

THE TOBACCO INSTITUTE OF SOUTHERN AFRICA

PRESS RELEASE

**FOR IMMEDIATE RELEASE
2 SEPTEMBER 2009**

TISA SHEDS LIGHT ON THE ENTRY INTO FORCE OF THE NEW TOBACCO PRODUCTS CONTROL AMENDMENT ACTS

“Our office has been inundated with queries due to apparent confusion within the tobacco industry and the public domain as to whether the new Tobacco Acts have entered into force or not. TISA would like to clarify a few matters concerning the entry into force of the new tobacco control legislation”, said TISA CEO Mr Francois van der Merwe.

The commencement date for both Acts; Act 23 of 2007 and Act 63 of 2008, is 21 August 2009. This date was published in the Government Gazette 32345 of 21 August 2009. It is important to note that as of this date certain sections of both Acts entered into force with immediate effect, whilst others will only enter into force once regulations are finalised.

Draft regulations are usually published by the responsible department, in this case the Department of Health, for a three month public comment period before the regulations are finalised and become law.

ASPECTS THAT ENTERED INTO FORCE AS OF 21 AUGUST 2009:

Smoking in public places and vehicles

Individuals can now be fined up to R 500 for lighting up in a non-smoking area or in vehicle carrying young persons under the age of 12 years.

No one may smoke in a private dwelling used for commercial child care activity or tutoring.

Workers may object to work in a smoking area without retaliation and they cannot be forced to sign an indemnity for working in a smoking area. Employers and owners of public places are responsible to ensure no smoking occurs in areas where smoking is not permitted.

Owners and managers of public places can be fined up to R 50 000 if under 18s enter designated smoking areas even if the under 18 is accompanied by an adult.

Sales bans and restrictions

No one may sell a tobacco product to a person under the age of 18.

No person under the age of 18 may sell tobacco products.

The sale of toys and confectionary resembling tobacco products is banned.

Tobacco products may no longer be sold in health establishments or education establishments where under-18s receive tuition.

Sales of tobacco products via the internet, postal services or electronic media are banned. There is however an exemption clause that allows communication between the tobacco industry and the trade.

Definition of advertisement

The legislation contains a new definition of advertisement which effectively bans the tobacco industry from communicating with its consumers. Commercial communication between the tobacco industry and the trade is exempted from this definition. Commercial communication is qualified as factual information about a tobacco product and its characteristics.

Charitable donations

The tobacco industry may make charitable donations as long as it is not for the purposes of advertisement.

Cigarette vending machines

Cigarette vending machines may only be placed in areas where under-18s do not have access to these machines as well as areas to be prescribed by the Minister.

Exemption clause

The Minister of Health has the power to exempt any tobacco product from any section of the legislation if he / she believes it is in the public interest to do so.

ASPECTS THAT REQUIRE REGULATION:

Public places

The definition of “public place” has been extended to include partially-enclosed areas, the detail of which needs to be regulated.

No person may smoke in the vicinity of a window of, ventilation inlet of, doorway to or entrance into a public place. The distance will be prescribed in regulations.

The Minister of Health may ban smoking in specified outdoor places. These specific places will be prescribed in regulation and will most likely include sports stadia.

Designated smoking areas and non-smoking areas must be indicated by signage, the content and size of which will be prescribed in the regulations.

Standards of manufacturing

Standards of manufacturing of tobacco products will be prescribed. With regards export products, where no standards in the country of final destination exist, SA standards will

apply.

Industry information

Regulations will prescribe types of information that the industry needs to provide to the Minister of Health and the public on ingredients, marketing expenditure and other matters.

Packaging and labeling

Packaging and labeling of tobacco products will be prescribed at wholesale and retail level. Health warnings and information to be printed on packaging will be prescribed. Health warnings could include graphic or picture warnings.

Certain information and product descriptors such as "light" and "mild" that may not appear on packaging will also be prescribed in regulations.

Point of sale and display

Notices and signage at Point of Sale for wholesalers, retailers & vending machine operators will be prescribed in the regulations.

No person will be allowed to sell tobacco unless the prescribed notices are displayed.

It should be made clear that on aspects of the legislation that still require regulation; the existing regulations remain in force until such time as the new regulations are published in the government gazette.

Different interpretations concerning the practical application of certain sections of the legislation exist amongst many concerned stakeholders. The National Council Against Smoking is deliberately adding to this confusion by proclaiming their own interpretation as being correct, and threatening stakeholders regarding compliance. The public needs to understand that the NCAS is not the government, and cannot issue any threats or ultimatums to anybody. "TISA will be meeting with the Department of Health later this month with the specific aim of clarifying these ambiguities and uncertainties, the success of which will rely to a great extent on well drafted regulations", Mr van der Merwe said.

Note to Editors:

Please find attached to this email the two commencement notices as reference.

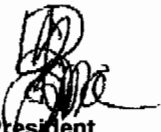
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PROCLAMATION*by the**President of the Republic of South Africa***No. 52, 2009****COMMENCEMENT OF THE TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 2007 (ACT No. 23 OF 2007)**

In terms of section 9 of the Tobacco Products Control Amendment Act, 2007 (Act No. 23 of 2007), I hereby determine **21 August 2009** as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town on this Nineteenth day of August, Two Thousand and Nine.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet**PROKLAMASIE***van die**President van die Republiek van Suid-Afrika***No. 52, 2009****INWERKINGTREDING VAN DIE WYSIGINGSWET OP DIE BEHEER VAN TABAKPRODUKTE, 2007
(WET No. 23 VAN 2007)**

Kragtens artikel 9 van die Wysigingswet op die Beheer van Tabakprodukte, 2007 (Wet No. 23 van 2007), bepaal ek hierby **21 Augustus 2009** as die datum waarop genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Negentiende dag van Augustus Tweeduisend-en-Nege.


President

Op las van die President-in-Kabinet:


Minister van die Kabinet

PROCLAMATION
by the
President of the Republic of South Africa

No. 53, 2009

COMMENCEMENT OF THE TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 2008 (ACT No. 63 OF 2008)

In terms of section 10 of the Tobacco Products Control Amendment Act, 2008 (Act No. 63 of 2008), I hereby determine **21 August 2009** as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town on this Nineteenth day of August, Two Thousand and Nine.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

PROKLAMASIE
van die
President van die Republiek van Suid-Afrika

No. 53, 2009

**INWERKINGTREDING VAN DIE WYSIGINGSWET OP DIE BEHEER VAN TABAKPRODUKTE, 2008
(WET No. 63 VAN 2008)**

Kragtens artikel 10 van die Wysigingswet op die Beheer van Tabakprodukte, 2008 (Wet No. 63 van 2008), bepaal ek hierby **21 Augustus 2009** as die datum waarop genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Negentiende dag van Augustus Tweeuisend-en-nege.



President

Op las van die President-in-Kabinet:



Minister van die Kabinet