

**ACTS SUPPLEMENT**

*to The Uganda Gazette No. 67, Volume CVIII, dated 18th November, 2015.*

Printed by UPPC, Entebbe, by Order of the Government.

**Act 22**

*Tobacco Control Act*

**2015**

**THE TOBACCO CONTROL ACT, 2015.**

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## THE TOBACCO CONTROL ACT, 2015

**An Act to control the demand for the consumption of tobacco and its products, to control the supply of tobacco and its products to the population; to protect the environment from the effects of tobacco production and consumption and exposure to tobacco smoke; to promote the health of persons and reduce tobacco related illnesses and deaths; to protect persons from the socio-economic effects of tobacco production and consumption; to promote research, surveillance and exchange of information on tobacco control; to insulate tobacco control policies, laws and programs from interference by the tobacco industry; to strengthen coordination, partnerships and collaboration for tobacco control; to establish the Tobacco Control Committee; to fulfil Uganda's obligation and commitment as a party to the World Health Organisation Framework Convention on Tobacco Control (WHO FCTC) and to provide for other related matters.**

### **PREAMBLE**

WHEREAS the World Health Organisation Framework Convention on Tobacco Control was signed at the United Nations Headquarters in New York on the 5th day of March 2004 on behalf of the Republic of Uganda as a member of the World Health Organisation;

AND WHEREAS Uganda ratified the Convention on the 20th day of June 2007 in accordance with Article 123 of the Constitution of the Republic of Uganda, section 3(b) (ii) of the Ratification of Treaties Act and Article 35 of the World Health Organisation Framework Convention on Tobacco Control;

AND FURTHER WHEREAS it is expedient to give the force of law to the Convention in Uganda;

DATE OF ASSENT: 19th September, 2015.

*Date of Commencement: See section 1.*

NOW THEREFORE be it enacted by Parliament as follows:

#### PART I—PRELIMINARY.

##### **1. Commencement date.**

This Act shall come into force after six months from the date of its publication in the Gazette.

##### **2. Interpretation.**

In this Act, unless the context otherwise requires—

“additive” means any substance, chemical compound or component other than tobacco or water, that is introduced in the tobacco product during processing, manufacturing or packaging, including, as applicable, those obtained in the paper, filter, portion pouch, or similar part of the tobacco product, its package or accessories and shall include any residues of pesticides fungicides and other chemicals used during tobacco growing, harvesting, curing, storing or other stages of preparing the tobacco products for consumption;

“authorized agency” means any Ministry, department, parastatal agency, local government council or public office in which or upon which any law vests functions of control or management of any segments of tobacco control;

- “authorised officer” means a public officer or other person upon whom any law vests functions of; ensuring public health, public safety, inspection and investigation, testing, examining the manufacturing process, searching, seizing and detaining, sampling, tracking and tracing, maintenance of law and order or any other function authorized by the Minister;
- “brand name” means a name by which a tobacco product is marketed or sold;
- “Committee” means the Tobacco Control Committee established under section 3;
- “conflict of interest”, means conflict between the public duties and private interests of a person working in or on behalf of Government in any capacity, where that person has tobacco-related interests which could improperly influence the performance of his or her official duties and responsibilities;
- “constituents” means chemicals, including particles, vapors and gases found in tobacco or tobacco product;
- “content” means constituents with respect to processed tobacco and ingredients with respect to tobacco products;
- “cross border advertising with respect to tobacco advertising, promotion, and sponsorship” means advertisement which originates from within the territory of Uganda to another territory or which may be received in another territory, by means such as, placement on the internet or through broadcasts or other communications technologies, as well as advertisement which is originated from outside the territory of Uganda which is designed to be used in Uganda;
- “currency point” has the meaning assigned to it in the First Schedule to this Act;

- “electronic nicotine delivery systems” means an electronic device that may be used to deliver nicotine vapour or other substances to the person inhaling from the device, including, an electronic cigarette, a cigar, a cigarillo, and a pipe;
- “emissions” means substances that are released when a tobacco product is used as intended, found in the smoke or released during the process of chewing or sucking or sniffing;
- “enclosed or indoor” means any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, walls or sides or whether the structure is permanent or temporary;
- “exporter” means a person who sends or arranges to send a tobacco product outside Uganda for sale or supply in another country;
- “Government” or “Government authority” includes Governmental and semi or quasi Governmental institutions, bodies, boards, commissions, committees, work groups, or entities;
- “health warnings and messages” means prescribed text and accompanying full colour pictures required by the Ministry to be displayed on tobacco packaging and labelling that convey the health and other consequences of tobacco use and exposure to tobacco smoke and any other tobacco control messages as prescribed by the Minister;
- “importer” means a person who receives or arranges for the receipt of a tobacco product from another country for sale in Uganda;

- “ingredients” means tobacco, tobacco components, including materials used to manufacture those components, additives, processing aids, residual substances found in tobacco, following storage and processing and substances that migrate from the packaging material into the product;
- “manufacturer” means a legal entity, that manufactures, fabricates, produces, processes, packages or labels tobacco products, and includes an entity that is associated with manufacture, an entity that controls or is controlled by the manufacturer, or that which is controlled by the same entity that is controlled by the manufacturer;
- “media” means broadcast, print, electronic or any other avenues of communicating to the public;
- “Minister” means Minister responsible for health;
- “Ministry” means Ministry responsible for health;
- “minor” means a person below the age of 21 years;
- “occupational activity” includes any kind of employment, contract, consultancy, other work, or service activity, whether it is gainful or not;
- “open space” or “outdoor space” means any space that is not enclosed;
- “outside packaging” means any packaging in the retail sale of tobacco products, including multiple packages of tobacco products such as cartons, and includes any label and other written or graphic information on or in it;
- “package” means any covering, wrapper, container or other enclosure that contains a tobacco product;



“person responsible for the premises” means the owner, manager or other person in charge of the public place, workplace or means of public transport;

“public office holder” means an appointed or elected government official, representative, advisor, or employee within any branch of government at the national level or at the level of the local government;

“public place” includes an area, permanent or temporary, fixed or mobile, that is accessible to the general public or for collective use by the general public regardless of ownership or right of access;

“public transport” means any means of transport used for the carriage of members of the public;

“publish” means to make public to at least one other person by any means;

“relevant or related to tobacco control” includes tax, levies, price, trade, agriculture and other policies that affect or are likely to affect tobacco control policies;

“responsible for tobacco control” or “responsibility for tobacco control” includes being involved in or contributing to or being in a position to be involved in or contribute to the development, implementation, administration or enforcement of tobacco control policies or those relevant or related to tobacco control, within any branch of government at the national or sub-national levels;

“smoking” means possessing or controlling a lit or heated tobacco product regardless of whether the smoke is actively inhaled or exhaled;

- “smokeless tobacco product” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for chewing, sucking or sniffing or any other means of oral consumption;
- “subsidiary”, means business in the tobacco industry in which another tobacco corporation has a controlling share and includes any corporation organized and chartered under the laws of another State;
- “supplier” means a person who sells, offers to sell, displays for sale, gives or in any other way transfers possession of a tobacco product for a commercial purpose or who offers to transfer possession for a fee or other consideration or as a sample, gift, prize, or without charge;
- “supply” means to sell, give, exchange, convey, consign, deliver, furnish or transfer possession of or title to any tobacco product for the purpose of obtaining financial or business gain, or arrange or offer to do so, whether for a fee or other consideration or without charge;
- “tobacco” means a tobacco plant including its seeds and leaves;
- “tobacco advertising and promotion” means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly and includes any commercial communication, act or practice that promotes or is likely to promote a tobacco manufacturer, wholesaler, distributor or importer;
- “tobacco control” means a range of supply, demand and harm reduction strategies that are aimed improving the health of a population by eliminating or reducing their consumption of tobacco or its products and exposure to tobacco smoke;

“tobacco control policies” includes formulation, implementation, administration or enforcement of tobacco control policies, laws, regulations, programmes or initiatives and includes policies relevant or related to tobacco control;

“tobacco industry” means—

- (a) with respect to Part II and Part IX, tobacco manufacturers, wholesale distributors and importers of tobacco products and a person or entity working on their behalf to further their interests; and
- (b) with respect to Part VIII and section 43, tobacco manufacturers, wholesale distributors and importers of tobacco products;

“tobacco product” means a product which is entirely or partly made of the leaf tobacco as raw material which is manufactured to be used for smoking, sucking, chewing, snuffing or to be consumed by any other means;

“tobacco smoke, second hand smoke” and “environmental tobacco smoke” means the smoke or other emissions released from a tobacco product or the smoke exhaled by a person smoking a tobacco product;

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

“trademark” includes a recognizable variation of a trademark;

“workplace” means an area, permanent or temporary, in which a person performs duties of employment or work, regardless of whether the work is done for compensation or on a voluntary basis and includes a private office, a common area and any other area which is generally used or frequented during the course of employment or work.

## PART II—THE TOBACCO CONTROL COMMITTEE.

**3. Establishment of the Committee.**

(1) There is established a committee to be known as the Tobacco Control Committee.

(2) The Committee shall consist of the following—

- (a) a representative from the Office of the Prime Minister, who shall be the Chairperson;
- (b) the Director General of Health Services;
- (c) the National Focal Point Person for Tobacco Control, designated under section 7;
- (d) a representative of the Ministry responsible for trade;
- (e) a representative of the Ministry responsible for education and sports;
- (f) a representative of the Ministry responsible for agriculture, animal industry and fisheries;
- (g) a representative of the Ministry responsible for gender, labour and social development;
- (h) a representative of the Uganda National Bureau of Standards;
- (i) a representative of the National Environment Management Authority; and
- (j) one representative of the civil society engaged in tobacco control, nominated by a forum of organisations engaged in tobacco control.

(3) A member referred to in subsection(2) (d) (e) (f) and (g) shall be appointed by the Minister of the respective Ministry and shall not be below the rank of principal.

(4) A member referred to in subsection (2) (h) and (i) shall be appointed by the head of the respective organisation.

(5) A member of the Committee shall not have any affiliation with the tobacco industry or any person or entity furthering the interests of the tobacco industry or its subsidiaries.

(6) A member referred to in subsection 2 (c) shall be the secretary to the Committee.

(7) The Minister shall appoint a Vice Chairperson from among the members of the Committee.

(8) The Chairperson and Vice Chairperson shall—

- (a) not be of the same gender;
- (b) be of high moral character and proven integrity;
- (c) be a holder of degrees from universities recognized in Uganda; and
- (d) possess the relevant qualifications and experience in public administration.

#### **4. Tenure of office.**

(1) The members of the Committee shall hold office for a period of three years and are eligible for re-appointment for one more term only.

(2) A member may—

- (a) at any time, before the expiry of his or her term, resign his or her office by giving written notice to the Minister and copying the notice to the Chairperson of the Committee;
- (b) be removed from office by the Minister where the member—

- (i) fails to attend three consecutive meetings of the Committee without notice in writing to the Chairperson;
- (ii) is incapacitated by physical or mental illness and is incapable of performing his or her duties as a member of the committee for a period of not less than six months;
- (iii) is convicted of an offence and sentenced to a term not less than six months without the option of a fine; or
- (iv) has an affiliation with the tobacco industry or any person or entity furthering the interests of the tobacco industry or its subsidiaries.

#### **5. Functions of the Committee.**

(1) The Committee shall be the National Coordinating Mechanism for purposes of the effective implementation of the World Health Organization's Framework Convention on Tobacco Control.

(2) The Committee shall subject to this Act—

- (a) implement the objectives of this Act in accordance with the World Health Organization's Framework Convention on Tobacco Control and its implementing guidelines and protocols;
- (b) coordinate and monitor tobacco control interventions;
- (c) advise the Minister on policies and legislative measures relating to tobacco control;
- (d) monitor interference and insulate tobacco control related policies from commercial and other vested interests of the tobacco industry;
- (e) advise the Minister on the administration of this Act;

- (f) perform any other function incidental to the effective implementation of the provisions of this Act as may from time to time be assigned to it by the Prime Minister.

#### **6. Meetings of the Committee.**

(1) The provisions of the Second Schedule to this Act shall have effect with regard to meetings of the Committee.

(2) Subject to this Act and to any direction given in writing by the Minister, the Committee may regulate its own procedure.

#### **7. The National Focal Point Person for Tobacco Control.**

(1) The Minister shall designate a person within the Ministry to be the National Focal Point Person for Tobacco Control.

(2) A person designated under subsection (1) shall not be below the rank of principal.

(3) The National Focal Point Person for Tobacco Control shall be the secretary to the Committee.

(4) The secretary to the Committee shall be responsible for taking all the minutes of the meetings of the Committee.

(5) The secretary to the Committee shall perform all other duties and functions that the Committee or the Minister may assign him or her.

#### **8. The secretariat.**

(1) There shall be a secretariat of the Committee stationed in the Ministry.

(2) The secretariat shall be headed by the National Focal point Person for Tobacco Control.

(3) The secretariat may have other public officers as may be transferred or seconded to it by the Minister to carry out functions as may be assigned to it in the instrument of transfer or secondment.

**9. Functions of the Secretariat.**

The secretariat shall—

- (a) coordinate the meetings of the Committee;
- (b) provide technical support for the implementation of tobacco control interventions within this Act;
- (c) produce and disseminate information on tobacco control;
- (d) perform any other duties related to tobacco control; and
- (e) perform any other functions as may from time to time be assigned to it by the Committee.

**10. Protection from liability.**

An employee of the secretariat or any other person acting on behalf of the Committee shall not be held personally liable in respect of any act or omission done in good faith in the performance of his or her duties under this Act.

**PART III—TOBACCO SMOKE-FREE ENVIRONMENT.****11. Right to tobacco smoke-free environment.**

(1) Every person has a right to a tobacco smoke-free environment.

(2) A person consuming a tobacco product shall ensure that he or she does not expose another person to tobacco smoke.

**12. Prohibition of smoking in public places, workplaces and means of public transport.**

(1) A person shall not smoke in a public place, workplace or in any means of public transport prescribed in the Third Schedule to this Act.

(2) A person shall not smoke in any outdoor space that is—



- (a) within 50 meters of any public place, workplace, public transport terminal or any other place that provides services primarily to children;
- (b) within 50 meters of any window, door or air intake mechanism of any public place or workplace or any waiting area or queue;
- (c) within 50 meters from the place of service or consumption of food or drink; or
- (d) designated a non-smoking area by the person responsible for the premises.

(3) A person responsible for a public place, workplace or means of public transport shall take reasonable effort to ensure the observance of subsections (1) and (2).

(4) A person responsible for a public place, workplace or means of public transport shall—

- (a) order a person found contravening this section to immediately cease smoking, indicating the penalty for contravention;
- (b) require a person who fails or refuses to comply with paragraph (a) to leave the place or disembark from the means of public transport immediately, as the case may be;
- (c) cause arrest or contact a law enforcement agent or other authority if the person fails to comply with a caution prescribed under paragraph (a) or (b).

(5) A person responsible for the premises shall ensure that there are no ash trays or other items that suggest smoking in a public place, indoor area of the premise and any outdoor area where smoking is prohibited.

(6) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ten currency points or to imprisonment for a term not exceeding five months, or both.

(7) A person responsible for the premises and the managing agent of the person who continuously contravenes subsections (2) and (3) shall have his or her license for the premise revoked by the issuing authority and the premise shall be closed for a period of not less than six months.

### **13. Display of notices:**

(1) A person responsible for premises where smoking is prohibited shall display in a conspicuous place, a clear and prominent notice in the English language, swahili and the language commonly used in the area, that smoking is prohibited together with the prescribed penalty.

(2) A notice required under this section shall be in such form, size, font, format and content and shall be displayed or posted in such places as shall be prescribed by the Minister by regulations.

(3) A person responsible for premises who contravenes this section commits an offence and is liable on conviction to a fine not exceeding twelve currency points or to imprisonment for a term not exceeding six months, or both.

(4) A person who contravenes this section shall on subsequent conviction be liable to a fine not exceeding twenty four currency points or to imprisonment for a term not exceeding one year, or both.

(5) Where this section is contravened by a corporation or partnership, the manager, director, officer or their legal representative shall bear responsibility for the costs incurred in the enforcement process.

PART IV—COMPREHENSIVE BAN ON TOBACCO ADVERTISING,  
PROMOTION AND SPONSORSHIP.

**14. Comprehensive ban on tobacco advertising, promotion and sponsorship.**

(1) All forms, methods and means of tobacco advertising, promotion and sponsorship, including cross-border tobacco advertising, promotion or sponsorship prescribed in the Fourth Schedule to this Act are prohibited.

(2) A person shall not—

- (a) initiate tobacco advertising, promotion or sponsorship including cross-border tobacco advertising, promotion or sponsorship;
- (b) produce, publish or make accessible any material for tobacco advertising, promotion or sponsorship including cross-border tobacco advertising, promotion or sponsorship; or
- (c) engage or participate in any tobacco advertising, promotion or sponsorship.

(3) A person involved in the production, placement, publication or dissemination of any information shall take reasonable steps to prevent the production, placement, publication or dissemination of tobacco advertisement, promotion or sponsorship.

(4) Notwithstanding subsection (1), the following may be allowed—

- (a) plain black and white price lists, as may be prescribed, made available on request where tobacco products are sold, provided the price lists contain no material other than the product brand name, package quantity and price, as well as the prescribed health warnings and any other information that may be prescribed by the Minister;

- (b) the name of the manufacturer, product and brand on the tobacco product package, subject to any conditions imposed by Regulations;
- (c) tobacco product information communicated in such a manner to be accessible only to persons within the commercial tobacco trade who need the information to make trading decisions;
- (d) tobacco manufacturers' newsletters destined for and distributed only to the manufacturer's employees, contractors, suppliers, or other business partners;
- (e) depiction of tobacco products or tobacco use in the media where the depiction is justified for educational purposes of tobacco control; and
- (f) publication of information required by law.

(6) A person shall not employ any means to convey information that is false, misleading or deceptive or likely to create an erroneous impression about a tobacco product's characteristics, health effects, hazards or emissions.

(7) A person who violates this section commits an offence and is liable on conviction to a fine not less than twenty-four currency points or imprisonment for a term not less than one year, or both.

(8) Where a person convicted under this section is a corporate entity, the court may, in addition to the penalty stipulated under subsection (7)—

- (a) impose a fine of not less than one thousand currency points;
- (b) order for the surrender of any proceeds of sale of the product to Government; or
- (c) suspend the trading licence of that person for a period of not less than six months.

(9) Notwithstanding the penalty prescribed in subsection (8), court may order the seizure, forfeiture or destruction of the prohibited material, at the cost of the offender.

(10) For the purposes of this section, a director, manager or officer of a corporate entity, may be held personally liable for the offence committed.

#### PART V—TOBACCO PRODUCT PACKAGING AND LABELLING.

### **15. Packaging and labelling of tobacco products.**

(1) A person shall not import, manufacture, distribute, sell or offer for sale a tobacco product in Uganda unless the unit packet, package of tobacco product or outside packaging and labelling of the product conforms to the packaging and labelling requirements prescribed by the Minister by statutory instrument.

(2) Subject to subsection (1), the text and pictures comprising the health warnings and messages shall appear together and shall occupy no less than 65% of each principal display area of the unit packet, package of tobacco product or outside packing and shall not include the space taken up by any border surrounding the health warnings and messages.

(3) A person shall not label or package a tobacco product by any means including a term, descriptor, trademark, figurative or other sign that is false, misleading, deceptive or likely to directly or indirectly create an erroneous impression about the product's characteristics, health effects, hazards or emissions.

(4) A person who contravenes this section commits an offence and is liable on conviction to a fine not less than twenty four currency points or imprisonment for a term not less than one year, or both.

(5) Where a person convicted under this section is a corporate entity, the court may in addition to the penalty stipulated—

- (a) impose a fine of not less than one thousand currency points; or
- (b) order for the surrender of any proceeds of sale of the product to government; or
- (c) suspend the trading licence of that person for a period of not less than six months.

(6) In addition to the penalty prescribed in this section, court shall order the seizure, forfeiture and destruction of tobacco products that do not conform to the requirements of this section.

(7) For the purposes of this section, a director, manager or officer of a corporate entity, may be personally held liable for the offence committed by a corporate entity.

#### PART VI—RESTRICTIONS ON THE SALE, SUPPLY AND USE OF TOBACCO PRODUCTS.

### **16. Sale and display of tobacco and tobacco products.**

(1) A person shall not sell, arrange to sell or enable or facilitate a sale or buy a tobacco product in a place specified in the Fifth Schedule to this Act.

(2) A person shall not import, manufacture, distribute, process, sell, offer for sale, or bring into the country—

- (a) an electronic nicotine delivery system, including the electronic vaporisation device or cartridges with nicotine-containing liquid or other substances to be vaporised;
- (b) a water pipe tobacco delivery system, including the water pipe device or the water-pipe tobacco product or other substances to be used in the water-pipe delivery system; or
- (c) a smokeless or flavoured tobacco product.

(3) A person shall not prominently display or make visible a tobacco product at any point of sale, other than being visible momentarily at the time of a sales transaction.

(4) A person shall not sell a tobacco product—

- (a) through an automated vending machine;
- (b) by delivery, mail order or via the internet, telecommunication or any other means through which the age of the person cannot be ascertained;
- (c) by any other means in which the purchaser and seller are not in the same physical location; or
- (d) by any other means as may be prescribed by the Minister by statutory instrument.

(5) A person shall not import, manufacture, distribute, sell, or offer for sale a unit packet of a tobacco product unless the packet is intact.

(6) Notwithstanding subsection (5), the Minister may by statutory instrument prescribe other requirements in relation to this section.

(7) A person who contravenes this section commits an offence and is liable on conviction to a fine not less than twenty four currency points or imprisonment for a term not less than one year, or both.

(8) Where a person convicted under this section is a corporate entity, the court shall in addition to the penalty stipulated—

- (a) impose a fine of not less than one thousand currency points;
- (b) order for the surrender of any proceeds of sale of the product to Government; or
- (c) suspend the trading licence of that person for a period of not less than six months.

(9) Notwithstanding the penalty prescribed in subsection (8), court may order the seizure, forfeiture or destruction of the prohibited material, at the cost of the offender.

(10) For the purposes of this section, a director, manager or officer of a corporate entity, may be personally held liable for the offence committed.

**17. Prohibition of the supply of tobacco and tobacco products to and by minors.**

(1) A person shall not employ or involve a minor in the cultivation, harvesting, growing, curing, manufacturing, importation, distribution, selling or offering for sale or purchasing of tobacco or a tobacco product or in any other tobacco related activity.

(2) A person shall not import, manufacture, distribute, sell or offer for sale a sweet, snack, toy, or any other object in the form of tobacco or a tobacco product including an object which resembles, mimics or imitates a tobacco product which may appeal to a minor.

(3) It shall not be a defence for a person charged for an offence under this section to claim that he or she did not know that the person was a minor.

(4) A person who violates this section commits an offence and is liable on conviction to a fine of not less than one hundred currency points or imprisonment for a term not less than one year, or both;

(5) Where a person convicted under this section is a corporate entity, the court shall in addition to the penalty stipulated—

- (a) impose a fine of not less than one thousand currency points;
- (b) order for the surrender of any proceeds of sale of the product to Government; or
- (c) suspend the trading licence of that person for a period of not less than six months.



(6) Notwithstanding the penalty prescribed in subsection (5), court shall order the seizure, forfeiture or destruction of the prohibited material, at the cost of the offender.

(7) For the purposes of this section, a director, manager or officer of a corporate entity, may be personally held liable for the offence committed.

PART VII—REGULATION OF TOBACCO PRODUCTS CONTENTS AND EMISSIONS DISCLOSURES.

**18. Regulation of tobacco products.**

(1) A person shall not import, manufacture, distribute, sell or offer for sale a tobacco product unless the tobacco product conforms to the tobacco product standards on contents and emissions or other disclosure requirements prescribed by the Minister by statutory instrument.

(2) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine not less than twenty four currency points or imprisonment for a term not less than one year, or both.

(3) Where a person convicted under this section is a corporate entity, the court may in addition to the penalty stipulated—

- (a) impose a fine of not less than one thousand currency points;
- (b) order for the surrender of any proceeds of sale of the product to Government; or
- (c) suspend the trading licence of that person for a period of not less than one year.

(4) Notwithstanding the penalty prescribed in subsection (3), court may order the seizure, forfeiture or destruction of the prohibited material at the cost of the offender.

PART VIII—PROTECTION OF TOBACCO CONTROL POLICIES FROM  
COMMERCIAL AND OTHER VESTED INTERESTS OF THE TOBACCO  
INDUSTRY.

**19. Duty of Government.**

(1) In the implementation of this Act and any public health policy related to tobacco control, it shall be the duty of Government to—

- (a) protect the public against the influence of and interference by the commercial and other vested interests of the tobacco industry; and
- (b) ensure that there is transparency in the interactions of Government with the tobacco industry.

(2) The records and documents related to the interactions, communications and contacts held between the Government and the tobacco industry shall be transparent, and open to the public.

**20. Government interactions with the tobacco industry.**

(1) A person, body or entity that contributes to or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not interact with the tobacco industry except where it is strictly necessary for the effective regulation of the tobacco industry or a tobacco product.

(2) The interactions in subsection (1) shall be transparent.

**21. Prohibition on partnerships and endorsements of the tobacco industry.**

A person, body or entity that contributes to or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not participate in, support, endorse or accept—

- (a) a partnership of any kind with the tobacco industry, including initiatives or activities of the tobacco industry described, characterized, implied, or likely to be perceived as socially responsible;
- (b) any non-binding or non-enforceable agreement, memorandum of understanding, voluntary arrangement or tobacco industry code of conduct in the place of legally enforceable tobacco control measures;
- (c) direct or indirect financial or resource contribution or involvement in any manner in any initiative, campaign or programme directly or indirectly related to tobacco control or public health, including but not limited to, youth access and education programmes, public education campaigns, and other initiatives; or
- (d) proposals, drafts or offers of assistance with the development or implementation of any tobacco control policies.

**22. Prohibition on voluntary contributions from the tobacco industry.**

A person, body or entity that contributes to or may contribute to, the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not solicit or accept contributions from the tobacco industry.

**23. Prohibition of incentives or privileges to tobacco businesses.**

A person, body or entity that contributes to or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not—

- (a) provide any incentive, benefits, privileges or preferential tax exemptions to the tobacco industry;
- (b) invest in the tobacco industry or related ventures;
- (c) establish or operate a tobacco manufacturing, wholesale or import business; or
- (d) give any incentive or offer a privilege related to any phase of the production or marketing of tobacco products or growing of tobacco.

**24. Penalty for contravention of sections 21, 22 and 23.**

A person who contravenes sections 21, 22 or 23 commits an offence and is liable on conviction to—

- (a) cancellation of the partnership, endorsement, memorandum of understanding or any other agreement;
- (b) forfeiture of the contribution from the tobacco industry; or
- (c) revocation of the incentive, benefit, privilege or preferential tax exemptions if any.

**25. Prevention and management of conflict of interest.**

(1) A person who contributes to, or may contribute to, the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not engage in any occupational activity that may create a conflict of interest.

(2) Conflict of interest shall be taken to arise when a person referred to in subsection (1)—

- (a) deals with a matter in which he or she has interest and where he or she is in a position to influence the matter, directly or indirectly in the course of his or her duty;
- (b) by virtue of the official position the person holds, the services he or she offers to another person or private body, another are in conflict with his or her official duties; or
- (c) solicits or gets a bribe to influence his or her actions.

(3) A person shall not be assigned a position to contribute to or where the person is likely to contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control activities if that person has engaged in any occupational activity with the tobacco industry within less than two years of the proposed assignment.

(4) A person who contributes to or may contribute to, the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall not engage in any occupation activity with the tobacco industry within a period of twenty four months of leaving Government service and the person shall be bound by the confidentiality clause with respect to any matter involving tobacco control policy or programme development or implementation as prescribed by the Minister by statutory instrument.

(5) A person who was previously engaged in any occupational activity with the tobacco industry, who seeks employment in a body, private or public, that contributes to, or is likely to contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall disclose the nature and extent of his or her duties during the period when he or she was engaged in any occupation activity with the tobacco industry.

(6) A person who contributes to or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control shall, by written notice, within seven days of accepting to engage in any occupational activity with the tobacco industry, disclose his or her intention to the Tobacco Control Committee.

(7) A person who contravenes this section commits an offence and shall be liable on conviction to a fine of not less than two hundred forty currency points or imprisonment for a term not less than five year, or both.

(8) In addition to the penalty prescribed in subsection (7), the court may, having regard to the loss suffered by the Government or public body, order a person to pay by way of compensation to Government or public body such sum as in the court's opinion is just.

(9) The order issued under subsection (8) shall be deemed to be a decree under section 25 of the Civil Procedure Act and shall be executed in the manner provided under section 39 of the Civil Procedure Act.

#### PART IX—ENFORCEMENT.

### **26. Appointment of authorised officers.**

(1) The Minister may, by notice in the Gazette, appoint a person or class of persons to be authorised officers, for the purposes of this Act.

(2) The Minister shall issue a certificate of appointment to every person appointed under this section.

(3) Notwithstanding this section, the following officers shall be deemed to be authorized officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act;
- (b) environmental inspectors appointed or designated by the National Environment Management Authority (NEMA);

- (c) standards inspectors appointed under the National Bureau of Standards Act;
- (d) customs officers appointed under the Uganda Revenue Authority Act; and
- (e) a person upon whom any written law vests functions of the maintenance of law and order.

**27. Places where authorized officers may enter.**

(1) For the purpose of ensuring compliance with this Act, an authorized officer may, at any time, enter any place or premises, in which the authorised officer believes on reasonable grounds that—

- (a) tobacco or a tobacco product is or has been produced, manufactured, tested, stored, labelled, sold or used;
- (b) there are items or substances used in the production, manufacture, testing, packaging, labelling, promotion or sale of a tobacco product; or
- (c) there is information relating to the production, manufacture, testing, packaging, labelling, promotion or sale of a tobacco product.

(2) An authorised officer entering premises under this section shall, if so required, identify himself or herself to a person who is in charge of the premises or place.

**28. Powers of authorised officers.**

(1) An authorised officer may—

- (a) examine a tobacco product or anything referred to it in this Act;
- (b) require a person in a place or premises referred to in section 27 to produce for inspection, in the manner and form requested by the authorised officer, the tobacco product or item being regulated under this Act;

- (c) open or require a person in the place or premises referred to in section 27 to open any container or package found in the place that the officer believes on reasonable grounds contains a tobacco product or an item regulated under this Act;
- (d) take or require a person to produce a sample of the tobacco product found in any premises or place and submit the sample to any test he or she may consider necessary;
- (e) require a person found in the place or premises referred to in section 27 to produce, for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act; or
- (f) confiscate or destroy a tobacco product or an item that does not conform to the provisions of this Act.

(2) The destruction of a tobacco product or item referred to in subsection (1) (f) shall be by court order and in conformity with the requirements to the National Environment Act, Cap. 153.

## **29. Powers to issue warrant.**

(1) Upon an ex-parte application, a magistrate or judge of the High Court may issue a warrant authorising the authorised officer named in the warrant to enter and inspect a dwelling place or premise, subject to the conditions specified in the warrant if any, where the magistrate or judge is satisfied by information on oath that—

- (a) entry to the dwelling place or premise is necessary for the administration or enforcement of this Act;
- (b) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.



(2) For the purposes of this section, a dwelling place shall be a building or other place in which people live.

### **30. Use of records.**

In carrying out an inspection of a place, an authorized officer may—

- (a) use or cause to be used any computer system in the place, to examine data contained in or available on the computer system, that is relevant to the implementation or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; or
- (d) scrutinize any other record system in use in a place.

### **31. Use of force.**

An authorized officer executing the warrant issued under section 29 shall not use force unless the officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

### **32. Certificate of analysis.**

An authorized officer who analyzes or examines a tobacco product or item under this Act, or a sample of it, shall issue a certificate or report setting out the result of the analysis or examination.

### **33. Assistance to officers.**

An owner or a person in charge of a place or premises or a person found in a place to be inspected by an authorized officer shall—

- (a) provide the necessary assistance to enable the authorized officer execute his or her duties under this Act; and
- (b) furnish the authorized officer with such information, materials or any other item as the officer requires for the purpose for which entry into the place is made.

**34. Obstruction.**

A person shall not obstruct an authorised officer in his or her duties, or knowingly make a false or misleading statement to an authorised officer.

**35. Seizure.**

During an inspection, an authorized officer may seize any tobacco product or item by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory of the tobacco product or item shall be made at the time of the seizure by the officer.

**36. Storage and removal.**

An authorized officer may direct that any tobacco product or item seized by him or her be kept or stored in the place where it was seized or that it be transferred to another place.

**37. Interference with a seized product or item.**

Unless directed by an authorized officer, a person shall not remove, alter or interfere with, in any manner, with any tobacco product or other item seized.

**38. Restoration of seized product or item.**

A person from whom a tobacco product or item is seized may, within fourteen days after the date of seizure, apply to the Magistrates Court or the High Court for an order of restoration.

**39. Order for restoration.**

The Magistrates Court or High Court may order that the tobacco product or item be restored to the applicant if, on hearing the application, the court is satisfied that—

- (a) the applicant is entitled to possession of the tobacco product or the item seized; and

- (b) the tobacco product or item seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

#### **40. Forfeiture.**

A tobacco product or item shall be forfeited to the Government and may be destroyed or disposed of as the Minister may direct where—

- (a) no application is made under section 38, or an application is made but on the hearing of the application, no order for restoration is made;
- (b) a person is convicted of an offence under this Act in respect of which a tobacco product or item has been seized; or
- (c) an officer seized a tobacco product or item and the owner or the person in whose possession it was at the time of seizure consents in writing to its forfeiture.

#### **PART X—MISCELLANEOUS.**

#### **41. Offences by and relating to officers and persons employed to implement the provisions of this Act.**

(1) An authorised officer or a person employed in enforcing the provisions of this Act who—

- (a) directly or indirectly asks for or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise or promise or security for the payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do or to abstain from doing, permit, conceal or connive at any act or thing whereby the implementation of the provisions of this Act is compromised,

commits an offense and is liable on conviction to a fine of not less than fifty currency points or to imprisonment for a term of not less than one year, or both.

(2) A person who—

- (a) directly or indirectly offers or gives an officer a payment or reward, whether pecuniary or otherwise, or a promise or security for a payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) proposes or enters into an agreement with an officer in order to induce the officer to do or to abstain from doing, permit, connive or conceal the implementation of the provision of this Act,

commits an offence and is liable on conviction to a fine of not less than fifty currency points or imprisonment for a term of not less than one year or both.

(3) A person who volunteers information in relation to the contravention of any provision of this Act, shall be offered protection, in accordance with the Whistleblowers Protection Act, 2010.

#### **42. Making false or misleading statements.**

(1) A person who—

- (a) makes a statement to an authorized officer or to the Committee that is false or misleading in a material particular; or
- (b) omits from a statement made to an authorized officer or to the Committee any matter or thing without which the statement is misleading in a material particular,

where the statement or omission was made knowingly or recklessly, commits an offence and is liable on conviction to a fine of not less than fifty currency points or to imprisonment for a term not exceeding two years, or both.

(2) Where a person convicted under this section is a corporate entity, the court may in addition to the penalty stipulated—

- (a) impose a fine of not less than one thousand currency points;  
or
- (b) suspend the trading licence of that entity for a period of not less than six months.

#### **43. Tobacco industry reporting to the Committee.**

(1) A manufacturer, importer, supplier or distributor of tobacco or a tobacco product shall periodically provide reports to the Committee or upon request, with the contents specified in the Sixth Schedule to this Act.

(2) A report made under subsection (1) or under any other provision of this Act shall contain the information required by the prescribed Regulations.

(3) The information required under this section shall be made available to the public, as may be prescribed by Regulations.

(4) The secretariat to the Committee shall maintain the reports in accordance with the relevant laws and shall make the information from the reports readily accessible to the public in a timely manner, while taking reasonable action necessary to prevent disclosure of any information that may be protected by law and any information that may be misleading or that may promote the tobacco business.

**44. General penalty.**

Any person who commits an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding twenty four currency points or imprisonment for a term not exceeding six months.

**45. Regulations.**

The Minister shall, in consultation with the Committee, by statutory instrument, make Regulations—

- (a) for the manufacture, packaging and labelling, importation, distribution and sale of tobacco products and the reporting requirements for the manufacturers and sellers;
- (b) for tobacco product testing and measuring methods that shall be used for the required reports on product constituents and emissions and in relation to any product standards that may be prescribed;
- (c) prescribing or prohibiting anything required to be prescribed or prohibited by this Act; and
- (d) for the implementation of the provisions of this Act.

**46. Amendment of Schedules.**

The Minister may, by statutory instrument, and with the approval of Parliament amend the schedules to this Act.

**47. Transitional provision.**

A manufacturer, supplier, retailer or an importer or exporter of a tobacco product shall comply with the requirements of this Act within one year of the commencement of this Act.

**48. Protection from retaliation.**

It shall be unlawful for the Government, a business or an entity or a person to retaliate or discriminate against an employee, applicant, contractor, or a person where that person—

- (a) made a complaint, reported, disclosed or opposed any conduct, activity or practice that could reasonably be construed to be a violation of a provision of this Act, Regulations made under this Act or policies; or
- (b) brought a legal action, testified in any proceeding or hearing, or assisted or participated in any way in any investigation brought pursuant to this Act or any other applicable law.

**49. Saving.**

Any law existing immediately before the coming into force of this Act relating to tobacco or tobacco products shall have effect subject to such modifications as may be necessary to give effect to this Act; and where any such law conflicts with this Act, the provisions of this Act shall prevail.

**50. Charges by Government.**

All notices displayed by the operation of the provisions of this Act shall not attract any charges by Government.

**SCHEDULES**

*First Schedule.*

**Currency point.**

s.2.

One currency point is equivalent to twenty thousand shillings.



*Second Schedule.*

s.6.

**Meetings of the Committee.**

1. The chairperson shall preside at every meeting of the Committee and in his or her absence, the vice chairperson shall preside and in the absence of both chairperson and vice chairperson, the members present shall elect one person from among their number to chair the meeting.
2. The Committee shall meet for the discharge of business at such a time and place as the secretary, in consultation with the chairperson may appoint, and shall meet at least once in every three months.
3. Questions proposed at a meeting of the Committee shall be determined by consensus but where consensus cannot be reached, then by a simple majority of members present and voting; and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote.
4. The chairperson may invite any person not being a member of the Committee to attend a meeting for the purpose of assisting or advising the Committee on any relevant matter, but that person shall not vote on any matter at the meeting.
5. The proceedings of the meetings of the Committee shall be valid notwithstanding any vacancy of its members or by reason of defect in the appointment of any of them.
6. The Committee shall cause the minutes of the proceedings of its meeting to be recorded and kept, and the minutes of each meeting shall be approved by the Committee at the next meeting and shall be signed by the chairperson and the secretary.
7. The chairperson of the Committee shall submit to the Minister a copy of the minutes of each meeting as soon as the minutes have been approved by the Committee for effective implementation.

**Public places and workplaces in which smoking is prohibited.**

The Public places and workplaces where smoking is prohibited include—

- (a) offices, office buildings and work places including individual offices, public areas, corridors, lounges, guest rooms, lodging, eating areas, reception areas, lifts, escalators, foyers, stairwells, toilets, laundries and amenity areas;
- (b) court buildings;
- (c) factories;
- (d) hotels;
- (e) bars and restaurants;
- (f) hospitals, clinics and other health institutions;
- (g) education institutions of all levels;
- (h) premises in which children are cared for;
- (i) public places of worship;
- (j) prisons;
- (k) police cells;
- (l) public service vehicles and other means of public transport;
- (m) public transport terminals, including airports and airfields;
- (n) retail establishments including markets and shopping malls;
- (o) cinemas and theatrical performance halls; and
- (p) sports stadia.

*Fourth Schedule.*

s.14.

**The forms, methods and means of tobacco advertising, promotion and sponsorship prohibited under this Act.**

1. Communication through audio, visual or audiovisual means, such as print (for example, newspapers, magazines, pamphlets, leaflets, flyers, letters, billboards, posters, signs), television and radio (including terrestrial and satellite), films, DVDs, videos and CDs, games (such as computer games, video games or online games), other digital communication platforms (such as the Internet and mobile phones) and theatre or other live performance.
2. Brand-marking, including in entertainment venues and retail outlets and on vehicles and equipment, such as by use of words, designs, images, sounds and colours, including brand names, trademarks, logos, names of tobacco manufacturers or importers and colours or schemes of colours, in whole or part and any other indicia associated with tobacco products, manufacturers or importers.
3. The display or visibility of tobacco products at points of sale and any other commercial display of tobacco products.
4. The sale of tobacco products through vending machines and through the internet.
5. Product diversification through brand stretching and brand sharing.
6. Product placement, such as the inclusion of or reference to a tobacco product, service or trademark in the context of communication in return for payment or other consideration.
7. The provision or offer of gifts or discounted products with the purchase of tobacco products, such as key rings, T-shirts, baseball hats, cigarette lighters, CDs, other trinkets or tobacco products.
8. The supply or offer of free samples of tobacco products, including in conjunction with marketing surveys and taste testing.
9. Incentive promotions or loyalty schemes, such as redeemable coupons provided with purchase of tobacco products.

10. Competitions associated with tobacco products or brand names, whether requiring the purchase of a tobacco product or not.
11. The direct targeting of individuals with promotional, including informational material, such as direct mail, telemarketing, “consumer surveys” or “research” or person- to- person conversation.
12. The promotion of discounted products.
13. The sale or supply of toys or sweets or other non-tobacco products that resemble tobacco products.
14. The payment or other consideration in exchange for the exclusive sale or prominent display of a particular product or particular manufacturer’s product in a retail outlet or at a venue or an event.
15. The sale, supply, placement and display of products at educational establishments.
16. The provision of financial or other support to events, activities, individuals or groups, such as sporting or arts events, individual sportspeople or teams, individual artists or artistic groups, welfare and other public interest organisations, government institutions or organisations, politicians, and political candidates or political parties, whether or not in exchange for attribution, acknowledgement or publicity, including corporate social responsibility activities of any kind.
17. The provision of financial or other support to venue operators, such as pubs, clubs or other recreational venues, in exchange for building or renovating or decorating premises to promote tobacco products or the use or provision of awnings, sunshades and similar items.
18. Any other form of tobacco advertising, promotion or sponsorship by any method or means.

*Fifth Schedule.*

s.16.

**Places where the selling of tobacco products is prohibited.**

1. Hospitals, clinics and other health institutions and the area within 50 meters from those premises.
2. Educational institutional of all levels and the area within 50 meters from those premises.
3. Premises in which children are cared for and the area within 50 meters from those premises.
4. Public places of worship and the area within 50 meters from those premises.
5. Prisons.
6. Police cells.
7. Public service vehicles and other means of public transport.
8. Public transport terminals, including airports and airfields and 50 meters from those premises.
9. Cinemas and theatrical performance halls and a distance 08 up to 50 meters from those premises.
10. Sports stadia and a distance of up to 50 meters from those premises.
11. And any other place as shall be prescribed in the Regulations.

*Sixth Schedule.*

s.43.

**Contents of report by the tobacco industry to the Committee.**

1. The quantity of tobacco or tobacco product manufactured, imported or distributed by the manufacturer, importer or supplier, the quantity which is sold, and the revenues from the sales.
2. The corporate taxes owed and paid.
3. The contents and emissions of the tobacco product.
4. The tobacco product revenues and profits, specified by region and sector and, in the case of tobacco manufacturers, by wholesalers and retailers.
5. The location, address and corporate name of the tobacco and non-tobacco subsidiaries, affiliates, joint ventures, partners, suppliers, and licensees of the manufacturer, importer, supplier or distributor as the case may be.
6. The litigation in which the corporation or its officers or directors or a subsidiary and its officers or directors is or was, at any time a party to the litigation.
7. The contraventions of the Act or prosecutions if any, against the corporation or any of its officers or directors.
8. Information on the tobacco product imports and exports, as required by Regulations made under this Act, and the import and export partners and locations.
9. All activities attempted or undertaken to influence the formulation or implementation of any policy or legislation, directly or indirectly, related to tobacco control or public health.
10. The identification of lobbyists and lobbying firms and all other persons, including employees used for the purpose of taking or attempting action to influence the formulation or implementation of any policy or legislation directly or indirectly related to tobacco control or public health, including advertising, along with an itemization of the costs incurred and payments made in regard to these activities.

11. The membership in any trade or business associations, payments made to any trade or business associations, including not for profit associations, and the purpose of any such payments.
12. The payments made to any persons that engaged in any advocacy concerning tobacco control or public health policy or legislation.
13. The conferences, seminars, workshops, training events, or other fora related directly or indirectly to tobacco, tobacco products, or tobacco control, organised or supported in whole or in part, or attended, along with any other required information about the forums as may be prescribed by Regulations made under this Act.
14. The offers of payment provided to a scientist, researcher, journalist, and any other person specified in Regulations made under this Act and the purpose for the payment.
15. The offers or payment, gifts, contributions of any kind, or perquisites made, given, or offered directly or indirectly to any public office holder responsible for tobacco control.
16. The offers or contribution or payment of any kind to any Government institution, body, board, commission, committee, work group, and other organ, and the purpose of the contribution or payment.
17. The contact initiated and any interaction with a public office holder having any responsibility for tobacco control.
18. The offers or payment made to any political party, candidate, campaign, or any person acting on their behalf.
19. Any other information as may be prescribed in Regulations.
20. Any other information that may be required by the Committee.