

TOBACCO CONTROL REGULATIONS, 2016 (L.I. 2247)

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TOBACCO CONTROL REGULATIONS, 2016

IN exercise of the powers conferred on the Minister responsible for Health by section 76 of the Public Health Act, 2012 (Act 851) and in consultation with the Food and Drugs Authority, these Regulations are made this 19th day of September 2016.

Regulation 1—Purpose of Regulations

These regulations are in furtherance of

- (a) provisions on tobacco control specified in the Public Health Act, 2012 (Act 851); and
- (b) the objectives, principles, and provisions of the Framework Convention on Tobacco Control and its Guidelines for Implementation in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Regulation 2—Requirements for areas designated for smoking

(1) In furtherance of Section 58 of the Act, an area designated for smoking in a workplace or public place shall

(a) be an indoor or outdoor area, that is designed and positioned in a manner to prevent smoke from spreading to any non-smoking area; and

(b) not be used for any other activity involving non-smokers.

(2) A designated outdoor smoking area shall be located in an area that does not allow smoke to seep into a non-smoking area and shall not be adjacent to

(a) an entrance to the premises; or

(b) walkways and other areas where persons generally congregate or walk.

(3) Where the nature of the premises does not allow for an outdoor or open area to be designated for smoking, an area for smoking may be designated within an enclosed building or space on the premises.

(4) An area designated for smoking within an enclosed building or space shall

(a) have floor-to-ceiling walls or sides and a ceiling or roof that completely separates the area from all other areas of the enclosed building or space;

(b) have a window that opens only to the outside and an air vent that opens directly to the outside;

(c) have solid walls and ceiling and a closable door,

(d) have walls tightly joining floor and ceiling;

(e) have a ventilation system that exhausts directly to the outdoors without recirculation to a non-smoking area; and

(f) not be an area that may be passed through to get to any other area of the enclosed building or space.

(5) Where the requirements of sub-regulation (4) cannot be met for an area designated for smoking inside an enclosed workplace or public place, including a means of public transportation the entire indoor or enclosed public place or workplace shall be declared smoke-free.

Regulation 3—Prohibitions in areas designated for smoking

An owner or a person in charge of a public place or workplace who designates an area for smoking shall not allow a person under the age of eighteen to enter the designated area.

Regulation 4—Display of No Smoking signs

(1) The owner or a person in charge of a public place or workplace shall conspicuously display a “NO SMOKING” sign in areas of the premises where smoking is prohibited.

(2) The “NO SMOKING” sign shall

(a) be at each entrance to a workplace or public place, and in appropriate locations and in sufficient numbers to ensure that employees and the general public are aware that smoking is not permitted in the public place or workplace;

(b) bear a “NO SMOKING” symbol which consists of a graphic representation of a single burning cigarette in black enclosed in a red circle of at least 14cm in diameter with a red bar across it on a white background;

(c) carry the inscription “NO SMOKING” written in black and in capital letters on a white background, and

(d) be in legible bold font of at least 2cm in height

(3) An owner or person in charge of a public place or workplace shall ensure that the “NO SMOKING” sign is not obstructed and is replaced if the sign is defaced or damaged.

Regulation 5—Signs at areas designated for smoking

(1) An owner or a person in charge of a public place or workplace who designates an area for smoking shall conspicuously display a sign that indicates the area as an area where smoking is permitted.

(2) The sign referred to in sub-regulation (1) shall

(a) bear a smoking symbol on a white background which consists of a graphic representation of a single burning cigarette in black enclosed in a green circle of at least 14cm in diameter;

(b) carry the inscription “DESIGNATED SMOKING AREA” written in black and in capital letters on a white background;

(c) carry the inscription “Smoking is harmful to your health and to the health of children, pregnant women and all others who are exposed to your smoke” written in black in a legible font;

(3) The “DESIGNATED SMOKING AREA” inscription shall be at least 2cm in height.

(4) The owner or a person in charge of a public place or workplace who designates an area for smoking shall display a no entry signage for all persons under the age of 18.

Regulation 6—Right of owner to prohibit smoking

The owner or a person in charge of a public place or workplace may prohibit smoking throughout the entire indoor and outdoor premises of that public place or workplace.

Regulation 7—Prohibition of smoking in private vehicles

A person shall not smoke in a private vehicle where a child or a pregnant woman is on board that vehicle.

Regulation 8—Duties of owners or persons in charge of a public place or workplace

(1) An owner or a person in charge of a public place or workplace, shall ensure that

(a) a person does not smoke anywhere other than in a designated area;

(b) an employee is not exposed to tobacco smoke and is protected from tobacco smoke in the workplace;

(c) an employee who refuses to enter a designated smoking area in the workplace is not victimized or sanctioned;

(d) an employee does not enter an area designated for smoking at a time during which smoking activity is taking place or for any purpose including cleaning or maintenance of the area designated for smoking; and

(e) an employee does not sign a waiver or agreement to work in a designated smoking area.

(2) An owner or a person in charge of a public place or workplace shall ensure that the provisions of these Regulations are implemented within eighteen months from the date of the coming into force of these Regulations.

Regulation 9—Depictions of tobacco in entertainment media

A person involved in the production of a media entertainment product shall ensure that

(a) identifiable tobacco brands or tobacco brand images are not depicted in association with, or as part of the content of any entertainment media product;

(b) prescribed anti-tobacco advertisements are displayed at the beginning of any entertainment media product that depicts tobacco use and images;

(c) ratings or classification systems that takes into account the depiction of tobacco products, use or images in entertainment media products are employed; and

(d) entertainment media aimed at children including cartoons, do not depict tobacco products, use or imagery.

Regulation 10—Health warnings and messages for tobacco and tobacco products

(1) A person who manufactures, imports or sells tobacco or a tobacco product shall ensure that the text and form for the health warnings and messages required on the packaging and labelling for tobacco and tobacco products are in conformity with sub-regulation (2) to (11)

(2) For a unit packaging, the warning and message consisting of the pictorial images and accompanying text as shall be determined by the Authority, shall cover fifty percent of the principal display area at the front and sixty percent at the back of a rectangular packaging, positioned in the lower portion of each of the principal display area.

(3) The warning and message shall be permanently inscribed on the package and shall not be inscribed on any cellophane or other wrapping that can be removed.

(4) The visibility of the warning and message in addition to any regulatory requirement shall not be susceptible at any time to being damaged, concealed, obstructed, obscured, disrupted, covered, or changed by any markings, package design feature or mechanism, or by anything supplied by the manufacturer or seller.

(5) The text of the warnings and messages shall be in the English language and shall be printed in legible characters on a contrasting background as shown in the electronic images determined by the Authority.

(6) Only the prescribed warning and message shall be inscribed on the part of the space reserved for the warning and message.

(7) The warning and message shall be surrounded by a black border that outlines the area in which the warning and message are displayed.

(8) The border shall be included within the coverage area reserved for the warnings and message.

(9) For a smokeless tobacco product, the health warning and a message shall cover sixty-five percent of the main display areas of the package and meet all the requirements specified in sub-regulation (3) to (8).

(10) A person who manufactures or sells tobacco shall only supply for sale in the country, tobacco products whose packaging and labelling complies with the provisions of this regulation within eighteen months from the time the Authority makes the source document containing the electronic images of the health warnings, messages, constituents and emissions information statement available to the public.

Regulation 11—Additional packaging and labelling requirements

(1) A manufacturer, importer, wholesale distributor or retailer of tobacco or a tobacco product shall ensure that the retail packaging and labelling of the tobacco or tobacco product does not contain any content, design, or feature that contradicts, covers, obscures, disrupts, or otherwise undermine

(a) the information statement on the health warnings and messages, constituents and emissions, and

(b) any other information required in connection with tobacco product packaging and labelling.

(2) The inscription “FOR SALE IN GHANA ONLY” shall

(a) be displayed on one lateral surface of the tobacco product package, and

- (b) have a font colour that contrasts with the background of the product package.
- (3) Each unit and outside packaging of the tobacco product shall state the country of origin of the tobacco product.
- (4) A sign on a side panel of the product pack shall specify the age” eighteen years” as the lowest age for the sale of tobacco and tobacco products.

Regulation 12—Display of signs at point of sale

- (1) A person who sells or offers for sale tobacco or a tobacco product may, display at the point of sale, an inscription that tobacco products are available for sale.
- (2) The inscription may be made by way of a sign containing only the following statements.
 - (a) “TOBACCO AND TOBACCO PRODUCTS ARE AVAILABLE HERE”
 - (b) “WE CANNOT, BY LAW, SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18 YEARS.”
- (3) The statement in sub-regulation (3)(b) shall appear at the top of the sign and across its full width.
- (4) A person who sells or offers for sale tobacco or a tobacco product shall conspicuously display at the point of sale, a health warning of not less than 420mm by 594mm inscribed on a poster.

Regulation 13—Sale of tobacco and tobacco products

A person shall not sell a tobacco product except in unopened packages containing a minimum of

- (a) ten sticks of smoked tobacco products, or
- (b) thirty grams of smokeless tobacco products.

Regulation 14—Registration of persons to deal in tobacco and tobacco related trade

- (1) A person shall not manufacture or import a tobacco or tobacco product unless that person is registered by the Authority.
- (2) An application for registration to manufacture or import a tobacco or tobacco product shall be submitted to the Authority in a form determined by the Authority and accompanied with the prescribed fee.
- (3) The Authority shall acknowledge receipt of an application and communicate its decision to the applicant within fifteen days of receipt of the application.
- (4) An applicant who is dissatisfied with the decision of the Authority may appeal to the Minister within thirty days of receipt of the decision and the Minister shall respond within fifteen days.

Regulation 15—Registration of tobacco and tobacco products

A person shall not manufacture, import or sell a tobacco or tobacco product unless the product is registered by the Authority.

Regulation 16—Illicit tobacco and tobacco products

(1) A person shall not manufacture, import, export, supply, possess, or offer for sale an illicit tobacco or tobacco product.

(2) For the purposes of this regulation, tobacco and tobacco product is illicit if

(a) the product is one which is deliberately or fraudulently mislabelled with respect to its identity or source;

(b) the labelling requirements of the tobacco or tobacco product are not met;

(c) there are no approved health warnings on the pack of the tobacco or tobacco product;

(d) the tobacco or tobacco product is not passing through the right ports of entry,

(e) the label or package of the tobacco or tobacco product bears the name of an individual or company which does not exist and purports to be manufacturers of tobacco and tobacco product;

(f) it is manufactured under a name which belongs to another tobacco or tobacco product;

(g) it is an imitation of or is a substitute for another tobacco or tobacco product or if

(i) it resembles another tobacco or tobacco product

(ii) it is likely to deceive, or

(iii) it bears on its label or container the name of another tobacco or tobacco product unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity;

(h) the label or package bears the name of an individual or a company which is fictitious or does not exist and purports to be the manufacturer of the tobacco and tobacco products; or

(i) it purports to be a product of a manufacturer of whom it is not truly a product.

Regulation 17—Tobacco industry interactions with public authorities and officers

Any interactions or meetings between public authorities or public officers with a role in tobacco control and the tobacco industry shall be limited to the extent strictly necessary for effective tobacco control and enforcement of relevant laws.

Regulation 18—Code of conduct

The Minister may issue a code of conduct prescribing standards for public officers service providers, contractors and consultants involved in setting or implementing public health policies for effective tobacco control.

Regulation 19—Offences and penalty

A person who contravenes or facilitates the contravention of these Regulations commits an offence and is liable on summary conviction to the penalty specified under the Act.

Regulation 20—Interpretation

In these Regulations unless the context otherwise requires

“Act” means the Public Health Act, 2012 (Act 851);

“Authority” means the Food and Drugs Authority established under the Public Health Act, 2012 (Act 851);

“enclosed” means for purposes of entertainment a dance, theatre, drama, education, sport, or a community gathering, a fair, parade or market;

“entrance” includes an opening, such as a door or passage that allows access into a public place or workplace;

“health warnings and messages” means the health warnings and messages specified in the Act or determined by the Authority from time to time;

“Minister” means the Minister responsible for Health;

“outdoor” or “open” means a space that is not “indoor” or “enclosed” ;

“outdoor event” means an organized activity attended by people that is not indoor;

“outside packaging” means any packaging and labelling used in the retail sale of the tobacco product that is not the unit packaging and labelling;

“service area” means any area designed to be used or is regularly used by one or more persons to receive or wait to receive a service, or make a transaction whether or not such service includes the exchange of money including, ATMs, telephone kiosks, ticket lines, bus stops, railway platforms and taxi ranks;

“point of sale” means any place where tobacco products are distributed, or sold as wholesale or retail;

“principal display area” includes in the case of

(a) box type packages, two equal sized largest surface areas of the box that may be displayed or visible under normal conditions of sale or use;

(b) pouch type packages, the entire surface area of the pack that may be displayed or visible under the normal conditions of sale or use;

(c) conical or cylindrical type of packages, the entire curved area of the pack that may be displayed or visible under normal conditions of sale or use; or

(d) any other form or type of package, the entire surface area of the pack that may be displayed or visible under normal conditions of sale or use;

“service line” means an outdoor queue in which one or more persons are waiting for or receiving service of any kind;

“tobacco industry” means tobacco product manufacturers, wholesale distributors, and importers;

“unit packaging” means a single package required to contain the minimum number of sticks of smoked tobacco products or grams of smokeless tobacco products, as prescribed in regulation 11;

“ventilation inlet” means the part of a mechanical ventilation system designed to allow air into the building; and

“window” means an operable window.

HON. ALEXANDER P. SEGBEFIA

Minister responsible for Health

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