

(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);

*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.