

- (b) includes any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented by such employees during the course of their employment; but
- (c) excludes any private dwelling, and any portion of an area mentioned in paragraph (a) specifically designated by the employer as a smoking area and which complies with the prescribed requirements."

Amendment of section 2 of Act 83 of 1993

- 3. Section 2 of the principal Act is hereby amended by—
 - (a) the substitution for paragraph (b) of subsection (1) of the following paragraph:
 - "(b) Notwithstanding the provisions of subsection (1)(a), the Minister may by notice in the *Gazette* permit a portion of a specified public place to be designated as an area within which smoking is permitted [**declare specific public places permissible smoking areas**], subject to any conditions that may be specified in such notices.";
 - (b) the substitution for paragraph (c) of subsection (1) of the following paragraph:
 - "(c) Notwithstanding the fact that a private dwelling is excluded from the definition of 'workplace', if a private dwelling is used for commercial child care activities or for schooling or tutoring, the smoking of tobacco products in such a dwelling [**or on the terrain of such a dwelling**] is prohibited[, **except in an area of the private**

dwellings which is specifically designated by the employer, owner, tenant or possessor as a smoking area and which complies with the prescribed requirements].";

- (c) the substitution for subsection (2) of the following subsection:

"(2) The Minister may by notice in the *Gazette* prohibit or restrict smoking in specified outdoor public places where persons may congregate within close proximity to one another or where smoking may pose a fire or other hazard.";

- (d) the substitution for subsection (3) of the following subsection:

"(3) An employer, owner, lessee or person in control of a public place or outdoor place as specified in section 2(2) shall display prescribed signs and shall, where appropriate, make public announcements informing employees and the public of the prohibitions on smoking."

- (e) the substitution for subsection (4) of the following subsection:

"(4) An employer must ensure that—

(a) employees may object to smoke in the workplace without retaliation of any kind; and

(b) employees who do not want to be exposed to tobacco smoke in the workplace are not so exposed; and

(c) it is not a condition of employment, express or implied, that any employee is required to work in a designated smoking area and such clause in an agreement of employment shall be invalid; and

(d) employees are not required to sign any indemnity for working in a designated smoking area.”;

(f) the substitution for subsection (5) of the following subsection:

“(5) The employer, owner, lessee or person in control of a public place or outdoor place as specified in section 2(2) shall not permit a person under the age of 18 years in that portion of a public place that has been designated as a smoking area under section 2(1)(b) and its regulations.”;

(g) the substitution for subsection (6) of the following subsection:

“(6) A municipality has the power, duty and obligation to enforce this Act and the regulations made in terms thereof in its area of jurisdiction.”.

Amendment of section 3 of Act 83 of 1993

4. Section 3 of the principal Act is hereby amended by—

(a) the substitution for the heading of section 3 of the following heading:

“Advertising, sponsorship, promotion and distribution of tobacco products and **[required]** information that is required in respect of **[packages]** the packaging and labelling of tobacco products.”;

(b) the substitution for subsections (1) of the following subsection:

“(1) No person shall advertise or promote, or cause any other person to advertise or promote, a tobacco product through direct or indirect means, including through sponsorship of any

organisation, event, service, physical establishment, programme, project, bursary, scholarship or any other method.";

- (c) the substitution for subsection (3) of the following subsection:

"(3) Charitable financial contributions or sponsorships by manufacturers and importers of tobacco products shall only be made anonymously.";

- (d) the substitution for subsection (4) of the following subsection:

"(4) No person shall sell or offer to sell tobacco products except in a package containing the quantities or number of units prescribed by regulation.";

- (e) the insertion after subsection (4) of the following subsection:

"(4A) Notwithstanding any regulation made under this Act, no person shall sell or offer to sell tobacco products in the following places:

(a) health institutions, including but not limited to hospitals, pharmacies and clinics; and

(b) any educational or training institutions.";

- (f) the addition of the following subsections:

"(6) (a) At the point of sale, tobacco products may only be displayed as prescribed by regulation.

(b) A retailer may display a prescribed notice identifying the tobacco products and their prices that are available in that place for purchase.

(c) A person who offers tobacco products for

sale by way of a vending machine may display on the exterior of the vending machine a prescribed notice identifying the tobacco products and their prices.

(7) No person shall sell or offer to sell a tobacco product at retail by means of a display that permits a person to handle the tobacco product before paying for it.

(8) No person shall sell or offer to sell tobacco products at retail use

(b) the health hazards and health effects arising from the use of the product or from its emissions; and

(c) other health related messages, which may be in the form of or include pictures or pictograms, such as—

(i) advice on how to quit smoking;

(ii) markings designed to facilitate efforts to identify illegally manufactured or distributed products or products on which tax has not been paid.

(12) No person shall package or label a tobacco product in a package or using a label that contains false or misleading information or that is calculated to deceive the user of such product.

(13) No person shall manufacture for sale in the