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**THE PUBLIC HEALTH ACT**

THE PUBLIC HEALTH (TOBACCO CONTROL) REGULATIONS, 2013

In exercise of the power conferred upon the Minister by sections 14 and 15 of the Public Health Act, and of every other power enabling, the following Regulations are made:—

PART I. *Preliminary*

- Citation. 1. These Regulations may be cited as the Public Health (Tobacco Control) Regulations, 2013, and shall come into operation on the 15th day of July, 2013.
- Interpretation. 2. In these Regulations—  
“additive” means any—  
(a) substance;  
(b) chemical;  
(c) compound; or  
(d) component,

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other than tobacco or water, which is introduced into a tobacco product, including (where applicable) those contained in the paper, filter, portion pouch or similar part of the tobacco product, its packaging or accessories;

“authorized officer” means—

- (a) a member of the Jamaica Constabulary Force;
- (b) a customs officer under the *Customs Act*;
- (c) a Medical Officer (Health); or
- (d) any other person so designated by the Minister under these Regulations;

“child” means a person under the age of eighteen years;

“constituents” means—

- (a) in the case of smoked tobacco products, the chemicals, including the particles, vapours, gases and other emissions found in the smoke; and
- (b) in the case of smokeless tobacco products, the chemicals found in the product itself;

“contents” means—

- (a) constituents with respect to processed tobacco; and
- (b) ingredients with respect to tobacco products;

“design feature” means a characteristic of the design of a tobacco product that has an immediate causal link with the testing and measuring of its contents and emissions;

“emissions” means substances that are released from tobacco or tobacco products;

“enclosed” in relation to a space, includes any space covered by a roof, or enclosed by one or more walls or sides, and regardless of whether the structure is permanent or temporary;

“graphic” means any—

- (a) symbol;
- (b) sign;
- (c) logo;
- (d) mark;
- (e) trademark;

- (f) pattern;
- (g) emblem;
- (h) design;
- (i) drawing or sketch;
- (j) picture; or
- (k) any other mark, sign or indicator of a tobacco product or its seller's identification;

First  
Schedule.

“graphic warning” means the words and images as set out in the First Schedule to be endorsed on retail packaging for tobacco and tobacco products, for the purpose of consumer information;

“message” means a health warning or any information about the health effects of tobacco use or exposure to tobacco smoke;

“package” means any covering, wrapper, container, carton, bag or other enclosure that contains a tobacco product, including labels and other written or graphic information regarding same;

“person” includes any—

- (a) individual;
- (b) proprietor;
- (c) firm or partnership;
- (d) company registered under the *Companies Act*;
- (e) franchise;
- (f) organization;
- (g) agency; or
- (h) other association or institution;

“public conveyance” means any form or mode of transportation which carries passengers, for hire or reward, whether in Jamaica or internationally;

“public place” means any—

- (a) structure, facility or enclosed space accessible to the public; or
- (b) a place of assembly or other collective use by the public,

including Government offices, spaces or buildings of all types, regardless of the ownership of or right of access to, that office, space, building or other place;

“smoke” means inhaling or exhaling the emissions of tobacco and, includes so handling an ignited or heated tobacco product that it produces smoke or other emissions by any means, including by electronic means;

“tobacco” includes tobacco products;

“tobacco product” means tobacco in any form in which it is used or consumed and includes the tobacco leaf, tobacco in cigarettes and any product entirely or partly made from the leaf of the tobacco plant as raw material and which is manufactured for use in smoking, sucking, chewing or snuffing tobacco or any by-product thereof;

“tobacco smoke” means the smoke or other emissions released from tobacco;

“workplace” means any area or place used by persons during their employment, work or contract for services and includes—

- (a) vehicles used in the course of employment or for work purposes;
- (b) connected, annexed places or common areas;
- (c) a residence or vehicle during any period in which that residence or vehicle is the place or site of employment, work or execution of a contract for services; and
- (d) any other area or place which is generally used, during the course of the employment, work or a contract for services, of any person.

#### PART II. *Packaging and Labeling*

Labeling. 3.—(1) All tobacco products shall contain, permanently affixed on their packages, health warnings advising tobacco users and tobacco product users of the risk to health posed by the use of tobacco and tobacco products, in accordance with the standards specified in the First Schedule.

First  
Schedule.

(2) The size of the area for the health warning mentioned in paragraph (1) shall be at least seventy-five *per centum* of each principal display surface of each tobacco product package.

(3) No tobacco product, including an individual stick, shall be sold or offered for sale without health warnings.

(4) A person who contravenes this regulation commits an offence.

Obscuring  
warnings.

4.—(1) Every person who sells or offers for sale or supplies any product, uses any device or other item that is intended to be used, or that can be used to cover, obscure, mask, alter, or otherwise disguise the health warnings on tobacco product packages or on messages and signs thereon, commits an offence.

(2) The offence under paragraph (1) includes the designing of the product package in such a way that parts of the package, including its accessories, cover or obscure the messages thereon.

Deceptive or misleading information.

5—(1) No tobacco product package may have stated thereon any claim, suggesting, or implying that its use or exposure to its smoke or emissions is not hazardous or is less hazardous than that of other tobacco products or any other similar product.

(2) The prohibition in paragraph (1) includes, but is not limited to, the use of—

- (a) words or description, whether or not part of the brand name, such as—
  - (i) “light”;
  - (ii) “ultra light”;
  - (iii) “mild”;
  - (iv) “low tar”;
  - (v) “slim”; or
  - (vi) similar words or descriptions;
- (b) any graphics associated with, or likely or intended to be associated with, such words or descriptions; or
- (c) any product package design characteristics, associated with, or likely or intended to be associated with, such descriptions.

Multiple packaging.

6. If any tobacco product is placed in multiple layers of packaging, all messages, constituents and additives disclosures shall be permanently affixed to—

- (a) the packages in which the tobacco product is ultimately intended for consumer use; and
- (b) all external packaging, including cartons,

and any person who contravenes this regulation commits an offence.

Language of labeling information.

7. The labeling information on tobacco or tobacco products to be sold in any part of Jamaica shall be printed in the English language.

Labeling of individual units.

8.—(1) No person shall sell, offer for sale, distribute or otherwise supply individual units of tobacco or tobacco products, unless each unit is labeled in accordance with these Regulations.

(2) Any person who contravenes paragraph (1) commits an offence.

Testing and measurement of contents.

9. Where a manufacturer is required to provide information on the ingredients used in the manufacture of tobacco and tobacco products to the Minister, that information shall be disclosed by—

- (a) product type and for each brand within a brand family;

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- (b) quantities of each ingredient per unit of each tobacco product, including those ingredients present in the product's components for each brand within a brand family;
  - (c) characteristics of the tobacco leaves used, including—
    - (i) type;
    - (ii) percentage of re-constituted tobacco used; and
    - (iii) percentage of expanded tobacco used;
  - (d) any changes to tobacco product ingredients when a change is made;
  - (e) a statement setting out the purpose and effect of the inclusion of an ingredient in the tobacco product; and
  - (f) in relation to each ingredient, the name, address and other contact information of each ingredient's supplier.
- Product characteristics.
10. At the request of the Minister, manufacturers and importers shall—
- (a) disclose information on design features, including the results of tests conducted by the tobacco industry;
  - (b) submit to the Minister a copy of the laboratory report where a laboratory test was performed for the measurement of a particular design feature, as well as proof of accreditation of the laboratory which performed the analysis; and
  - (c) notify the Minister of any change to the design features of a particular brand of tobacco product, and submit the updated information advising when the change was effected, to the Minister.
- General information.
- 11.—(1) Manufacturers, importers and exporters are required, annually, to disclose general company information to the Minister, including—
- (a) the name;
  - (b) street address;
  - (c) contact information of—
    - (i) the principal place of business; and
    - (ii) each manufacturing facility, importing warehouse and in-house laboratory services.
- (2) For each brand within a brand family, sales volume information in units on a national basis shall be included in the information to be supplied under paragraph (1), as well as—
- (a) the brands sold or distributed to each customer and the pricing of each brand;

- (b) the distribution and supply chain;
  - (c) the prices for each stock-keeping unit of tobacco product;
  - (d) the locations of all distribution offices; and
- the transportation units, including fleet and licence numbers.

PART III. *Offences*

No smoking in public place.

12. Every person who smokes or holds a lit or electronic tobacco product in or within a five metre radius of the entrance, exit, window or ventilation intake of a public place, workplace or public conveyance, including but not

Second Schedule.

limited to any place listed in the Second Schedule, commits an offence.

Display of no smoking signs.

13.—(1) Every manager, owner or lessee of premises mentioned in the Second Schedule shall ensure that—

Third Schedule.

- (a) there is displayed in a prominent position at each entrance to the premises “No Smoking” signs as specified by these Regulations and set out in the Third Schedule;
- (b) in addition to the places mentioned in sub-paragraph (a), similar signs are placed in at least one other prominent place on the premises.

(2) The size of each “No Smoking” sign shall be at least 216mm x 279mm and shall be posted at eye level.

(3) Every manager of a conveyance or vehicle shall ensure that at least one “No Smoking” sign is prominently displayed in each compartment of the conveyance or vehicle; and such sign shall be at least 76mm x 229mm in size.

(4) Where a person contravenes subsection (1), the manager, owner or lessee of the place where the contravention occurred (and who authorized or acquiesced in the act or omission) commits an offence and shall be held personally liable.

Graphic warnings.

14. Every manufacturer or retailer who sells or offers for sale any tobacco or tobacco product in packaging that does not bear a graphic warning in accordance with the First Schedule, commits an offence.

First Schedule.

Prohibition on sale of tobacco products in certain places.

15.—(1) Every person who sells tobacco in or at the entrance or exit of any of the following places—

- (a) health facilities;
- (b) sports, athletic or recreational facilities, for the use of the public;
- (c) Government owned or occupied buildings or premises; or

- (d) educational institutions (including by way of exposing tobacco for sale or by invitation to treat),

commits an offence.

Removal of  
offending  
persons.

16. Where there is non-compliance with these Regulations, an authorized officer may, if he is not himself a member of the Jamaica Constabulary Force, in the company of a member of the Jamaica Constabulary Force, remove an offending person from the premises or public conveyance where the non-compliance took place.

Evidence.

17. In any legal action for non-compliance with these Regulations, the following shall apply—

- (a) any tobacco or tobacco products from the same lot or batch shall be deemed to possess the same characteristics as those products from the same lot or batch found on—
- (i) a public conveyance;
  - (ii) premises; or
  - (iii) at another location;

under the control of the driver of the public conveyance, the owner or operator of the premises, as the case may be, so however, that if there is no lot or batch number on the tobacco or tobacco products, any tobacco or tobacco product found on the public conveyance, premises or location shall be deemed to possess the same characteristics as other tobacco products found on the public conveyance, premises or at another location under the control of the driver, owner or operator of the premises, as the case may be; and

- (b) every person identified on the label or packaging of any tobacco product as the manufacturer, importer, exporter, distributor or wholesaler is *prima facie*, taken to have manufactured, imported, distributed or sold the tobacco product, respectively, as the case may be.

Protection  
of  
employees.

18. Every employer who dismisses, suspends, demotes, disciplines, harasses or otherwise disadvantages an employee or denies that employee a benefit on the ground that the employee testified against an employer in an action brought under these Regulations, commits an offence.

Penalties.

19.—(1) Every person who commits an offence under these Regulations is liable—

- (a) in the case of an individual, on summary conviction in a Resident Magistrate's Court to—
- (i) in the case of a first conviction, a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;



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- (ii) in the case of a second conviction, a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment; and
  - (iii) in the case of an offence committed subsequent to a conviction for a second offence, to imprisonment for a term not exceeding twelve months; and
- (b) in the case of a body corporate, on summary conviction in a Resident Magistrate's Court, to a fine not exceeding one million dollars.

(2) Where a body corporate contravenes these Regulations, the director or other corporate officer who authorized or acquiesced in the act or who knew or, who, using due diligence or care, ought to have known that the commission or omission constituted an offence, that director or other corporate officer, commits an offence and shall be personally liable.

Transitional. 20.—(1) Every person, whose operations are subject to these Regulations, is hereby granted a period of six months from the date of commencement of these Regulations to bring the operations of that person into full compatibility with the provisions of these Regulations.

(2) Subject to paragraph (3), the provisions of these Regulations shall not apply in respect of any tobacco or tobacco product—

- (a) which was purchased, ordered or acquired; or
- (b) the arrival in Jamaica of which has been pending for, at least six months prior to the date of publication of these Regulations.

(3) The arrival of tobacco or tobacco products in Jamaica shall be treated as pending where an application has been made to the relevant customs, trade, import or other authorities and the matter has either been determined in favour of the importer or is under consideration.

## FIRST SCHEDULE (Regulations 2, and 14)

*Standards and Graphic Warnings for Tobacco  
Retail Packaging*

## PART I

*General Requirements for Labeling**General Requirements*

1. Every package and carton of tobacco products intended for retail sale in Jamaica shall bear labels which shall carry, in legible form, the following information, in the English language—

- (a) on the principal display panel of the package and carton—
  - (i) the common name of the goods, example cigarettes, bidis or kretek, together with any trade name or brand;
  - (ii) an accurate statement of the net contents of the package, with respect to the number of cigarettes, bidis or kretek or other similar tobacco products sold by units, and with respect to weight in grams for cigarette tobacco, pipe tobacco, smokeless tobacco and other types of loose tobacco; and
  - (iii) a health warning in conformity with the requirements specified in standards 5–24 herein;
- (b) on the label of each retail package and carton of tobacco products, the following additional information—
  - (i) for tobacco products manufactured or packaged in Jamaica, the name and complete address of the manufacturer or distributor;
  - (ii) for tobacco products imported into Jamaica in a pre-packaged form, the name and complete address of the foreign manufacturer and the distributor in Jamaica;
  - (iii) a declaration in conformity with requirements specified in standards 18–21 herein; and
  - (iv) the manufacturing date and batch number in conformity with requirements specified in standards 25–27 herein.

2. Where the name and address of the manufacturer or the distributor are not in English, translation of the name and address is not required, provided such information is stated in a form using the English alphabet.

3. Every package and carton of tobacco product that is manufactured in Jamaica or intended for sale in Jamaica shall carry the following statement—

Sale only allowed in ‘X’, where ‘X’ represents the country in which the product is intended for retail sale.

4. All point of sale materials and displays shall carry the required health warning, in the proportions required by this Standard.

FIRST SCHEDULE, *contd.*

## PART II

*Detailed Requirements*

## HEALTH WARNINGS

A. *General*

5.—(1) All packages and cartons of tobacco products produced for retail sale in Jamaica shall carry health warnings as specified in Parts III, IV and VII, as applicable, and in accordance with the requirements of standards 14–17 herein.

(2) Each health warning shall consist of two parts, designated as ‘front of package’ and ‘back of package’ in Parts III, IV and VII.

(3) The front or back package health warnings shall be visible at point of sale displays of tobacco packages.

(4) The health warnings shall not be obscured by any other display component, unless required by law.

6. No statement relating to smoking or health, other than that required herein shall be included on any package of tobacco products, except where the company wishes to advise the public of newly discovered health risks attributable to, or associated with, tobacco.

7. Health warnings shall—

- (a) be printed on the package itself and not on the cellophane or detachable outer packaging or by adhesive labels or similar means; and
- (b) appear in a framed warning area with maximum thickness of 0.5 mm;
- (c) be reproduced from clear electronic images obtained from the electronic files used to generate the health warnings specified in Parts III, IV and VII;
- (d) be adapted to meet the health warnings requirements herein and the packaging requirements stipulated herein; and
- (e) be reproduced in at least four colours as set out in Parts III, IV and VII.

8. The text of the health warning shall be printed in English.

B. *Packages*

9. The complete health warning, and only the health warning, shall be located in at least 75% of the top of both the front and back panels of each package, as specified in Parts III and IV, and in such a way that the health warning will not be permanently damaged when the package is opened.

FIRST SCHEDULE, *contd.*

10. The 'front of package' and 'back of package' parts of the health warning shall be placed on the front and back of packages respectively, as specified in Parts III and IV.

11. For conical packages, the health warning shall cover 75% of the surface area, in a rectangular format, and shall read vertically, rising from the bottom or at the wider end, up to 2/3 the height of the package and so that the 'front of package' and 'back of package' parts of the health warning are placed equally and opposite to each other.

12. Where packages of other shapes are used, the health messages and graphics shall cover 75% of the upper surface area of both the front and back panels, in a rectangular format.

C. *Attribution*

13.—(1) Where the manufacturer chooses to attribute the health warning to a third party, the health warning shall be attributed to the Chief Medical Officer or any other person authorized by the Minister responsible for health.

(2) The optional attribution, if used, shall follow the health warning and shall be printed in Avant Garde, Medium BT, 7 point, upper and lower case type, or in an equivalent type. The letters shall be 2mm in height.

D. *Rotation of health warnings*

14.—(1) The health warnings to be depicted on individual packages of tobacco products in accordance with this standard shall be subdivided into two distinct sets.

(2) Each set shall be comprised of eight distinct health warnings. The two sets of health warnings are outlined in the Parts III, IV and VII of this standard as Item 17 Set A and Set B.

15. The eight health warnings from any Set in Parts III, IV or VII, shall as far as reasonably practicable, be evenly distributed within every case of stock-keeping units manufactured, imported, or distributed. Each case shall exclusively contain health warnings from the select Set in Parts III, IV or VII.

16. Health warnings in Set A and Set B of Parts III, IV and VII shall be used alternatively. However, the exclusive use of a given Set shall be indexed to World "No Tobacco" Day on 31st May annually and the period for its exclusive use shall immediately follow that date.

17. Specifically, Set A and Set B shall be utilized and rotated alternately in the following manner and as outlined in Part V—

- (a) Set A shall be used exclusively for a period of eight calendar months beginning on 1st June of calendar years ending with an even number;

FIRST SCHEDULE, *contd.*

- (b) Set A shall be completely removed from the market by 31st May of every calendar year ending with an odd number;
- (c) the introduction of Set B shall begin a transition on 1st February of that same year;
- (d) thereafter, for a period of eight calendar months beginning on 1st June of every calendar year ending with an odd number, Set B shall be used exclusively;
- (e) Set B shall be completely removed from the market by 31st May of every calendar year ending with an even number; and
- (f) the introduction of Set A shall begin a transition on 1st February of that same year.

E. *Declaration*

18. The text of the declaration set out in Part VI shall be printed on every package, including each carton of smoked tobacco products.

19.—(1) The declaration shall appear in an area (hereinafter called the “declaration area”) on the side panel of rectangular packages or, adjacent to the health warning on packages of other shapes.

(2) For rectangular packages, the declaration area shall be the full side panel, except that for flip top packages, the declaration area shall be the portion of the side panel which is lower than the flip top opening, as specified in Part VI.

(3) For cartons, the declaration area is permitted to be located on any side.

20. The information shall be printed in black on a yellow background or black on a white background as specified in Part VI, and in such a manner as to completely fill the declaration area.

21. The declaration area shall not be placed on the top or bottom of the package.

## SMOKELESS TOBACCO

22. The detailed requirements as set out in standards 5 to 17 apply to smokeless tobacco, except that—

- (a) the health warnings to be used shall be those specified in Part IV; and
- (b) the number of health warnings shall be four in each set,

for the purpose of complying with the specifications pertaining to the Rotation of the Health Warnings outlined herein.

FIRST SCHEDULE, *contd.*F. *Cartons of cigarettes*

23. The requirements outlined in standards 5–8, and 13–21 apply to cartons of cigarettes, except that—

- (a) health warnings shall be depicted on all six sides of every carton;
- (b) each carton shall depict at least three health warnings;
- (c) health warnings may be printed on the manufacturer's medium of choice, provided they cannot be removed, washed away or erased;
- (d) only the health warnings taken from Part VII shall be used;
- (e) health warnings from Part VII shall be depicted on opposite sides to each other;
- (f) the health warning shall occupy at least 75% of each side of the carton on which they appear;
- (g) the declaration area on cartons of cigarettes shall be at least 2cm x 6cm.

G. *Stickers*

24. For packages of cigars and smokeless tobacco, the health warning and the declaration are permitted to be affixed as stickers, provided that such stickers cannot be removed and are indelible.

H. *Manufacturing dates and batch numbers*

25. The manufacturing date and the batch number shall be respectively indicated on each package of tobacco products.

26. The date shall be printed on each package as follows: 'mm (or mmm) yyyy', where—

- (a) 'mm' is the month expressed in Arabic numerals;
- (b) 'mmm' is the month expressed as the first three letters of the month; and
- (c) 'yyyy' is the year expressed in Arabic numerals.

27.—(1) The date specified in standards 25 and 26 shall appear in an area of the side panel of rectangular packages, opposite the declaration area.

(2) On packages of other shapes, the information shall appear adjacent to the health warning.

(3) The information shall be printed in black on a white background or by means of contrasting colours surrounded by a 0.5mm thick black border and in a type size of no more than 2mm.

FIRST SCHEDULE, *contd.*

## I. “Best before” date

28. A—

- (a) best before date;
- (b) expiry date;
- (c) sell by date; or
- (d) similar date,

is not permitted on packages or cartons of tobacco products.

J. *Deceptive labeling*

29. A package or carton of tobacco products shall not promote a tobacco product by any means that is—

- (a) false;
- (b) misleading;
- (c) deceptive; or
- (d) likely to create an erroneous impression about its—
  - (i) characteristics;
  - (ii) health effects;
  - (iii) hazards; or
  - (iv) emissions,

including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates a false impression for any reason.

30. No package or carton of tobacco products shall—

- (a) depict or state in words any of the following terms—
  - (i) light,
  - (ii) mild;
  - (iii) low tar;
  - (iv) ultra;
  - (v) extra;
  - (vi) slim; or
  - (vii) any other similar terms, in any language; or

FIRST SCHEDULE, *contd.*

(b) depict—

(i) a number to differentiate brands within a brand family;  
or

(ii) a number associated with a smoking machine yield,

including use of such a number in a brand name.

**K. *Responsibility for labeling***

31. It shall be the responsibility of every person who sells or distributes tobacco products to ensure that they are properly labeled, as required by this Standard.