

THE PUBLIC HEALTH ACT

The Public Health (Tobacco Control) (Amendment) Regulations, 2014

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

1. These Regulations may be cited as the Public Health (Tobacco Control) (Amendment) Regulations, 2014, and shall be read and construed as one with the *Public Health (Tobacco Control) Regulations, 2013* (hereinafter referred to as the principal Regulations) and all amendments thereto.
2. The principal Regulations are amended by deleting the words “graphic warning” wherever they appear and substituting therefor, in each case, the words “graphic health warning”.
3. Regulation 2 of the principal Regulations is amended –
 - (a) by deleting the definition of “additive”;
 - (b) by deleting the definition of “authorized officer” and substituting therefor the following –

“authorized officer” means –

 - (a) a constable;
 - (b) a customs officer appointed under the *Customs Act*;
 - (c) an inspector appointed under the *Standards Act*;
 - (d) a Medical Officer (Health); or
 - (e) any other person so designated by the Minister under these Regulations;”;
 - (c) by deleting the definition of “enclosed” and substituting therefor, the

following –

“enclosed” means –

- (a) having a ceiling or roof or a cover which functions (whether temporarily or permanently) as a ceiling or roof; or
 - (b) being surrounded or closed off by one curved wall, or on two or more sides by walls or enclosures which function (whether temporarily or permanently) as walls, whether or not they contain doors, windows or other openings;”;
- (d) by inserting next after the definition of “enclosed” the following –

“entrance” or “exit” do not include –

- (a) parking lots;
 - (b) gateways; or
 - (c) driveways;”;
- (e) by inserting next after the definition of “graphic warning” the following –

“ingredient” means any –

- (a) substance, including tobacco;
- (b) chemical;
- (c) compound;
- (d) component (including paper, filter, portion pouch or other similar part of the product) and the materials used to manufacture such components;
- (e) additives;
- (f) processing aids;
- (g) residual substances found in tobacco (following storage and processing); or
- (h) substances that migrate from the packaging material into

the product, excluding contaminants;”;

- (f) by inserting next after the definition of “message” the following –
- “ “outdoor smoking area” means an area established pursuant to regulation 12(3);”;
- (g) in the definition of “public conveyance”, by inserting immediately after the word “internationally” the words “, but does not include privately–operated vehicles, not used for commercial purposes”;
- (h) by inserting next after the definition of “person” the following –
- “ “place of assembly for the use of the public” means any public space being used for gathering by individuals;”;
- (i) by deleting the definition of “public place” and substituting therefor the following –
- “ “public place” means any –
- (a) structure;
 - (b) facility;
 - (c) place of assembly; or
 - (d) other place, open to the public,
- for the use of the public or, other similar space accessible to the public, and includes –
- (e) bars, restaurants, clubs and tourist establishments;
 - (f) Government offices; and
 - (g) other places or buildings of all types, accessible to the public,
- but does not include privately-occupied residences, not used for commercial purposes;
- (j) in the definition of “tobacco product”, by inserting immediately after the words “in any form” the words “, including by electronic nicotine delivery

systems, whether the chemical components of those systems are derived from the natural product or are manufactured by other means.”;

- (k) by inserting next after the definition of “tobacco smoke” the following –

“ “tourist establishment” has the meaning ascribed to it by the *Public Health (Tourist Establishments) Regulations, 2000*.”;

- (l) in the definition of “workplace”, by –

(i) inserting the word “and” immediately after paragraph (b);

(ii) deleting paragraphs (c) and (d); and

(iii) inserting immediately after paragraph (b), the following as paragraph (c) –

“(c) residences, used for commercially-operated childcare activities.”.

4. Regulation 3 of the principal Regulations is amended –

(a) in paragraph (1), by deleting the word “All” and substituting therefor the words “Subject to paragraphs (3) and (4), all”;

(b) in paragraph (2), by deleting the word “seventy-five” and substituting therefor the word “sixty”;

(c) in paragraph (3), by deleting the words “, including an individual stick.”; and

(d) by inserting next after paragraph (3), the following as paragraph (3A) –

“(3A) This regulation applies in relation to the sale of individual sticks of tobacco and electronic nicotine delivery systems only to the extent that –

(a) the vendors of such individual sticks or electronic nicotine delivery systems shall display prominently, signs setting out the health warnings specified in regulations 2 and 14 and in the First Schedule; and

- (b) each such health warning shall be at least 216mm x 279mm”.
5. Regulation 4(1) of the principal Regulations is amended by deleting the words “, or that can be used”.
6. Regulation 6 of the principal Regulations is amended by –
- (a) re-numbering the regulation as paragraph (1); and
 - (b) inserting next after paragraph (1), as re-numbered, the following as paragraph (2) –

“ (2) The packaging referred to in paragraph (1) –

 - (a) applies only to packaging used in the retail trade of tobacco products; and
 - (b) does not include –
 - (i) external cases or containers not used in the retail trade as part of the tobacco products’ retail packaging;
 - (ii) such cases or containers used solely for the purpose of shipping the tobacco products and which do not form a part of the packaging of the tobacco products,
 so, however, that such external cases or containers shall not, thereafter be used in the retail trade as packaging for the retail sale of tobacco products .”.
7. Regulation 8 of the principal Regulations is deleted.
8. Regulation 9 of the principal Regulations is amended, in paragraph (e), by deleting the words “and effect”.
9. – (1) The marginal note to regulation 11(1) of the principal Regulations is deleted and the following substituted therefor –

“General information to be supplied to the Minister.”.

(2) Regulation 11(1) of the principal Regulations is amended by deleting the word “company”.

10. Regulation 12 of the principal Regulations is amended by –

- (a) inserting the word “enclosed” immediately before the words “public place” and “workplace or”, respectively;
- (b) re-numbering the regulation as paragraph (1) of the regulation; and
- (c) inserting next after paragraph (1), as re-numbered, the following as paragraphs (2), (3), (4), (5) and (6), respectively –

“ (2) Notwithstanding paragraph (1), the owners and operators of businesses, including –

- (a) bars, restaurants and clubs; and
- (b) tourist establishments,

may establish outdoor smoking areas, which accord with the provisions of paragraphs (3), (4) and (5).

(3) Owners and operators of places mentioned in paragraph (2) shall cause all outdoor smoking areas to –

- (a) be open-sided;
- (b) where covered by a roof, have only such columns as are necessary to support the roof;
- (c) be located at a distance of at least ten metres from any structure or area where smoking is prohibited;
- (d) be located in an area where access by persons, other than those smoking, is not necessary;
- (e) be physically separated and structurally unconnected to, areas where smoking is prohibited.

(4) There shall be no –

(a) distribution, promotion, branding or sale of tobacco products;

or

(b) form of entertainment, organized by the proprietor,

in the outdoor smoking areas established under paragraph (2).

(5) The operator or proprietor of any business described in paragraph (2) shall ensure that –

(a) no child is permitted to enter, or stay in, any area described therein;

(b) users of the area are advised that staff do not serve in the area;

(c) smoking is prohibited altogether in the area, when it is being cleaned or otherwise serviced by staff.

(6) Nothing in this regulation shall prevent a manager, owner or lessee of premises from prohibiting smoking anywhere else on the premises.”.

11. Regulation 13 of the principal Regulations is amended by –

(a) re-numbering paragraphs (3) and (4) as paragraphs (6) and (7), respectively;

(b) inserting next after paragraph (2), the following as paragraphs (3), (4) and (5) –

“ (3) Every –

(a) manager, owner or lessee of premises mentioned in the Second Schedule; and

(b) manager of a public conveyance or other such vehicle, shall display “No Smoking” signs in a prominent position on such premises or in such conveyance.

(4) Notwithstanding anything to the contrary in these Regulations, persons may display in any premises, tourist

establishment, national heritage or other site any "No Smoking" sign of the size and appearance required or specified to be placed in motor vehicles only under paragraph (6), as amended.

(5) Notwithstanding anything to the contrary in these Regulations, in the case of a manager, owner or lessee of a tourist establishment, the "No Smoking" signs shall be placed at –

- (a) the reception area;
- (b) the entrances to all other main buildings; and
- (c) all dining areas,

of the tourist establishment."; and

- (c) deleting the words "Every manager of a conveyance or vehicle" from paragraph (6), as re-numbered, and substituting therefor the words "In the case of every public passenger vehicle, conveyance or other vehicle being used to carry passengers for reward, the manager of such conveyance or vehicle".

12. Regulation 14 of the principal Regulations is amended –

- (a) by re-numbering the regulation as paragraph (1);
- (b) in paragraph (1), as re-numbered –
 - (i) by inserting immediately after the word "manufacturer" the words ", importer, distributor"; and
 - (ii) by inserting immediately after the words "First Schedule," the words "where applicable,"; and
- (c) by inserting next after paragraph (1), as re-numbered, the following as paragraph (2) –
 - " (2) Paragraph (1) shall not apply in the case of –
 - (a) individual sticks of tobacco products; or
 - (b) electronic nicotine delivery systems."

13. Regulation 15(1) of the principal Regulations is amended –
- (a) by deleting the words “in or at the entrance or exit” and substituting therefor the words “within a five metre radius of the perimeter”;
 - (b) in sub-paragraph (b), by deleting the word “recreational” and substituting therefor the words “or other similar”;
 - (c) in sub-paragraph (c), by deleting the words “owned or”; and
 - (d) in sub-paragraph (d), by inserting the words “childcare facilities and” immediately before the words “educational institutions”.
14. Regulation 16 of the principal Regulations is amended by deleting the words “member of the Jamaica Constabulary Force” wherever they appear and substituting therefor, in each case, the word “constable”.
15. Regulation 19 of the principal Regulations is amended –
- (a) in paragraph (1)(a)(i), by –
 - (i) deleting the words “fifty thousand” and substituting therefor the words “ten thousand”; and
 - (ii) deleting all the words appearing after the word “dollars”;
 - (b) in paragraph (1)(a)(ii), by –
 - (i) deleting the words “five hundred thousand” and substituting therefor the words “twenty-five thousand”; and
 - (ii) deleting all the words appearing after the word “dollars”; and
 - (c) in paragraph (1)(a)(iii), by deleting all the words from “to imprisonment” to the end and substituting therefor the words “to a fine not exceeding fifty thousand dollars”;
 - (d) in paragraphs (1) (b) and (2), by inserting immediately after the words “body corporate”, wherever they appear, the words “or tourist establishment, club, bar, restaurant and other businesses other than small shop owners, itinerant vendors and pedlars”, in each case;

- (e) by re-numbering paragraph (2) as paragraph (3);
- (f) by inserting next after paragraph (1) the following –

“ (2) Paragraphs (1)(b) and (3) shall not apply to –

- (a) shops owned by individuals;
- (b) itinerant vendors of small goods; or
- (c) pedlars.”;

- (g) by inserting next after paragraph (3), as re-numbered, the following as paragraph (4) –

“ (4) Where a person is convicted of an offence against or arising under these Regulations –

- (a) the provisions of section 3(1) and (3) of the *Criminal Justice (Reform) Act* shall apply in respect of the sentencing options of the court before which the charges are heard; and
- (b) the conviction shall not form a part of the criminal record of that person (other than a corporate body involved in the import, export, sale or distribution of tobacco products), for the purposes of the *Criminal Records (Rehabilitation of Offenders Act)*.”.

- 16. Regulation 20 of the principal Regulations is amended –

- (a) in paragraph (1), by –
 - (i) inserting immediately after the words “a period of” the word “grace”;
 - (ii) deleting the words “six months from the date of commencement of these Regulations”; and
 - (iii) inserting immediately after the words “period of grace”, the words “until the 15th day of July, 2014”; and
- (b) by deleting paragraph (2) and substituting therefor the following –

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

- (a) purchased, ordered or acquired; or
- (b) the arrival of which has been pending or under consideration by the relevant customs, trade, import or other authorities, before the 1st day of June, 2014.”.

17. – (1) Part I of the First Schedule to the principal Regulations is amended by deleting item 4.

(2) Part II of the First Schedule to the principal Regulations is amended –

- (a) by deleting the numeral and symbol “75%” wherever they appear in paragraphs 9, 11, 12 and 23(f) and substituting therefor, in each case, the numeral and symbol “60%”;
- (b) under the heading “*C. Attribution*” –
 - (i) by deleting all the words appearing after the words “Chief Medical Officer”; and
 - (ii) in item 13(2), by inserting immediately after the words “in height” the words “as measured by capital letters”; and
- (c) under the heading “*H. Manufacturing dates and batch numbers*”, in item 27 –
 - (i) in sub-item (1), by inserting immediately after the words “The date” the words “and batch number”; and
 - (ii) in sub-item (3), by deleting the words “no more than 2mm” and substituting therefor the words “a height of no more than 2mm, as measured by capital letters”.

18. The Second Schedule to the principal Regulations is amended –


- (a) by deleting items 1 and 2;

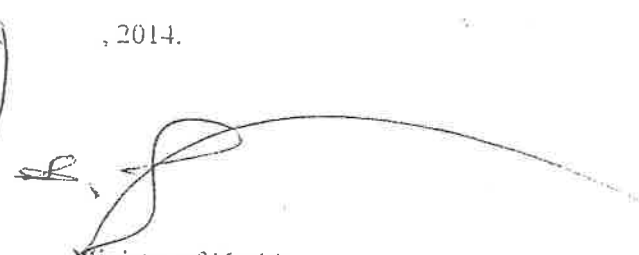
- (b) by re-numbering items (3) to (9) as items (1) to (7), respectively;
- (c) in item (2), as re-numbered, by deleting the words "Government-owned or" and substituting therefor the word "Government";
- (d) in item (4), as re-numbered, by deleting the words " and recreational" and substituting therefor the words "or other similar";
- (f) in item (6), as re-numbered, by inserting immediately after the words "bus stops" the words ", and departure and arrival waiting areas at a port or station for any form of transportation";
- (g) by inserting next after item (7), as re-numbered, the following as items (8) to (17), respectively –

“(8) balconies of tourist establishments, except where such balconies –

- (a) do not exceed 10 *per cent* of the room stock;
 - (b) are not served by ventilation units for –
 - (i) any room designated for use by non-smoking guests; or
 - (ii) any other area where smoking is prohibited;
 - (c) are located on a block of rooms, which does not include any adjoining room designated for use by non-smokers;
 - (d) are completely, physically separated and unconnected from every other area where smoking is prohibited; and
 - (e) are barred from entry into or use by minors.
- (10) residences and guesthouses for the use of the staff employed therein;
- (11) beaches (except where an outdoor smoking area has been

- established thereon, pursuant to regulation 12(2));
- (12) outdoor dining and service areas;
 - (13) parks;
 - (14) any sites declared under the *Jamaica National Heritage Trust Act* to be "national heritage" (excluding their parking lots, driveways and gateways);
 - (15) class A and class B swimming pools operated under the *Public Health (Swimming Pools) Regulations, 2000* or under the *Public Health (Tourist Establishments) Regulations, 2000* (except pools for private use or where a pool is exclusively accessible for an independent or private villa or suite);
 - (16) outdoor markets (except where an outdoor smoking area has been established pursuant to regulation 12(2)); and
 - (17) other outdoor events or activities, being used for gathering by individuals (except where an outdoor smoking area has been established pursuant to regulation 12(2))."

Dated this 26th day of , 2014.


Minister of Health

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