

Smoking (Control of Advertisements and Sale of Tobacco) (Amendment) Bill

Bill No. 36/2002.

Read the first time on 1st October 2002.

A BILL

intituled

An Act to amend the Smoking (Control of Advertisements and Sale of Tobacco) Act (Chapter 309 of the 1994 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Smoking (Control of Advertisements and Sale of Tobacco) (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Smoking (Control of Advertisements and Sale of Tobacco) Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “Chief Executive”, the following definition:

10 ““cigarette” means any product which consists in whole or in part of cut, shredded or manufactured tobacco, or any tobacco derivative or substitute, rolled up in paper, tobacco leaf or other material and which is in such form as to be capable of immediate use for smoking;”.

15 Amendment of section 11

3. Section 11(1) of the principal Act is amended by deleting the words “\$50 and, in the case of a second or subsequent conviction, to a fine not exceeding \$100” in the penultimate and last lines and substituting “\$300”.

New section 11A

20 4. The principal Act is amended by inserting, immediately after section 11, the following section:

“Number of cigarettes in package

11A.—(1) No person shall —

- (a) sell or offer for sale cigarettes by retail; or
- 25 (b) permit the sale or offer for sale of cigarettes by retail,

except in a package that contains not less than the prescribed number of cigarettes.

30 (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine

not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) In subsection (1) —

“package” —

5 (a) means any box, carton or other container in which cigarettes are supplied by the manufacturer or importer of the cigarettes for the purpose of sale by retail; and

10 (b) includes, in the case where the package is, or several packages are, contained inside one or more larger packages, the smaller package or each of the smaller packages, as the case may be;

“prescribed number of cigarettes” means —

(a) 20 cigarettes, where no other number of cigarettes is specified under paragraph (b); or

15 (b) where a number of cigarettes is specified under this paragraph by the Minister for the purposes of this section by notification in the *Gazette*, such number of cigarettes as may for the time being be so specified.”.

Amendment of section 14

20 **5.** Section 14 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsection:

“(2A) Notwithstanding subsection (2), no person shall import, sell or offer for sale any tobacco product —

25 (a) that contains; or

(b) which emissions contain,

any substance in excess of such amount as the Minister may by order prescribe for that substance.”;

30 (b) by deleting the words “and (2)” in subsection (3) and substituting the words “, (2) and (2A)”;

(c) by deleting subsection (4);

- (d) by deleting the words “or (2)” in the 1st line of subsection (5) and substituting the words “, (2) or (2A)”; and
- (e) by inserting, immediately after subsection (5), the following subsection:

5 “(6) In subsection (2A), “emission” means any substance that is produced when a tobacco product is used.”.

Amendment of section 17

6. Section 17 of the principal Act is amended —

- 10 (a) by deleting subsection (1) and substituting the following subsection:

 “(1) The Minister may by regulations require any person who —

- (a) imports;
- (b) distributes;
- 15 (c) sells or offers for sale;
- (d) permits to be sold or offered for sale;
- (e) has in his possession for sale,

 any tobacco product to be licensed by the Chief Executive.”;

 and

- 20 (b) by deleting the words “sells by retail or offers for sale by retail or permits to be sold or offered or has in his possession for sale by retail any tobacco product without a licence in force” in the 2nd to 5th lines of subsection (4) and substituting the words “carries out any activity referred to in subsection (1)(a) to (e) without a
- 25 licence in force in respect of that activity”.

New section 22A

7. The principal Act is amended by inserting, immediately after section 22, the following section:

“Power to examine and secure attendance

22A.—(1) For the purpose of investigating any offence under this Act or any regulations made thereunder, the Chief Executive or any authorised officer may —

- 5 (a) examine orally any person supposed to be acquainted with the facts and circumstances of the case, and to reduce to writing any statement made by the person so examined; and
- 10 (b) require by order in writing the attendance before himself of any person who, from information given or otherwise, appears to be acquainted with the facts and circumstances concerning the case and that person shall attend as so required.

15 (2) The person mentioned in subsection (1)(a) shall be bound to state truly the facts and circumstances with which he is acquainted concerning the case except only that he may decline to make with regard to any fact or circumstance a statement which would have a tendency to expose him to a criminal charge or to penalty or forfeiture.

20 (3) A statement made under this section by any person shall be read over to him and shall, after correction, if necessary, be signed by him.

 (4) If any person fails to attend as required by an order under subsection (1)(b), the Chief Executive or any authorised officer may report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order.”.

25 **Amendment of section 32**

8. Section 32 of the principal Act is amended —

- (a) by inserting, immediately after the word “discretion” in the 2nd line of subsection (1), the words “and subject to such conditions as he considers fit to impose”; and
- 30 (b) by inserting, immediately after subsection (2), the following subsection:

 “(3) Where the person reasonably suspected of having committed an offence under this Act or any regulations made thereunder was below the age of 18 years at the time of the

alleged offence, a condition that may be imposed under subsection (1) in compounding the offence includes requiring the person and his parents or guardian to attend at such place as the Chief Executive may specify for the purpose of counselling.”.

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New section 32B

9. The principal Act is amended by inserting, immediately after section 32A, the following section:

“Service of summons, notices, etc.

10 **32B.**—(1) Any notice, order, direction or document required or authorised by this Act or any regulations made thereunder to be given or served on any person, and any summons issued by a court in connection with any offence under this Act or any regulations made thereunder, may be served on the person —

- 15 (a) by delivering it to him or to some adult member or employee of his family at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;
- 20 (c) by affixing it to some conspicuous part of his last known place of residence;
- (d) by sending it by registered post addressed to him at his usual or last known place of residence or business; or
- (e) where the person to be served is a body corporate —
- 25 (i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or
- (ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

30 (2) Any notice, order, direction, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, direction, document or summons would, in the ordinary course of post, be delivered and in proving service of the notice,

order, direction, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Smoking (Control of Advertisements and Sale of Tobacco) Act (Cap. 309).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert the definition of “cigarette”.

Clause 3 amends section 11 to increase the penalty for an offence under subsection (1) (relating to control of smoking, etc., by young persons) from \$50 for a first offence and \$100 for a second or subsequent offence to \$300 for any offence.

Clause 4 inserts a new section 11A to prohibit any person from selling or offering to sell cigarettes by retail, or from permitting the sale or offer for sale of cigarettes by retail, except in a package containing not less than the prescribed number of cigarettes. The offence is punishable, in the case of a first offence, with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 6 months or with both and, in the case of a second or subsequent offence, with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 12 months or with both.

Clause 5 amends section 14 —

- (a) to insert a new subsection (2A) to prohibit any person from importing, selling or offering for sale any tobacco product that contains, or which emissions contain, any substance in excess of such amount as the Minister may by order prescribe for that substance; and
- (b) to make certain amendments as a consequence of new subsection (2A).

Clause 6 amends section 17 to provide that the Minister may require any person who imports, distributes, sells or offers for sale, permits to be sold or offered for sale, or possesses for sale any tobacco product to be licensed by the Chief Executive of the Health Sciences Authority (the Chief Executive).

Clause 7 inserts a new section 22A which sets out new powers of investigation of the Chief Executive and authorised officers.

Clause 8 amends section 32 —

- (a) to clarify that the Chief Executive, or other person authorised by him to compound an offence under the section, may compound the offence subject to such conditions as the Chief Executive considers fit to impose; and

- (b) to provide that the conditions that may be imposed include, where the person reasonably suspected of having committed an offence under the Act or any regulations made thereunder was below the age of 18 years at the time of the alleged offence, a condition that the person and his parents or guardian attend at such a place as the Chief Executive may specify for the purpose of counselling.

Clause 9 inserts a new section 32B which sets out how service of notices, orders, directions, documents and summons may be effected.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
