

TOBACCO AND SMOKING ACT

R-009-2023

Registered with the Chief Legislative Counsel

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TOBACCO AND SMOKING REGULATIONS

The Commissioner in Executive Council, under section 46 of the *Tobacco and Smoking Act*, S.Nu. 2021,c.20, and every enabling power, makes the annexed *Tobacco and Smoking Regulations*.

Definitions

Definition of "accessory"

1. The definition of "accessory" under the Act does not include a battery or other power source that
 - (a) may be used in products other than smoking products;
 - (b) is sold and promoted separately from smoking products; and
 - (c) is sold and promoted in a manner that does not promote smoking products.

Environmental health officers

2. Environmental health officers as defined in the *Public Health Act* are enforcement officers.

Provision to minors

Proofs of age

3. (1) The following are prescribed as proofs of age for the purposes of sections 4 and 15 of the Act:
 - (a) any identification document with a photograph and date of birth that was issued by the Government of Nunavut, the Government of Canada or the government of a province or another territory;
 - (b) a passport;
 - (c) a United States passport card;
 - (d) a NEXUS card or Free and Secure Trade (FAST) card;
 - (e) an enhanced driver's licence issued by a government authority in the United States.

Canada Post

(2) When a delivery of a smoking product is made by Canada Post, any identification document with a photograph and date of birth that is acceptable identification under Canada Post's general policies is a prescribed proof of age for the purposes of section 4 of the Act.

Policies, practices and procedures

4. (1) The written policies, practices and procedures of a retailer under subsection 5(1) of the Act must include
 - (a) training employees to

- (i) request a proof of age listed in subsection 3(1) from anyone who appears to be under 25 years of age,
 - (ii) refuse to sell or supply tobacco when the required proof of age has not been provided, and
 - (iii) examine a proof of age to establish that it is a proof of age listed in subsection 3(1); and
- (b) a prohibition on employees handling tobacco or smoking products before they are fully trained and educated in accordance with paragraph (a).

Monitoring mechanisms

(2) The monitoring mechanism of a retailer under paragraph 5(1)(c) of the Act must include

- (a) requiring new employees to pass a test on the requirements of the Act, these regulations and the policies, practices and procedures of the retailer prior to handling tobacco and smoking products;
- (b) requiring employees who have failed to comply with the Act, these regulations or the policies, practices and procedures of the retailer to pass, once per month for three months, tests on the requirements of the Act, these regulations and the policies, practices and procedures of the retailer;
- (c) the supervision of the following employees until the retailer is satisfied that they understand and adhere to the requirements of the Act, these regulations, and the policies, practices and procedures of the retailer:
 - (i) new employees,
 - (ii) employees who have previously failed to comply with the Act, these regulations or the policies, practices and procedures of the retailer;
- (d) requiring employees to maintain a record that includes the following information:
 - (i) the name of the employee,
 - (ii) the date and time of every time they requested proof of age, and
 - (iii) whether the person provided proof of age indicating they are an adult; and
- (e) direct observation of employees' performance at least once annually.

Record of training and testing

(3) A retailer

- (a) must keep a record of the training of each employee referred to in paragraph (1)(a) and each test referred to in paragraphs (2)(a) and (b) that is signed by the retailer and the employee; and
- (b) may dispose of an employee's records of training and testing once the employee has no longer been employed by the retailer for one year.

Records of proof of age

(4) A retailer may dispose of a record under paragraph (2)(d) one year after it was made.

Records of direct observation

(5) A retailer

- (a) must keep a record of the following information with respect to direct observation referred to in paragraph (2)(e):
 - (i) the name of the employee,
 - (ii) the name and signature of the observer,
 - (iii) the date and length of the direct observation,
 - (iv) notes on compliance or non compliance with the Act, these regulations and the policies, practices and procedures of the retailer; and
- (b) may dispose of a record under paragraph (a) one year after it was made.

Maintenance of records

(6) A retailer must ensure that

- (a) records required to be kept under this section are kept at the retail premises in a safe and secure manner that prevents unauthorized access; and
- (b) are available to inspectors upon request.

Prohibited sales

Package quantities

5. (1) A person must not sell cigarettes or little cigars, as defined in the *Tobacco and Vaping Products Act* (Canada), in quantities of less than 20.

Nicotine concentrations

(2) A person must not sell a vapour product with a concentration of nicotine of greater than 20 milligrams per millilitre.

Communication mechanisms

6. A person must not sell tobacco or smoking products that include a mechanism that allows for communication to or from the product.

Packaging and labelling

7. A person must not sell tobacco or smoking products that

- (a) are not packaged in accordance with the requirements of the *Tobacco and Vaping Products Act* (Canada);
- (b) do not bear or contain information required under the *Tobacco and Vaping Products Act* (Canada); or
- (c) are repackaged by a retailer.

Prohibited places

8. (1) A person must not sell tobacco or smoking products in or at

- (a) a temporary location; or
- (b) subject to subsection (2), premises that are owned or leased by the Government of Nunavut, a public agency or a municipality.

Exception

(2) Paragraph (1)(b) does not apply to a premises that are leased, sub-leased or otherwise demised by the Government of Nunavut, a public agency or a municipality to a person who is not the Government of Nunavut, a public agency or a municipality.

Advertising and promotion

Price lists

- 9.** A price list referred to in section 15 of the Act must
- (a) have a white background;
 - (b) contain only black text;
 - (c) not contain any information other than
 - (i) the name of the retailer, and
 - (ii) for each product,
 - (A) the name,
 - (B) the brand,
 - (C) the volume or quantity, and
 - (D) the price;
 - (d) have a maximum dimension of 22 centimetres by 28 centimetres; and
 - (e) be stapled or otherwise bound together, if it contains more than one sheet.

Magazine advertising

- 10.** A person may, in a place referred to in subsection 15(1) or paragraph 18(a) of the Act, display a magazine or other publication for sale that contains an advertisement for tobacco or smoking products if
- (a) the magazine or other publication is displayed in a manner that the advertisement is not visible to the public; and
 - (b) both the display and the advertisement comply with any applicable laws of Canada, including, for greater certainty, the *Tobacco and Vaping Products Act* (Canada) and the *Cannabis Act* (Canada).

Prohibited places

- 11.** A person must not advertise or otherwise promote tobacco or smoking products to individuals in
- (a) a licenced premises as defined in the *Liquor Act*;
 - (b) a licenced establishment as defined in the *Cannabis Act*;
 - (c) a restaurant or bar; or
 - (d) a place to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry, and which is primarily devoted to eating, drinking or any form of amusement or entertainment.

Smoke-free areas

Buffer zone – general

12. (1) The distance that is prescribed for the purposes of subsection 20(1) of the Act is nine metres.

Buffer zone – patios

(2) With respect to the outside area of a restaurant or bar where food or drinks are served or consumed, the buffer zone is within five metres of any part of the outside area.

Signs prohibiting smoking

13. Signs required under paragraph 21(1)(b) of the Act must

- (a) measure no less than 120 millimetres by 120 millimetres;
- (b) be posted so that the sign is conspicuous and not obstructed from view
 - (i) at each entrance to the place,
 - (ii) in each seating and waiting area of the place, and
 - (iii) in each public washroom located in the place; and
- (c) display, in a form that is at least 100 millimetres in diameter, the international no smoking symbol set out in the Schedule.

Designated smoking structure

Construction

14. (1) A designated smoking structure referred to in subsection 20(4) of the Act must

- (a) be enclosed by walls on at least three sides;
- (b) contain a roof with at least one ventilation opening;
- (c) be structurally separate from other public structures or workplace structures; and
- (d) be constructed in such a way that smoke will not enter a workplace or public structure.

Signage

(2) The signs referred to in paragraph 20(4)(b) of the Act must

- (a) measure no less than 76 centimetres by 76 centimetres; and
- (b) include the phrase "Designated Smoking Structure" in all Official Languages.

Standard Inuit Language versions

(3) The Inuit Language versions of the phrase "Designated Smoking Structure" must be ones that are

- (a) designated by the Inuit Uqausinginnik Taiguusiliuqtiit under subsection 16(5) of the *Inuit Language Protection Act*; or
- (b) in the absence of such a designation, approved by the Minister.

Inspections and reporting

Biannual inspections

- 15.** Inspections under subsection 28(1) of the Act must include
- (a) verifying that all signs required by the Act and these regulations are posted;
 - (b) verifying that no signs, advertising or other promotions are posted in contravention of the Act or these regulations;
 - (c) verifying compliance with sections 20 and 21 of the Act, including the buffer zone;
 - (d) verifying that tobacco and smoking products are not displayed in a manner that contravenes the Act or these regulations;
 - (e) verifying the written policies, practices and procedures, the monitoring mechanisms and the records referred to in section 5 of the Act; and
 - (f) observing the operations of the retail establishment to ensure compliance with the Act and these regulations.

Retailer reporting

- 16.** (1) A retailer must submit a report described in subsection (2)
- (a) at least 4 weeks before commencing the sale of tobacco or smoking products;
 - (b) no more than one week after any of the information on the most recently submitted report changes;
 - (c) two years since the most recent report as required by paragraph 42(1)(a) of the Act; and
 - (d) on ceasing to sell tobacco and smoking products.

Contents of report

- (2) A report under subsection (1) must
- (a) be on a form approved by the Minister;
 - (b) include, for each retail establishment,
 - (i) the name of the retail establishment,
 - (ii) the name of the owner of the retail establishment,
 - (iii) the name, address, telephone number and email address of the person responsible for the day-to-day management of the retail establishment, and
 - (iv) the types of tobacco or smoking products sold by the retail establishment; and
 - (c) be submitted to the Minister
 - (i) by electronic mail to an address designated by the Minister, or
 - (ii) by any other method approved by the Minister.

Exemptions

Indigenous spiritual or cultural practices or ceremonies – provision to minors

17. (1) Subsection 4(1) of the Act does not apply to a person who is giving tobacco or a smoking product to a minor if the gift is made solely for use in traditional Indigenous spiritual or cultural practices or ceremonies.

Indigenous spiritual or cultural practices or ceremonies – smoking

(2) Subsection 20(2) and sections 22 and 24 of the Act do not apply with respect to smoking in a place during any period when the place is being used, with the consent of the proprietor, for traditional Indigenous spiritual or cultural practices or ceremonies, if the smoking is an integral part of those practices or ceremonies.

Possession in a prohibited place

18. The amounts for personal use prescribed for the purposes of subsection 45(10) of the Act are

- (a) 50 cigarettes;
- (b) 5 cigars;
- (c) 100 grams of other tobacco products or herbal shisha;
- (d) a vapour product that includes or is accompanied by at most
 - (i) 60 millilitres of liquid, or
 - (ii) 4 cartridges or pods; and
- (e) accessories to accompany personal use of products in paragraphs (a) to (d), but only in the quantity necessary for such personal use.

Administration

Service of documents

19. Notices and notifications under the Act may be served in accordance with section 2 of the *Public Health Administrative Regulations* made under the *Public Health Act*.

Repeal

20. The *Tobacco Control and Smoke-Free Places Regulations*, R.Nu. R-011-2007, are repealed.

Coming into force

21. (1) These regulations, other than section 15, come into force on the later of the day that section 46 of the Act comes into force and the day these regulations are registered by the Chief Legislative Counsel under the *Legislation Act*.

(2) Section 15 of these regulations comes into force on the day that section 28 of the Act comes into force.

Schedule

(paragraph 13(c))

International No Smoking Symbol



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