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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 494.

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It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 of 1999: Tobacco Products Control Amendment Act, 1999.

No. 12 van 1999: Wysigingswet op die Beheer van Tabakprodukte, 1999.

Act No. 12, 1999 TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 1999

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 14 April 1999.)

ACT

To amend the Tobacco Products Control Act, 1993, so as to amend and insert certain definitions; to provide for the prohibition of advertising and promotion of tobacco products; to provide further, for the prohibition of advertising and promotion of tobacco products in relation to sponsored events; to prohibit the free distribution of tobacco products and the receipt of gifts or cash prizes in contests, lotteries or games to or by the purchaser of a tobacco product in consideration of such purchase; to provide for the prescription of maximum yields of tar, nicotine and other constituents in tobacco products; to increase fines; and to provide for matters connected therewith.

BE IT THEREFORE, ENACTED by the Parliament of the Republic of South Africa, as follows:—

Insertion of Preamble in Act 83 of 1993

1. The following preamble shall be inserted in the Tobacco Products Control Act, 1993 (hereinafter referred to as the principal Act);

“PREAMBLE

ACKNOWLEDGING that tobacco use—

is extremely injurious to the health of both smokers and non-smokers and warrants, in the public interest, a restrictive legislation;

is a widely accepted practice among adults, which makes it inappropriate to ban completely;

REALISING that the association of smoking with social success, business advancement and sporting prowess through the use of advertising and promotion may have the particularly harmful effect of encouraging children and young people to take up smoking;

CONSIDERING that the extent of the effects of smoking on health calls for strong action to deter people from taking up smoking and to encourage existing smokers to give up smoking; and

RESOLVING to align the health system with the democratic values of the Constitution and to enhance and protect the fundamental rights of citizens by discouraging the use, promotion and advertising of tobacco products in order to reduce the incidence of tobacco-related illness and death;”.

Amendment of section 1 of Act 83 of 1993

2. Section 1 of the principal Act is hereby amended—

- (a) by the substitution for the definition of “advertisement” of the following definition:
- “ ‘advertisement’, in relation to any tobacco product, means any **[statement, communication, representation or reference distributed to members of the public or brought to their notice in any other manner and which is intended]** drawn, still or moving picture, sign, symbol, other visual image or message or audible message aimed at the public and designed to promote **[the sale of such]** or publicise a tobacco product or **[encourage the use thereof or draw attention to the nature, properties, advantages or uses thereof]** to promote smoking behaviour and includes the use in any advertisement or promotion aimed at the public of a tobacco product manufacturer’s company name where the name or any part of the name is used as or is included in a tobacco product trade mark, and ‘advertise’ has a corresponding meaning;”;
- (b) by the insertion after the definition of “advertisement” of the following definition:
- “ ‘Constitution’ means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);”;
- (c) by the substitution for the definition of “hazardous constituent” of the following definition:
- “ ‘constituent’, in relation to any tobacco product, means nicotine, tar and any other constituent of a tobacco product or of tobacco smoke which the Minister may by notice in the *Gazette* declare to be a constituent for the purposes of this Act;”;
- (d) by the substitution for the definition of “Director-General” of the following definition:
- “ ‘Director-General’ means the Director-General: **[National] Health [and Population Development]**;”;
- (e) by the insertion after the definition of “Director-General” of the following definition:
- “ ‘employed’ or ‘employment’ means employed or employment as an employee as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);”;
- (f) by the substitution for the definition of “Minister” of the following definition:
- “ ‘Minister’ means the Minister of **[National] Health**;”;
- (g) by the insertion after the definition of “officer” of the following definition:
- “ ‘organised activity’—
- (a) means any activity or event—
- (i) which the public attend or participate in;
- (ii) which is organised for the purposes of entertainment, sport or recreation or for educational or cultural purposes; and
- (iii) where a tobacco product, or brand name, trade mark, logo or company name in relation to a tobacco product, is used in the name of or portrayal of the activity or event; but
- (b) excludes any private activity or event arranged by a manufacturer, importer, distributor or retailer of a tobacco product where only its shareholders or its employees or their spouses or partners attend;”;
- (h) by the insertion after the definition of “prescribe” of the following definition:
- “ ‘private dwelling’ means any part of—
- (a) any room or apartment of a building or structure which is occupied as a residence; or
- (b) any building or structure or outdoor living area which is accessory to, and used wholly or principally for, residential purposes;”;
- (i) by the substitution for the definition of “public place” of the following definition:
- “ ‘public place’ means any indoor or enclosed area which is open to the public or any part of the public and includes a workplace and a public conveyance;”;

