

**TOBACCO PRODUCTS CONTROL ACT**

**B.E. 2560 (2017)**

**His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun**

Given on the 2<sup>nd</sup> of April B.E. 2560 (2017)

Being the 2<sup>nd</sup> year of the Present Reign

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun has been graciously pleased to proclaim that:

Whereas it is expedient to revise the laws on the control of tobacco products and non-smokers' health protection.

Be it therefore enacted by the King, by and with the advice and consent of the National Legislative Assembly as follows:

Article 1: This Act shall be referred to as the "Tobacco Products Control Act B.E. 2560"

Article 2: This Act shall enter into force after a period of 90 days from the date of announcement in the Government Gazette.

Article 3: The following laws shall be annulled

- 1) Tobacco Products Control Act B.E. 2535 (1992)
- 2) Non-smokers' Health Protection Act B.E. 2535 (1992)

Article 4: In this Act

"Tobacco product" means any product containing tobacco leaves or *Nicotiana tabacum*, including any other products containing nicotine to be used by smoking, sucking, inhaling, chewing, eating, blowing or spraying into the mouth or nose or other means in order to obtain same result, excluding drugs and medicine defined in accordance with the Drugs Act.

"Business operator" means manufacturer or importer of tobacco products, including any person with the license to sell tobacco or tobacco products unlimitedly according to the Excise Tariff Act.

## Unofficial translation

“Related person” means any person or organization acting on behalf of a business operator, society or club whose activities include growing, curing and selling tobacco leaves, including any society or club whose members comprise tobacco products sellers.

“Tobacco products dependence” means a condition whereby the body is addicted to regular consumption of tobacco products, rendering the person dependent on such tobacco products.

“Smoking” means any act that creates smoke or vapour from tobacco products, including being in possession of tobacco products which cause smoke or vapour.

“Non-smoking area” means any area where smoking is prohibited.

“Smoking area” means any area within a non-smoking area where smoking is allowed.

“Package” means a pack, a carton, or other packages used to wrap or contain tobacco products.

“Advertising” means an act undertaken by any means to allow the public to see, hear or be informed of a message intended for commercial benefits.

“Marketing communication” means an act undertaken by any means, including promotion, advertisement, news reporting, dissemination of news, sales promotion, exhibition or demonstration at point of sale, direct selling, sales or sales promotion by a specific person and cyber marketing, for the purpose of selling goods or services or image/brand creation.

“Message” means word, picture, animated/motion picture, light, sound, logo or any other means that any person in general can understand.

“Label” means photo, mark, paper or any other things showing product description on the product, container or package; or enclosed or included with the product, container or package, including any document or manual for the product.

“Sale” means selling, distributing, exchanging or giving for commercial benefits.

“Operator” means owner, manager or any person responsible for the operation of a public place, workplace or vehicle considered to be a smoke-free area.

“Public area” means any area where the general public has the right to enter regardless of whether there is or is not an invitation or fee/compensation.

“Workplace” means government offices, state enterprises, other public agencies and private offices or any other places where individuals use to work as prescribed in the Ministerial Regulations by recommendations of the Committee.

“Vehicle” means public vehicle or any other vehicles used to transport individuals.

“Committee” means National Tobacco Products Control Committee.

## Unofficial translation

“Officer” means a person appointed by the Minister to execute this Act.

“Minister” means the Minister taking charge of this Act.

Article 5: The Minister of Public Health shall be the assigned Minister taking charge of this Act. The Minister shall have the power to appoint officers and announce Ministerial Regulations and Announcements for the execution of this Act, including Ministerial Regulations on fees which shall not exceed the limits set forth in the annex to this Act.

The Ministerial Regulations and Announcements shall come into effect upon announcement in the Government Gazette.

### Category 1

#### Tobacco Products Control Committee

Article 6: There shall be the “National Tobacco Products Control Committee” comprising:

- 1) Minister of Public Health as Chairperson
- 2) Permanent Secretary of the Ministry of Public Health as Vice-Chairperson
- 3) Twelve committee members by position, including Permanent Secretaries of Minister of Finance, Ministry of Social Development and Human Security, Ministry of Tourism and Sports, Ministry of Agriculture and Cooperatives, Ministry of Commerce, Minister of Interior, Ministry of Justice, Ministry of Labor and Minister of Education, Commissioner General of Royal Thai Police, Secretary-General of National Health Security Office and CEO of Thai Health Promotion Foundation
- 4) Five expert committee members appointed by the Cabinet with renowned knowledge, expertise and experience in the area of medicine, public health, law, protection of the rights of women or children and any other areas deemed beneficial for tobacco products control (one member from each area)
- 5) Four expert committee members appointed by the Cabinet, three of whom shall be nominated by non-profit organizations dedicated in public health protection and one of whom shall be nominated by a non-profit organization dedicated in human rights and freedom protection

The Director-General of Department of Disease Control shall act as committee member and secretary and appoint two staff members of Department of Disease Control responsible for tobacco products control to be assistant secretaries.

An acquisition of expert committee member shall be according to the rule, methodology and condition announced by the Minister.

Article 7: Expert committee members shall meet the following criteria and be absent of the following prohibited characters.

## Unofficial translation

- a. Criteria
  - 1) Thai nationality
  - 2) Age not lower than 35 years old
- b. Prohibited characters
  - 1) Bankrupted or was bankrupted for fraud
  - 2) Incapacitated or likewise
  - 3) Was imprisoned by the Court's final judgment except if being found guilty of negligence, petty crime or contempt
  - 4) Was fired, dismissed or discharged from government offices, government agencies or state enterprises due to fraud, severe misconduct or deemed guilty of fraud and misconduct in official business
  - 5) Holds a political position, membership in a board or managerial position of a political party or be its advisor or staff
  - 6) Owns, be a related person or a stakeholder in a business involving tobacco products whether directly or indirectly

Article 8: Expert committee members shall have a term of four years, starting on the day of the appointment. Upon the conclusion of a term, reappointment can be considered though each member cannot hold more than two consecutive terms.

When the term in paragraph 1 is concluded and the successor is yet to be appointed, the expert committee member who the term is concluded shall remain in the position until the new expert committee member will be appointed.

In case that an expert committee member leaves the term before its conclusion, the Cabinet shall appoint a new expert committee member except if the remaining term is less than 90 days in which case it is possible not to appoint a new expert committee member. In this connection, the Committee shall be consisted of remaining committee/expert committee members.

An expert committee member appointed to replace the leaving member shall assume the remaining term of the latter as his/her full term.

Article 9: Besides termination by end of term, expert committee members shall be considered having concluded his/her term in case of the followings.

- 1) Death
- 2) Resignation
- 3) Removal by the Cabinet due to wrongful or fraudulent conduct, misconduct or incompetency
- 4) Having any of the prohibited characters under Article 7

Article 10: The Committee shall have the following powers and responsibilities.

## Unofficial translation

- 1) Propose policies and strategic plans about tobacco products control, non-smokers' health protection and treatment and rehabilitation for tobacco products dependence for the cabinet's approval
- 2) Determine tobacco products control and non-smoker's health protection measures along with treatment and rehabilitation for tobacco products dependence as well as provide recommendation, consultation and collaborate with government offices, government agencies, state enterprises and the private sector to implement these measures
- 3) Give advice or recommendation to the Minister, Bangkok Tobacco Products Control Committee, Provincial Tobacco Products Control Committee, government offices, public agencies, state enterprise, private sectors and officers appointed to execute this Act
- 4) Give advice or recommendation on the issuance of Notifications in relation to the execution of this Act
- 5) Monitor, evaluate and inspect work progress of Bangkok Tobacco Products Control Committee and Provincial Tobacco Products Control Committee in implementing policies and strategic plans in to (1) and measures in (2) as well as formulate rules and procedures for reporting
- 6) Formulate rules, procedures and conditions for comparison under this Act
- 7) Perform any other duties as required by the laws to be within the powers and responsibilities of the Committee or as instructed by the Cabinet or Minister

Article 11: Meetings of the Committee shall have no less than half of the members present to be considered a complete quorum.

During a meeting, if the Chairperson is absent or unable to perform his/her duties, the Vice-Chairperson shall act as the Chairperson for that meeting. If the Vice-Chairperson is absent or unable to perform his/her duties, the quorum shall select a member to act as Chairperson for that meeting.

During a meeting, a decision shall be based on the majority rule. One member is entitled to one vote. In case of a tie, the Chairperson shall have an additional deciding vote.

The meeting of the Committee shall be conducted at least two times per year.

Article 12: The Committee shall have the power to appoint Sub-committees to consider or perform any duty as instructed by the Committee.

Meetings of the Sub-committees shall comply with Article 11, mutatis mutandis.

Article 13: In executing this Act, the Committee and Sub-committee shall have the power to instruct, in writing, any person to offer facts or views or submit documents or related information for consideration.

Article 14: In executing this Act, the Committee and Sub-committee shall be considered officer according to the Criminal Code.

## **Unofficial translation**

Article 15: The Department of Disease Control shall assume the responsibility of the secretariat office of the Committee and Sub-committees, in charge of administrative work with the following powers and responsibilities.

- 1) Formulate policies and strategic plans about tobacco products control, non-smokers' health protection and treatment and rehabilitation for tobacco products dependence for the Committee's consideration, taking into account Thailand's existing international commitments
- 2) Conduct or support studies, analyses and researches on tobacco products control, non-smokers' health protection and treatment and rehabilitation for tobacco products dependence
- 3) Be a centre of information on tobacco products control, non-smokers' health protection and treatment and rehabilitation for tobacco products dependence
- 4) Coordinate, support and collaborate with Bangkok Tobacco Products Control Committee, Provincial Tobacco Product Control Committee, government offices, public agencies, state enterprises, educational institutions, international organizations and private sectors that are relevant to the execution of this Act, including policies and strategic plans in Article 10 (1) measures in Article 10 (2).
- 5) Perform any other duties as assigned by the Minister, Committee, Sub-committee or as required by the laws to be within the powers and responsibilities of the Department of Disease Control.

### **Category 2**

#### **Bangkok Tobacco Products Control Committee**

Article 16: There shall be the "Bangkok Tobacco Products Control Committee" comprising

- 1) Bangkok Governor as Chairperson
- 2) Permanent Secretary of Bangkok as Vice-Chairperson
- 3) Sixteen committee members by position, including Commissioner of Metropolitan Police Department, Director of Bangkok Regional Primary Education Office as assigned by Basic Education Commission of Thailand, Director of Bangkok Regional Secondary Education Office as assigned by Basic Education Commission of Thailand, Bangkok Excise as assigned by Director-General of Excise Department, Director of National Health Security Office for Bangkok, Director of Medical Service Department for Bangkok, Director of Education Office for Bangkok, Director of Social Development for Bangkok, Director of Office of Culture, Sport and Tourism for Bangkok, Director of City Law Enforcement for Bangkok, Director of Health Department for Bangkok, Director of Public Relations Division for Bangkok, representative from Department of Disease Control, representative from Higher Education Commission, representative from Vocational Education Commission and representative from Private Education Commission

## Unofficial translation

- 4) Six expert committee members appointed by the Bangkok Governor with renowned knowledge, expertise and experience in the area of medicine, public health, law, mass communications or media, protection of the rights of women or children, human rights and freedom protection and any other areas deemed beneficial for health protection (one member from each area)

The Bangkok Governor shall appoint one Deputy Director of Health Department for Bangkok, as committee member and secretary, and two staff from the Health Department of Bangkok, as assistant secretaries.

Article 17: Criteria and prohibited characters of expert committee member in Article 16 (4) shall comply with Article 7. Appointment, term and termination of service of committee members in Article 16(4) shall comply with the rules, procedures and conditions as announced by the Committee.

Article 18: The Bangkok Tobacco Products Control Committee shall have the following powers and responsibilities in Bangkok areas.

- 1) Enforce tobacco products control and non-smoker's health protection law, including treatment and rehabilitation of tobacco products dependence.
- 2) Implement policies and strategic plans in Article 10 (1) and measures in Article 10 (2)
- 3) Stipulate guidelines, monitor, evaluate and inspect the performance on surveillance and prevention of tobacco access by children and youth, reduction and elimination of tobacco products consumption and non-smokers' health protection, and report to the Committee
- 4) Propose recommendations to and coordinate with government offices, public agencies, state enterprises and private sectors concerning tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco products dependence
- 5) Propose ideas on enforcement of laws and measures on tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco product dependence to the Committee
- 6) Perform any other duties in relation to tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco products dependence as assigned by the Cabinet, Committee or Bangkok Governor

Article 19: The Bangkok Tobacco Products Control Committee shall have the power to appoint Sub-committees to consider or perform any duty as instructed by the Committee.

Article 20: Meetings and performance of the Bangkok Tobacco Products Control Committee and Sub-committees as appointed by the Bangkok Tobacco Products Control Committee shall comply with Articles 11, 13 and 14, mutatis mutandis.

### Category 3

#### Provincial Tobacco Products Control Committee

Article 21: There shall be the "Provincial Tobacco Products Control Committee" comprising

## Unofficial translation

- 1) Governor as Chairperson
- 2) Deputy Governor as assigned by the Governor as Vice-Chairperson
- 3) Thirteen committee members by position, including Provincial Chief Public Prosecutor, Provincial Permanent Secretary, Commissioner of Provincial Police Department, Director of Provincial Regional Primary Education Office as assigned by Basic Education Commission of Thailand, Director of Provincial Regional Secondary Education Office as assigned by Basic Education Commission of Thailand, Director of Office Disease Prevention and Control at the province, Provincial Social Development and Human Security Office, Provincial Public Relations, Provincial Excise as assigned by the Governor, Director of National Health Security Office for the respective province, and three Administrators of Provincial Administration Office as appointed by the Governor
- 6) Six expert committee members appointed by the Governor with renowned knowledge, expertise and experience in the area of medicine, public health, law, mass communications or media, protection of the rights of women or children, human rights and freedom protection and any other areas deemed beneficial for health protection (one member from each area)

The Provincial Chief Medical Officer shall be a committee member and secretary and the Governor shall appoint two staff from the Provincial Health Office as assistant secretaries.

Article 22: Criteria and prohibited characters of expert committee member in Article 21 (4) shall comply with Article 7. Appointment, term and termination of service of committee members in Article 21 (4) shall comply with the rules, procedures and conditions as announced by the Committee.

Article 23: The Provincial Tobacco Products Control Committee shall have the following powers and responsibilities in provincial areas.

- 1) Enforce tobacco products control and non-smoker's health protection law, including treatment and rehabilitation of tobacco products dependence
- 2) Implement policies and strategic plans in Article 10 (1) and measures in Article 10 (2)
- 3) Stipulate guidelines, monitor, evaluate and inspect the performance on surveillance and prevention of tobacco access by children and youth, reduction and elimination of tobacco products consumption and non-smokers' health protection, and report to the Committee
- 4) Propose recommendations to and coordinate with government offices, public agencies, state enterprises and private sectors concerning tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco products dependence
- 5) Propose ideas on enforcement of laws and measures on tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco product dependence to the Committee
- 6) Perform any other duties in relation to tobacco products control, non-smokers' health protection and treatment and rehabilitation of tobacco products dependence as assigned by the Cabinet, Committee or Provincial Governor



## **Unofficial translation**

Article 24: The Provincial Tobacco Products Control Committee shall have the power to appoint Sub-committees to consider or perform any duty as instructed by the Committee.

Article 25: Meetings and performance of the Provincial Tobacco Products Control Committee and Sub-committees as appointed by the Provincial Tobacco Products Control Committee shall comply with Articles 11, 13 and 14, mutatis mutandis.

### **Category 4**

#### **Tobacco Products Control**

Article 26: No person shall be allowed to sell or distribute tobacco products to individuals aged below 20 years.

In case of doubt about a buyer or receiver's age, the seller or distributor shall inspect the buyer or receiver's national ID card or any other proofs of age, depending on circumstances.

No person shall be allowed to order, hire, ask or allow individuals aged below 18 years to sell or distribute tobacco products.

Article 27: For retail sales of tobacco products, no retailer shall be allowed to conduct the followings.

- 1) Sell tobacco products by vending machine
- 2) Sell tobacco products via electronic media or computer network
- 3) Sell tobacco products in areas outside permitted areas as per the license to sell
- 4) Sell tobacco products by distributing, giving as extras, giving, or exchanging tobacco products for other goods, services or benefits, depending on circumstances
- 5) Sell tobacco products by any means that indicate price reductions/sales at point of sale
- 6) Sell goods or services whereby tobacco products are also distributed, given as extras or given, including exchanging of such goods or services with tobacco products, depending on circumstances
- 7) Peddle tobacco products
- 8) Give or offer the right to attend a competition, show, service, raffle, lucky draw or any other benefits as a returning gesture to the buyer of tobacco products or a person bringing a package of tobacco products or ticket or any other things related to tobacco products for exchange or redemption
- 9) Display prices of tobacco products at point of sale to induce individuals to consume tobacco products

Article 28: No person shall be allowed to distribute tobacco products as sample products or to promote wide-spread distribution or to induce the general public to consume tobacco products.

Article 29: No person shall be allowed to sell tobacco products in following areas.

- 1) Temple or place for religious ceremony

## Unofficial translation

- 2) Health service facility, hospital under health service law and drug stores under drug law
- 3) Schools under education law
- 4) Public parks, zoos and amusement parks
- 5) Any other places as announced by recommendations of the Committee

The Minister, upon recommendations of the Committee, may announce a minimum distance from the areas mentioned in first paragraph, to prohibit sales of tobacco products within such distance radius from the prohibited areas. In this regard, the sign or symbol of the prohibited area shall be provided and made visible.

Article 30: No person shall be allowed to advertise or perform marketing communication of tobacco products.

Article 31: No person shall be allowed to display the name or logo of tobacco products, their manufactures or importers or showing any other signs/marks or media to communicate with the public the name or logo of tobacco products or the name or logo of their manufactures or importers of tobacco products, for the purpose of advertisement in the following media.

- 1) In printed matters, tape or television, movie, radio, electronic media, computer network or advertisement board
- 2) In theaters, cinemas or during shows, plays, contests, games, services or any other activities/performances of similar nature
- 3) In other media or places for advertisement or marketing communication as announced in the Ministerial Regulations by recommendations of the Committee

Article 32: No person shall be allowed to display the name or logo of tobacco products or their manufacturers or importers on any non-tobacco products, or use the name or logo of tobacco products, including its editing, as part of another product for the purpose of advertising the name or logo of tobacco products or their manufacturers or importers.

No person shall be allowed to import for sale, advertise or sell the products as mentioned in the first paragraph.

Article 33: No person shall be allowed to advertise products that use the name or logo of tobacco products as their name or logo, including advertisement by using edited name or logo of tobacco products as part of another product's name or logo in ways that may imply the intention to advertise tobacco products.

Article 34: No person shall be allowed to manufacture, sell, import for sale or general distribution, advertise or perform marketing communication for the followings.

- 1) Products having an appearance that can be understood as an imitation of tobacco products

**Unofficial translation**

- 2) Products that are consumed by smoking which contain ingredients that are harmful to health as announced in the Ministerial Regulations by recommendations of the Committee
- 3) Package of products in (1) and (2)

Article 35: Business operator and related person shall not be allowed to sponsor or support individuals, groups or public and private agencies in any one of the following ways.

- 1) To promote the image of tobacco products, manufacturers or importers of tobacco products
- 2) In ways that intervene or may intervene with tobacco products control policies
- 3) Advertisement of tobacco products, manufacturers or importers of tobacco products
- 4) Promote tobacco products consumption

Paragraph 1 shall not be enforced for activities between business operators and related persons and persons in relation to the manufacturing and sales of tobacco products or for donation and humanitarian assistance in case of severe disasters.

No person shall be allowed to communicate to the public activities or news to promote such activities of paragraphs 1 and 2.

Article 36: Retailer of tobacco products shall not be allowed to display or permit a display of tobacco products at retail places.

Display of names and prices of tobacco products along with display of tobacco product retail places shall comply with the rules, procedures and conditions as announced in the Ministerial Regulations by recommendations of the Committee.

Tobacco product retailers shall display the media on reduction, rejection, and elimination of tobacco consumption produced by the Ministry of Public Health according to the rules, procedures and conditions as announced in the Ministerial Regulations by recommendations of the Committee.

Article 37: The tobacco products to be sold shall have the composition and combustion resultants in accordance with the standards as prescribed in the Ministerial Regulations.

The manufacturer or importer of tobacco products in paragraph 1 shall have the duty to inform the Ministry of Public Health of the composition of tobacco products and their combustion resultants as well as send samples of tobacco products to the Ministry of Public Health for inspection and disclosure to the public as instructed according to the rules, procedures and conditions as stipulated in the Ministerial Regulations.

In case where the tobacco products mentioned in paragraph 2 have the composition and combustion resultants in accordance with the standards as prescribed in the Ministerial Regulations in paragraph 1, the Ministry of Public Health shall issue a registration document of tobacco product compositions and combustion resultants. Issuance of such document, its expiration date and replacement document for

## **Unofficial translation**

such certificate shall be in accordance with the rules, procedures and conditions as stipulated in the Ministerial Regulations.

In case where the tobacco products mentioned in paragraph 2 have the composition and combustion resultants that are not in accordance with the standards as prescribed in the Ministerial Regulations in paragraph 1, the Minister shall have the power to order the prohibition of sale, importation, or to destroy the manufactured or imported tobacco products and inform the public accordingly about the order.

Expenses incurred in the inspection in paragraph 2 or destruction of tobacco products and public announcement in paragraph 4 shall be borne by the manufacturers or importers of such products according to the rules, procedures and conditions as stipulated in the Ministerial Regulations.

To protect the health and safety of the public, the Ministerial Regulations in paragraph 1 shall instruct the Minister to announce the rules for technical details, academic details or any matters deemed to require urgent changes.

Article 38: The manufacturer or importer of tobacco products must display the labels on the package of tobacco products, ensuring that size, color, logo, label, trademark, symbols and pictures are in accordance with the rules, procedures and conditions as prescribed in the Ministerial Regulations by recommendations of the Committee, before moving the products out of manufacturing sites or before importation into the Kingdom, depending on circumstances.

No person shall be allowed to sell tobacco products without arranging for the packages to exhibit trademark, logo, picture and text as prescribed in paragraph 1.

To protect the population's health and safety, the Committee shall have the power to consider revising the regulations as per paragraph 1 every 2 years, starting from the day that this Act takes full effect. If necessary, the Committee shall consider revising the regulations before the stipulated timeframe.

Article 39: No person shall be allowed to manufacture or import tobacco products of cigarettes containing below 20 rolls per pack or cigarette container.

Cigarettes must be sold in whole packs or containers and must not be divided for sale.

Sale of other tobacco products shall comply with the rules, procedures and conditions as stipulated in the Ministerial Regulations by recommendations of the Committee.

Article 40: The manufacturer or importer of tobacco products have the duty to report the volume of production or importation into the Kingdom, market share, marketing expense, income and expense as per Article 35, annual report, audited financial statement and any other information for the benefits of tobacco products control to the Committee, according to the rules, procedures and conditions as stipulated in the Ministerial Regulations by recommendations of the Committee.

## **Category 5**

### Non-Smoker's Health Protection

Article 41: The Minister, by recommendations of the Committee, shall have the power to designate by type or name, any part or all of public places, workplaces and vehicles as non-smoking areas.

The Minister, by recommendations of the Committee, may designate smoking areas within non-smoking areas in paragraph 1.

Article 42: No person, under the prescription of Article 41 paragraph 2, shall be allowed to smoke in non-smoking areas.

Article 43: When the Minister, by recommendations of the Committee, announces any public places, workplaces or vehicles as non-smoking areas, the operator shall arrange for such areas or vehicles to have the following conditions and characteristics.

- 1) To arrange signs clearly exhibiting that an area is a non-smoking area
- 2) To be absent of any equipment or facilities for smoking
- 3) To have conditions and other characteristics as prescribed in the Ministerial Regulations by recommendations of the Committee

Article 44: In case of announcement of the Ministerial Regulations under Article 41 paragraph 2, by recommendations of the Committee, the operator may arrange for smoking areas to have the following conditions and characteristics.

- 1) To arrange signs clearly exhibiting that an area is a smoking area
- 2) To ensure that the area is not located at the entrance and exit of the respective place or vehicle or any area that is within clear view
- 3) To ensure that the area is clearly separated and does not have characteristics that may cause nuisance to others
- 4) To exhibit media to promote reduction, rejection and elimination of tobacco products consumption, as prescribed in the Ministerial Regulations by recommendations of the Committee
- 5) To ensure that the area have the conditions and characteristics as prescribed in the Ministerial Regulations by recommendations of the Committee

Article 45: Non-smoking signs under Article 43 (1) or smoking areas under Article 44 (1) that the operators shall arrange must comply with the conditions and procedures as prescribed in the Ministerial Regulations by recommendations of the Committee.

Article 46: The operator shall have the duty to promote or warn that a place is a non-smoking area and control, dissuade or perform any other duties to prevent smoking in non-smoking areas.

In case of violation, i.e. smoking in non-smoking areas, if the operator has undertaken all actions as required and reasonably expected, the operator shall not be deemed guilty of such violation.

**Category 6**

**Officers**

Article 47: In executing the duties under Category 4 in this Act, the officer shall have following powers to;

- 1) Enter into any places during sunrise and sunset or official working hours of such places, including any vehicles, for inspection in case there is reasonable ground to suspect that an offense under Category 4 have been committed
- 2) Take reasonable quantity of tobacco products as a sample for inspection
- 3) Confiscate or seize tobacco products or other materials (partly or all) related to the manufacturing, importation, selling or violation under Category 4 of this Act as evidence for prosecution
- 4) Issue an inquiring letter or summon any person for interrogation or submission of document, information or any other items required for consideration of the officers or for prosecution
- 5) Photograph, video record, voice record or collect any other materials for an evidence

Article 48: In executing the duties under Category 5 in this Act, the officers shall have the following powers to;

- 1) Enter into public place or workplace during sunrise and sunset or official working hours of such places for inspection an offense under Category 5
- 2) Call to stop or enter into any vehicles for inspection in case there is reasonable ground to suspect that an offense under Category 5 have been committed
- 3) Issue an inquiring letter or summon any person for interrogation or submission of document, information or any other items required for consideration of the officers or for prosecution
- 4) Call to record the national ID card or any other documents indicating name, address and photo of beholder in case there is reasonable ground to suspect that an offense under Category 5 have been committed
- 5) Photograph, video record, voice record or collect any other materials for an evidence
- 6) Issue a fine ticket in case of violation of Category 5 of this Act. The issued fine ticket shall comply with the rules, procedures, conditions and format as prescribed in the Ministerial Regulation by recommendation of the Committee

Article 49: The officer at any position or level shall have full or partial power as prescribed under Articles 47 and 48 or be assigned such power by someone before any duties can be executed. Operational procedures and criteria of such officer at any position or level shall comply with the Ministerial Regulations. The assignment letter shall be prepared for the assigned officer to be carried with him/her.

Article 50: Any Related person shall properly facilitate the officer in executing the duties under Articles 47 and 48.

Article 51: In executing the duties under this Act, the officer shall present the ID card to the related persons.

## Unofficial translation

The officer ID card shall comply with the format as prescribed in the Ministerial Regulations.

Article 52: In executing the duties under this Act, the officer shall be act as officers under the Criminal Code.

### Category 8

#### Penalty

Article 53: Any person violating Article 26 paragraph 1 or 3 or Article 27 (1), (2) and (3) shall be subjected to imprisonment not exceeding 3 months or a fine not exceeding 30,000 THB or both.

Article 54: Any person violating Article 27 (4), (5), (6), (8) or (9), Article 28 or Article 29 shall be subjected to a fine not exceeding 40,000 THB.

Article 55: Any person violating Article 27 (7) shall be subjected to a fine not exceeding 20,000 THB.

Article 56: Any person violating Articles 30 or 31 shall be subjected to imprisonment not exceeding 6 months or a fine not exceeding 500,000 THB or both.

In case of violation under Articles 30 or 31 by the manufacturer, importer, exporter or advertising or marketing communication agency of tobacco products, the violator shall be subjected to imprisonment not exceeding 1 year or a fine not exceeding half of the advertisement or marketing communication expenses but no less than 1,500,000 THB or both.

Besides the punishment from paragraphs 1 and 2, the violator shall be subjected to an additional fine at a rate of 50,000 THB per day during the violation period or until the violation is rectified.

Article 57: Any person violating Article 32 paragraph 1 shall be subjected to a fine not exceeding 100,000 THB.

Any person violating Article 32 paragraph 2 shall be subjected to a fine not exceeding 50,000 THB.

Article 58: Any person violating Article 33 shall be subjected to a fine not exceeding 200,000 THB.

Article 59: Any person who manufactures or imports for sale or general distribution, or advertises or performs marketing communication of tobacco products under Article 34 (1) (2) or (3), shall be subjected to a fine not exceeding 100,000 THB.

Any person who sells tobacco products under Article 34 (1) (2) or (3) shall be subjected to a fine not exceeding 50,000 THB.

Article 60: Any business operator violating Article 35 paragraph 1 shall be subjected to imprisonment not exceeding 1 year or a fine not exceeding half of the expenses for such activities but no less than 1,500,000 THB or both.

## Unofficial translation

In case the action in paragraph 1 is carried out by a contractor or an assigned person to perform the duties under Article 35 paragraph 1, such person shall be subjected to the same penalty as per paragraph 1.

Any related person violating Article 35 paragraph 1 shall be subjected to imprisonment not exceeding 1 year or a fine not exceeding 500,000 THB or both.

Any person violating Article 35 paragraph 3 shall be subjected to a fine not exceeding 500,000 THB.

Article 61: Any tobacco product retailer violating Article 36 paragraph 1 shall be subjected to a fine not exceeding 40,000 THB.

Any tobacco product retailer not complying with Article 36 paragraphs 2 and 3 shall be subjected to a fine not exceeding 5,000 THB.

Article 62: In case of violation under Articles 26, 28, 29, 32, 33 or 36 paragraph 1 by a manufacturer or importer of tobacco products, the penalty imposed shall be 3 folds that which is prescribed for that violation.

Article 63: Any manufacturer or importer of tobacco products who do not declare or partially declares or falsely declares the products under Article 37 Paragraph 2 shall be subjected to imprisonment not exceeding 6 months or a fine not exceeding 200,000 THB or both.

Any manufacturer or importer of tobacco products violating the order to prohibit selling, importation or destruction of tobacco products under Article 37 Paragraph 4 shall be subjected to imprisonment not exceeding 1 year or a fine not exceeding 500,000 or both.

In case of violation on prohibited selling, importation or destruction of tobacco products under Article 37 Paragraph 4 being carried out by a person other than the manufacturer or importer of tobacco products, the violator shall be subjected to a fine not exceeding 40,000 THB.

Article 64: Any person not complying with Article 38 paragraph 1 shall be subjected to a fine not exceeding 200,000 THB.

Any person violating Article 38 paragraph 2 shall be subjected to a fine not exceeding 40,000 THB.

Article 65: Any person violating Article 39 paragraph 1 shall be subjected to a fine not exceeding 300,000 THB.

Any person violating Articles 39 paragraphs 2 or not complying with Article 39 paragraph 3 shall be subjected to a fine not exceeding 40,000 THB.

Article 66: Any Manufacturer or importer of tobacco products who does not declare or partially declares the products under Article 40 shall be subjected to imprisonment not exceeding 6 months or a fine not exceeding 100,000 THB or both.



## **Unofficial translation**

Any manufacturer or importer of tobacco products who falsely declares the products under Article 40 shall be subjected to imprisonment not exceeding 1 year or a fine not exceeding 200,000 THB or both.

Article 67: Any person violating Article 42 shall be subjected to a fine not exceeding 5,000 THB.

Article 68: Any operator not complying with Articles 43 or 44 shall be subjected to a fine not exceeding 50,000 THB.

Article 69: Any operator not complying with Article 45 shall be subjected to a fine not exceeding 5,000 THB.

Article 70: Any operator not complying with Article 46 paragraph 1 shall be subjected to a fine not exceeding 3,000 THB.

Article 71: Any person blocking or failing to properly facilitate the officer on duty under Articles 47 or 48 shall be subjected to imprisonment not exceeding 1 month or a fine not exceeding 10,000 THB or both.

Article 72: Any person not paying the fine with inappropriate reasons as per the ticket issued by the officer on duty under Article 48 (6) within a specified period of such ticket shall be subjected to additional penalty in the amount equal to the fine as per the original ticket.

Article 73: In case the violator who is subjected to punishment in accordance with this Act is a legal entity, if the violation by such legal entity arises as a result of an order or action of any person, absence of an order or failure to perform duties as per the responsibilities of the managing director, manager or any other persons responsible for the operation of such legal entity, the person shall be subjected to the penalty as prescribed for the concerned violations.

Article 74: For all guilt under this Act that is punished only by fining, the Committee or person assigned by the Committee shall have the power to make comparison in accordance with the regulations as announced by the Committee in the Government Gazette.

After the violator has paid the fine in the amount as per the comparison and within the stipulated timeline, the case shall be closed in accordance with the consideration of the Criminal Code.

## **Special Provision**

Article 75: For the initial appointment, the Committee shall comprise committee members under Article 6 (1) (2) and (3) and the Director-General of Department of Disease Control shall act as committee member and secretary, performing the duties of the Committee under Article 6 until the appointment of expert committee members under Article 6 (4) and (5). The period shall not exceed 120 days after enactment of this Act. In this regard, the Director-General of Department of Disease Control shall appoint two officials from the Department of Disease Control responsible for tobacco products control as assistant secretaries.

Article 76: For the initial appointment, Bangkok Tobacco Products Control Committee shall comprise committee members under Article 16 (1) (2) and (3) and one Deputy Director of Bangkok Health

## **Unofficial translation**

Department as appointed by the Bangkok Governor shall act as committee member and secretary, performing the duties of the Committee under Article 16 until the appointment of expert committee members under Article 16 (4). The period shall not exceed 120 days after enactment of this Act. In this regard, the Bangkok Governor shall appoint two officials from the Bangkok Health Department as assistant secretaries.

Article 77: For the initial appointment, Provincial Tobacco Products Control Committee shall comprise committee members under Article 21 (1) (2) and (3) and the Provincial Chief Medical Officer shall act as committee member and secretary, performing the duties of the Committee under Article 21 until the appointment of expert committee members under Article 21 (4). The period shall not exceed 120 days after enactment of this Act. In this regard, the Provincial Governor shall appoint two officials from the Provincial Health Office as assistant secretaries.

Article 78: Declaration of composition of tobacco products under Tobacco Products Control Act B.E. 2535 before the enactment date of this Act shall remain active until the due date specified in the registration document of tobacco product composition.

Article 79: Ministerial Regulations and Announcements under Tobacco Products Control Act B.E. 2535 and Non-Smokers' Health Protection Act B.E. 2535 in effect before the enactment date of this Act shall remain active as long as they do not contradict with this Act until the announcement of Ministerial Regulations, Guidelines or Notifications under enforcement of this Act.

The Ministerial Regulations, Guidelines or Notifications shall be announced within 1 year after enactment date of this Act. In case of failure to do so, the Minister shall report the reasons to the Cabinet.

Countersigned by

General Prayut Chan-ocha

Prime Minister

## **Charge Rates**

- 1) Registration document of tobacco product compositions and combustion resultants at 100,000 THB per document.
- 2) The copy of the registration document of tobacco product compositions and combustion resultants at 2,000 THB per document.

## **Rationale**

**Unofficial translation**

The Tobacco Products Control Act B.E. 2535 and the Non-smokers' Health Protection Act B.E. 2535 have been in effect for a number of years, rendering some articles unsuitable for the current situation, resulting in suboptimal success in tobacco product controls and non-smokers' health protection efforts. Furthermore, Thailand is now a party to the WHO Framework Convention on Tobacco Control (WHO FCTC). Thus, it is deemed reasonable for the two aforementioned laws to be revised, thereby enabling tobacco products control measures and health protection efforts, especially among children and youths – the nation's valued resources, to be more efficient and in line with the WHO FCTC. It is, therefore, necessary to enact this Act.