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ACTS SUPPLEMENT

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The following Act was passed by Parliament on 19th July 2010 and assented to by the President on 2nd August 2010:—

REPUBLIC OF SINGAPORE

No. 17 of 2010.

I assent.

(LS)

S R NATHAN,
President.
2nd August 2010.

An Act to amend the Smoking (Control of Advertisements and Sale of Tobacco) Act (Chapter 309 of the 2003 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Smoking (Control of Advertisements and Sale of Tobacco) (Amendment) Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of long title

2. The long title to the Smoking (Control of Advertisements and Sale of Tobacco) Act (referred to in this Act as the principal Act) is amended by deleting the word “smoking” and substituting the words “any tobacco product or its use”.

Amendment of section 1

3. Section 1 of the principal Act is amended by deleting the words “Smoking (Control of Advertisements and Sale of Tobacco) Act” and substituting the words “Tobacco (Control of Advertisements and Sale) Act”.

Amendment of section 2

4. Section 2 of the principal Act is amended —

(a) by deleting the definition of “advertisement relating to smoking” and substituting the following definition:

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

(b) by deleting the words “for smoking” in the definition of “cigarette”;

(c) by inserting, immediately after the definition of “cigarette”, the following definition:

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

(d) by inserting, immediately after the definition of “newspaper”, the following definitions:

“ “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 —

- (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;” and

- (e) by deleting the definition of “tobacco product” and substituting the following definitions:

““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);”.

Amendment of section 3**5.** Section 3 of the principal Act is amended —

- (a) by deleting the word “smoke” in subsection (1)(a) and substituting the word “use”;
- (b) by deleting paragraph (b) of subsection (1) and substituting the following paragraph:
 - “(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) by deleting paragraph (a) of subsection (2);
- (d) by deleting the words “for the purpose of smoking” in subsection (3); and
- (e) by deleting the word “smoking” in the section heading and substituting the words “tobacco products”.

Amendment of section 9

6. Section 9(1) of the principal Act is amended by inserting, immediately after the word “goods” wherever it appears, the words “or services”.

Amendment of section 11**7.** Section 11 of the principal Act is amended —

- (a) by deleting the words “smokes or chews” in subsection (1) and substituting the word “uses”;
- (b) by deleting the words “smoking or chewing or about to smoke or chew” in subsection (2) and substituting the words “using or about to use”;
- (c) by deleting the words “place, premises or building or part thereof” in the definition of “public place” in subsection (3) and substituting the word “premises”; and
- (d) by deleting the words “smoking, etc.,” in the section heading and substituting the words “use of tobacco products”.

Amendment of section 12

8. Section 12 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(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.”;

(b) by inserting, immediately before the definition of “package” in subsection (3), the following definitions:

““cigarette” includes any cigarillo;

“cigarillo” means —

- (a) a cigar that weighs less than 1.4 grams or such other weight as the Minister may by notification in the *Gazette* prescribe; or
- (b) any tobacco product that is labelled, described or promoted as a cigarillo;”;

(c) by deleting the definition of “package” in subsection (3) and substituting the following definition:

““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;”.

Repeal and re-enactment of section 15

9. Section 15 of the principal Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 16

10. Section 16 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(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.”; and

(b) by deleting the words “on sale” in the section heading.

Amendment of section 17

11. Section 17(1) of the principal Act is amended by inserting, immediately after the words “such tobacco products”, the words “, and such of their packaging,”.

New section 17A

12. The principal Act is amended by inserting, immediately after section 17, the following section:

“Prohibition of false or misleading packaging and labelling

17A.—(1) Subject to subsection (3), no person shall import, distribute, sell or offer for sale any tobacco product, the packaging or labelling of which promotes any tobacco product by any means that is false, misleading, deceptive or likely to create an erroneous impression about the characteristics, health effects, hazards or emissions of the tobacco product.

(2) For the purposes of this section, any tobacco product whose packaging or labelling includes or contains —

- (a) any term, descriptor or trade mark, or any figurative or other sign, that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products; or
- (b) such term as the Minister may by regulations prescribe, whether or not the term is part of a descriptor or trade mark, or any figurative or other sign,

shall be deemed to be a tobacco product that no person shall import, distribute, sell or offer for sale under subsection (1).

(3) Subsection (1) 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) 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.”.

Amendment of section 19

13. Section 19 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

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

Amendment of section 26

14. Section 26 of the principal Act is amended —

- (a) by deleting the word “business” in subsection (1)(a); and
- (b) by deleting the word “smoking” in subsection (2) and substituting the words “any tobacco product”.

Amendment of section 27

15. Section 27(1) of the principal Act is amended by inserting, immediately after the word “obstructs” in paragraph (a), the words “, hinders or impedes”.

Amendment of section 34

16. Section 34(1) of the principal Act is amended by deleting the words “a sum not exceeding \$2,000.” and substituting the following words:

“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.”.

Miscellaneous amendments

17. The principal Act is amended —

- (a) by deleting the word “SMOKING” in the heading of Part II and substituting the words “TOBACCO PRODUCTS”;
- (b) by deleting the word “smoking” in sections 6, 7(1) and (2), 8 and 21 and substituting in each case the words “any tobacco product”;

- (c) by deleting the words “or place” wherever they appear in sections 5 and 13(1)(a) and (2);
- (d) by deleting the word “places” in section 13(1)(b) and substituting the word “premises”;
- (e) by inserting, immediately after the words “tobacco retailers” in the section heading of section 18, the word “, etc.”; and
- (f) by deleting the words “place or type of place” in section 22(1) and substituting the words “premises or type of premises”.

References to principal Act in other written laws and documents

18. Insofar as it is necessary for preserving the effect of any written law or document on or after the date of commencement of this Act, any reference to the Smoking (Control of Advertisements and Sale of Tobacco) Act shall be read as a reference to the Tobacco (Control of Advertisements and Sale) Act.
