

"Product Regulation

3A. (1) No person shall manufacture, import or sell a tobacco product except in compliance with standards established by this Act.

(2) Every manufacturer and importer of a tobacco product shall provide, in the prescribed manner and within the prescribed time, information about the product and its emissions to the Minister.

(3) (a) Tobacco products exported from the Republic shall meet the product and testing standards of the country of final destination.

(b) In the event, that such standards referred to in paragraph (a) do not exist in the country of final destination, the provisions of this section apply. "

Amendment of section 4 of Act 83 of 1993

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

(a) the substitution for the heading of section 4 of the following heading:

"Prohibition of sale of tobacco products to and by persons under the age of [16] 18 years.";

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

"(1) No person shall sell or supply any tobacco product to any person under the age of [16] 18 years and it shall not be a defence that the person appeared to be 18 years or older[, whether

for his personal use or not].";

(c) The insertion after subsection (1) of the following subsections:

"(2) The owner or person in charge of any business shall ensure that no person under the age of 18 years shall sell or offer to sell tobacco products.

(3) No person may sell or supply any confectionary or toy that resembles or is intended to represent any tobacco product.

(4) The Director General may authorise persons or a class of persons to carry out approved activities in order to monitor compliance with this section.

(5) A person authorised under subsection (4) who carries out approved activities is not guilty of an offence under section 252A of the Criminal Procedure Act, 1977 (Act No 51 of 1977)."

Amendment of section 4A of Act 83 of 1993

7. Section 4A of the principal Act is hereby amended by the substitution of the following section:

"Free distribution and reward prohibited

4A. (1) No manufacturer, distributor, importer or retailer of a tobacco product, or any person or agent acting on their behalf shall for free, or at a reduced price, other than a normal trade discount—

- (a) distribute any tobacco product; or
- (b) supply any tobacco product to any person for subsequent distribution.

(2) No person shall offer any gift, cash rebate or right to participate in or attend any contest, lottery, ~~[or]~~ game, or sporting, cultural, social or recreational event, to any person in consideration of the purchase of a tobacco product, or the furnishing of evidence of such purchase, or the confirmation of use of a tobacco product."

Amendment of section 5 of Act 83 of 1993

8. Section 5 of the principal Act is hereby amended by—

- (a) the substitution for subsection (1) of the following subsection:

"(1) (a) A vending machine containing a tobacco product shall be used exclusively for the sale of tobacco products.

(b) No person shall place a vending machine containing tobacco products in any indoor or outdoor location, other than in that portion of a public place designated as a smoking area under section 2(1)(b)."

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

"(2) It shall be the responsibility of any person during such time as he or she is responsible for or has control of the premises in which any vending machine is kept to ensure that no person under the age of ~~[sixteen]~~ 18 years makes use of such machine and it shall not be a defence that the person appeared to be 18 years or older."

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

"(3) The Director-General may in writing direct the owner of the vending machine in question or the person in control thereof—

- (a) to take such precautionary measures as are specified in the **[direction] directive** to prevent the vending machine being used by persons under the age of **[16] 18** years; or
- (b) to remove the vending machine from the premises within the period specified in the **[direction] directive**.";

(d) the insertion after subsection (3) of the following subsection:

"(4) The Minister may make regulations with regard to the sale of tobacco products through vending machines."

Amendment of section 6 of Act 83 of 1993

9. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) and (2) of the following subsections:

"(1) The Minister may make regulations regarding—

- (a) anything that must or may be prescribed in terms of this Act;
- (b) the location, content, size and format of any signs required in terms of this Act;
- (c) the quantities of tobacco to be sold in a single package;
- (d) notices and signs at points of sale;
- (e) standards for the manufacturer of tobacco products including—

- (i) the amounts of substances that may be contained in the product or its emissions;
 - (ii) substances that may or may not be added to tobacco products;
 - (iii) reduced ignition propensity cigarettes; and
 - (iv) product design standards to meet the health and safety objectives of the Act;
- (f) test methods, including methods to assess conformity with the standards;
- (g) information that manufacturers and importers of tobacco products must provide to the Minister and to the public about tobacco products and their emissions including—
- (i) all tobacco product research conducted by a tobacco manufacturer or by any person who conducted research paid for in whole or in part by a tobacco manufacturer;
 - (ii) sales data;
 - (iii) marketing expenditure; and
 - (iv) information on product composition, ingredients, hazardous properties and brand elements.

(2) The Minister may make regulations regarding any

ancillary or incidental administrative or procedural matter that it is necessary, necessary,

to prescribe for the proper implementation or administration of this Act."

Amendment of section 7 of Act 83 of 1993

10. Section 7 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

"(1) Any person, other than an individual who is smoking where smoking is prohibited, who contravenes or fails to comply with any provision in sections 2(1), 2(3), and 2(5) or fails to comply with any notice issued in terms section 2(1) or 2(3) or any regulation made in terms of section 2(2) or 2(7) shall be guilty of an offence and liable on conviction to a fine not less than [exceeding R200] R20 000 or to such penalties as may be determined.";

(b) the substitution for subsection (2) of the following subsection:

"(2) Any person who contravenes or fails to comply with [the] any provisions of sections 2(4), 3(5), 3(7), 3(8), 3(9), 3(11), 4(1), 4(2), [or] 5(1) or 5(2) or any directive issued in terms of section 5(3) or fails to comply with any regulation made in terms of this Act shall be guilty of an offence and liable on conviction to a fine not less than [exceeding R10 000] R100 000 or to such [imprisonment] penalties as may be determined.";

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

"(3) Any person who contravenes or fails to comply with the provisions of section 3(1), 3(2), 3(3), 3(4), 3(10), 3(12), 3(13), 3(14), 3A or 4A [or any notice issued in terms of section 3A] or any

