in such manner and in such template as approved by the Minister.
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