

Existing Tobacco Act and Tobacco Advertising Regulations

Act No. 14 of 9 March 1973 relating to Prevention of the Harmful Effects of Tobacco

Section 1

The object of this Act is to limit the damage to health caused by the use of tobacco.

According to this Act tobacco products are products that are to be smoked, snuffed, sucked or chewed provided they totally or partly consist of tobacco.

Section 2

All forms of advertising of tobacco products are prohibited. The same applies to pipes, cigarette paper and cigarette rollers.

Tobacco products must not be included in the advertising of other goods or services.

A brand name or trade mark that is mainly familiar as a brand or mark for tobacco products may not be used in the advertising of other goods or services so long as the name or mark in question is used in connection with a tobacco product.

Tobacco products may not be launched with the aid of brand names or trade marks which are familiar as, or used as, brands or marks for other goods or services.

All forms of free distribution of tobacco products are prohibited.

The King may issue regulations concerning exceptions to the provisions of this section.

Section 3

It is prohibited to import into Norway, sell or distribute tobacco products which are not marked with a text pointing out the risk to health inherent in the consumption of such products. Cigarette packets shall similarly carry a declaration of their contents.

It is prohibited to import into Norway, sell or distribute tobacco products which by their text, name, trademark, illustrations or other sign or symbol suggest that a particular tobacco product is less damaging to health than other tobacco products.

A manufacturer or vendor of tobacco products may not by means of symbol or text on packaging provide their own information on the consequences of smoking for health.

Responsibility for laying down regulations on labelling pursuant to this section rests with the Ministry.

Section 4

The Ministry may issue regulations concerning the content of tobacco products, including maximum levels of ingredients, weight, filters, packaging etc.

Section 5

It is prohibited to sell or to hand over tobacco products, or imitations which may encourage the use of such products, to persons under 18 years of age. If the purchaser's age is in doubt, sale may only take place provided the purchaser produces evidence that he or she has reached the age of 18.

Tobacco products may only be sold to consumers by persons of 18 years of age or more. However, this does not apply if a person over the age of 18 supervises such selling on a daily basis.

Sale of tobacco products from a vending machine is prohibited.

The Ministry may lay down regulations concerning the minimum age for importing tobacco products and cigarette paper.

Section 6

In premises and means of transport to which the public have access the air shall be smoke-free. The same applies in meeting rooms, work premises and institutions where two or more persons are gathered. This does not apply in living rooms in institutions, but the institution is obliged to make smoke-free rooms available to those who request it.

If several premises within a certain area are used for the same purpose, smoking may be permitted in up to one-half of these premises. The smoke-free premises must not be smaller or of a lower standard than the premises where smoking is permitted. Smoking is not permitted in establishments that serve food and/or drink and that are equipped for consumption on the premises.

The owner or the person having the premises or the means of transport at his disposal is under obligation to ensure that the rules imposed in or in pursuance of these provisions are complied with. Notices shall clearly indicate that smoking is prohibited in areas where such prohibition may be in doubt, and at the entrance to all establishments serving food and/or drink. To ensure that the prohibition of smoking is complied with at

establishments that serve food and/or drink, such establishments shall maintain internal controls and shall establish an internal control system. The internal control shall be documentable to the supervisory authorities.

Any person who in spite of a warning by the owner or the person having the premises or the means of transportation at his disposal, or by his representative, violates the provisions laid down in or in pursuance of this section may be expelled from the premises or the means of transport.

The municipal council shall supervise compliance with the rules laid down in and in pursuance of this section. The municipal council's powers under this section may be delegated to a municipal body or a body common to two or more municipalities. In the case of work premises, supervision shall be carried out by the Labour Inspection Authority.

The rules concerning the activities of the municipal council and of the Labour Inspection Authority as a supervisory agency pursuant to, respectively, sections 4a-7 to 4a-9 and 4a-12 of Act no. 66 of 19 November 1982 relating to Municipal Health Services and sections 77 to 82 of Act no. 4 of 4 February 1977 relating to Worker Protection and Working Environment apply correspondingly to supervisory activities pursuant to this section.

The Norwegian Petroleum Directorate supervises compliance with the rules contained in or issued by virtue of this section within the area of responsibility for petroleum activities that is allotted to the Directorate by the Working Environment Act. The maritime authorities supervise compliance with the rules contained in or issued by virtue of this section on ships as well as vessels and other offshore units. Within their supervisory authority the said authorities may employ instruments corresponding to those available to them under current regulations on health conditions and working environment on ships and offshore units in the petroleum activities.

The Armed Forces High Command supervises compliance with the rules contained in or issued in pursuance of this section on the ships of the Armed Forces.

The governor (Sysselmannen) of Svalbard supervises compliance with the rules contained in or issued in pursuance of this section on Svalbard. The governor of Svalbard may hand over supervision in respect of Longyearbyen and Svea to the Svalbard Council (Svalbardrådet).

The supervisory authority may in special cases give dispensation from rules contained in or issued in pursuance of this section and set terms for any dispensation. At work places with a working environment committee, a statement from the committee shall be enclosed with the application. At work places without a working environment committee, a statement from the safety delegate shall be enclosed.

The King may lay down further rules to implement and supplement these provisions and may make exception from them.

Section 7

All persons shall, when ordered to do so by the Directorate for Health and Social Affairs, provide such information as is necessary to prevent damage to health entailed by the use of tobacco or to carry out tasks under this Act.

The Directorate for Health and Social Affairs may require a manufacturer or importer of tobacco products to provide information about the content of the products. The Ministry may lay down regulations detailing the information requirement in the first sentence.

The Directorate for Health and Social Affairs may require a manufacturer or importer of tobacco products to produce a representative sample of a product or to perform such tests as are necessary to assess the product's characteristics or effects. The costs of such tests shall be borne by the manufacturer or importer in question. The Directorate for Health and Social Affairs may decide that the costs shall entirely or in part be covered by the government.

The Directorate for Health and Social Affairs may initiate such tests itself, and may order the manufacturer or importer to cover the costs of the tests. The costs are a basis for enforcement of restraint.

Section 8

The Directorate for Health and Social Affairs supervises compliance with the provisions of section 2 and section 3 and with provisions issued in pursuance thereof.

Should the Directorate for Health and Social Affairs deem section 2 and/or section 3 to have been contravened, it may order the circumstance to be rectified. A time limit for rectification will be set at the same time.

A coercive fine may be set at the same time as the rectification order is made. The fine shall run from the expiry of the time limit for rectification and may be in the form of a one-time fine or a daily fine. The fine shall devolve to the state.

If, when a violation of section 2 or provisions laid down in pursuance thereof is brought to light, the Directorate for Health and Social Affairs find special reason to expect renewed breaches of the advertising provisions which cannot be halted under the second or third paragraph, it may decide in advance that a coercive fine shall run as from the date that a new violation starts. Such fine may be imposed for a period of up to one year.

Where special reasons so indicate, the Directorate for Health and Social Affairs may entirely or partially waive an imposed coercive fine.

The governor of Svalbard may render decisions under this section in respect of Svalbard.

Decisions pursuant to this section may be appealed to the Market Council. Such appeals shall be handled by the Market Council under the rules of administrative procedure laid down in or pursuant to Act no. 47 of 16 June 1972 relating to Control of Marketing and Contract Terms and Conditions (Marketing Control Act) insofar as the said rules are appropriate.

The Ministry may lay down regulations on the imposition, calculation and collection of coercive fines.

Section 9

It is prohibited to export snuff to countries which are members of the European Economic Area and which prohibit the import and sale of snuff.

The prohibition of exports does not apply to snuff brought with travellers for their personal use or as a gift for the personal use of others.

According to this provision, the term snuff denotes tobacco products intended for oral use, entirely or partly made of tobacco, with the exception of tobacco products intended for smoking or chewing.

Section 10

Whoever wilfully or negligently violates provisions laid down in or pursuant to this Act is punishable by fines. Complicity is punishable in the same manner. An attempt is punishable as a completed offence.

The Ministry may prescribe in regulations that the penalty for negligent violation shall be imposed only after a warning has been issued by the police.

Section 11

The Ministry may issue transitional rules and other regulations to implement and supplement the provisions of this Act.

Section 12

This Act applies with equal effect to the offshore petroleum activities as Act no. 4 of 4 February 1977 relating to Worker Protection and Working Environment.

This Act also applies to Svalbard (Spitsbergen) and Jan Mayen.

Section 13

This Act shall come into force from such time as the King decides.

Regulations on the prohibition of advertising of tobacco products etc.

Laid down by Royal Decree of 15 December 1995 in pursuance of section 2, sixth paragraph, and sections 4, 9 and 10 of Act No. 14 of 9 March 1973 relating to Prevention of the Harmful Effects of Tobacco.

Chapter I. Introductory provisions

Section 1. Object

The object of these regulations is to limit the damage to health caused by the use of tobacco. This includes preventing children and young people from starting to use tobacco products.

Section 2. Scope

These regulations apply to all forms of advertising of tobacco products, including indirect advertising. They apply to pipes, cigarette paper and cigarette rollers.

These regulations apply to packaging for tobacco products.

Section 3. Geographical application

These regulations also apply on Svalbard and Jan Mayen.

Section 4. Definitions

For the purpose of these regulations:

1. *Tobacco products* shall mean products that are intended to be smoked, sniffed, sucked or chewed inasmuch as they are made wholly or partly of tobacco.
2. *Advertising* shall mean mass communication for marketing purposes, including pictures of brand names and trademarks (logos, symbols, names etc.), posters, signs or similar devices, displays, low-price advertising, as well as the distribution of printed matter, product samples, etc. to consumers.
3. *Indirect advertising* shall mean
 - a. the use of a brand name or trademark that is mainly known as a brand name or trademark for tobacco products in the advertising of other products and services
 - b. the launching of tobacco products with the aid of a brand name or trademark that is known as, or is in use as, a brand name or trademark for other products and services
 - c. the use of certain colours and layouts/designs that are associated with particular tobacco products
 - d. the use of tobacco products and smoking situations in the advertising of other products and services.

Chapter II. Provisions relating to advertising of tobacco products and packaging of tobacco products

Section 5. Prohibition of advertising of tobacco products

All forms of advertising of tobacco products, including indirect tobacco advertising, are prohibited. This prohibition also applies to pipes, cigarette paper and cigarette rollers.

Section 6. Prohibition of untraditional designs or appearance of tobacco product packets

It is prohibited to sell tobacco product packets that may as a result of untraditional design or appearance lead to an increase in sales.

It is prohibited to design tobacco product packets with the aim of increasing sales among young people. This includes untraditional designs of tobacco product packets with respect to logos, colours, shape of packet or continually changing design which may encourage collecting.

Section 7. Duty to remove illegal advertisements

The person owning or managing the activity in question has a duty to remove illegal advertising.

Chapter III. Exemptions

Section 8. Exemptions from the prohibition of advertising of tobacco products

To the extent that a circumstance will be in contravention of the prohibition of advertising in section 2, first, second and fifth paragraphs, of the Act relating to Prevention of the Harmful Effects of Tobacco, including the provisions in these regulations, exemption shall be granted for the following:

1. Advertising of or other information in printed matter about the establishment of a new sales outlet, stating the sales outlet's name, location, business hours and range of products, limited to the following designations: cigarettes, cigars, smoking tobacco, chewing tobacco, tobacco, snuff, raw tobacco, cigarette paper, cigarette rollers, pipes. The information may only be given in the type and colour that is normal elsewhere in the advertisement or printed matter in question and without illustrations. The same applies in the event of a change of ownership for the sales outlet.
2. Signs of customary size and equipment in a neutral typographic design, of which the sole function is to provide information, such as "Tobacco", in proximity to a sales outlet. This exemption does not include illuminated advertisements or movable signs.
3. Pure product information direct to retailers, in a neutral typographic design with black type on a white background without the use of illustrations.

4. Advertisements for vacant positions in tobacco production, specialist shops for tobacco products etc., which contain only the information necessary to acquaint oneself with what the position entails.
5. Setting up of tobacco products inside the sales outlet insofar as such positioning is appropriate to rational trading. This exemption does not apply to equipment for positioning products which, by reason of its size or design, will have an advertising effect.
6. Testing of new tobacco products in neutral packaging with no indication of tobacco brand or manufacturer, when the number of test persons does not exceed fifty and the testing is not repeated with the same test persons.
7. Advertising in foreign printed matter that is imported into Norway, when the main purpose of the advertising, journal or import is not to advertise tobacco products in Norway.
8. Indirect advertising of insignificant scope in foreign programmes broadcast on Norwegian television and over Norwegian cable networks, as well as in films produced abroad.
9. Downloading of advertisements for tobacco products from international data bases and networks, when the advertisements are not copied to a database, diskette, paper or hard disk for further distribution in or via Norway.

Section 9. *Special provisions relating to the advertising of other products and services*

Products and services other than tobacco products, which use a brand name or trademark that is mainly known as a brand name or trademark for a tobacco product, may be displayed in shops/stores. Posters or signs connected with the sales outlet may only be used for information purposes. The provisions in section 8 of these regulations apply correspondingly.

Pipes, holders, cigarette paper, cigarette rollers, ashtrays and other smoker's requisites, and imitations of tobacco products and smoker's requisites, may be displayed in shops/stores when the conditions in section 8 (5) have been fulfilled.

Chapter IV. Administrative provisions

Section 10. *Supervision*

The Ministry has primary responsibility for the enforcement of these regulations. The Directorate for Health and Social Affairs supervises compliance with the rules in these regulations.

Section 11. *Orders for corrective action and coercive fines*

The Directorate for Health and Social Affairs may order corrective action and set coercive fines pursuant to the provisions in section 8 of the Act relating to Prevention of Harmful Effects of Tobacco. Such decisions may be appealed to the Market Council.

Section 12. *Dispensation*

The Directorate for Health and Social Affairs may in special cases grant dispensation from these regulations.

Section 13. *Penalties*

Any person who wilfully or negligently contravenes provisions laid down in or in pursuance of these regulations is punishable by fines. Complicity is punishable in the same manner. An attempt is punishable as a completed offence.

Section 14. *Transitional rules*

It is permitted until 1 January 1997 to use a brand name or trademark that is known mainly as a brand name or trademark for tobacco products in advertisements for other products and services and to use certain colours and layouts/designs that are associated with particular tobacco products, cf. section 4, third paragraph (a) and (c), cf. section 5.

Tobacco product packets which have already been manufactured and which may not be sold pursuant to section 6 of these regulations, may be sold until 1 January 1997.

Section 15. *Entry into force etc.*

These regulations enter into force on 1 January 1996. As from the same date, regulations No.1 of 25 October 1974 on the prohibition of advertising of tobacco products, regulations No. 9 of 25 October 1974 on exemptions from the prohibition of tobacco advertising and regulations No. 2 of 19 November 1977 on conditions for exemption of window displays of tobacco products from the prohibition of tobacco advertising are repealed.