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The following act was accepted in the parliament and was granted by the President on 02 May, 2013 (19 Baishak, 1420) and the act is being published for the information of everyone:-

ACT NO. 16 OF 2013

An Act for the Amendment of Smoking And Tobacco Products Usage (Control) Act, 2005

Whereas for the purpose of fulfilling the following objectives, it is appropriate and necessary to amend the Smoking And Tobacco Products Usage (Control) Act, 2005 (Act no. 11 of 2005);

It is therefore enacted as follows:-

1. SHORT TITLE AND COMMENCEMENT - (1) This Act shall be called Smoking and Tobacco Products Usage (Control) (Amendment) Act, 2013.

(2) The Act shall immediately come into force.

2. AMENDMENT OF SECTION 2 OF ACT NO. 11 OF 2005. - In section 2 of Smoking And Tobacco Products Usage (Control) Act, 2005 (Act no. 11 of 2005) (from now on mentioned as 'the act') -

(a) Subsection (a), (b) and (c) shall be replaced with the following subsection (a), (b) and (c), such as:-

(a) **“Authorized Officer”** means Upazilla Nirbahi Officer or Upazilla Health and Family Planning Officer or any equivalent or superior officer of the Directorate of Health and shall include any or all officers empowered by different laws, or empowered by the Government, by notification in the Official Gazette to carry out the concerned duties;

- (b) **“Tobacco”** means any *Nicotiana tabacum* or *Nicotiana rustica* plant or any other related plants or its leaf or crop, root, branch or any part of it;
- (c) **“Tobacco Products”** means any product made from tobacco, tobacco leaves, or its extract which can be sucked or chewed, or inhaled through smoking, and shall include bidi, cigarette, cheroot, granulated, plug cuts, snuff, chewing tobacco, cigar and mixtures used in pipe;

(b) Subsection (f) shall be replaced with the following subsection (f), such as :-

“(f) **“Public Place”** means educational institution, government office, semi-government office, autonomous office and private office, library, lift, indoor work place, hospital and clinic building, court building, airport building, seaport building, river-port building, railway station building, bus terminal building, cinema hall, exhibition center, theatre hall, shopping center, restaurants surrounded by walls in all sides, public toilet, children park, fairs, designated queues or places for passengers waiting to ride on public transports, any other public area to be combinedly used by the general people or, any or all places declared time to time by the government or local government organization by a general or special order;”;

(c) Subsection (i) shall be replaced with the following subsection (i), such as :-

“(i) **“Person”** includes a company, society, organization or body of persons, whether incorporated or not, tobacco product producer or distributor.”.

3. AMENDMENT OF SECTION 3 OF ACT NO. 11 OF 2005. - “The Juvenile Smoking Act, 1919 (Ben. Act II of 1919)”, comma, numbers and parenthesis mentioned in section 3 of the above mentioned act shall be abolished and “The Rajshahi Metropolitan Police Act, (Act No. XXIII of 1992)”, “The Sylhet Metropolitan Police Act, 2009 (Act No. XXIII of 2009) and The Barishal Metropolitan Police Act, 2009 (Act No. XXIV of 2009)” shall be included.

4. AMENDMENT OF SECTION 4 OF ACT NO. 11 OF 2005. Subsection (2) of section 4 of the above mentioned act shall be replaced by the following subsection (2), such as:-

“(2) If any person smokes in contravention of the provision of sub-section (1), he shall be punishable with fine not exceeding three hundred taka and the penalty shall be doubled for each subsequent violation.”

5. AMENDMENT OF SECTION 5 OF ACT NO. 11 OF 2005. Section 5 of the above mentioned act shall be replaced by the following section 5, such as:-

“5. PROHIBITION ON ADVERTISEMENT AND PROMOTION AND CONTROL OF SPONSORSHIP OF TOBACCO PRODUCTS - (1) No person shall—

- (a) publish or cause to be published advertisement of tobacco products in any print or electronic media, books published in Bangladesh, leaflet, handbill, poster, printed paper, billboard or signboard or in any other way;
- (b) give or propose to give any sample of tobacco products to the public, for the purpose of enticing to buy tobacco products, either free or at a reduced price.
- (c) give or cause to be given any donation, prize, stipend or sponsorship of any program for the purpose of advertisement or promoting the usage of tobacco products;
- (d) publish or cause to be published advertisement of tobacco or tobacco products in any cinema hall, print or electronic media or web page;
- (e) broadcast, display or describe or cause to be broadcasted, displayed or described any scene of using any tobacco products in any cinema, drama, or documentary produced in Bangladesh or produced in abroad but available and broadcasted in Bangladesh through television, radio, internet, stage show or any other public media;

However, if it becomes necessary for the sake of story of a cinema, the scene of using tobacco products may be displayed provided that written warning about the harmful effects of tobacco products shall be displayed on the screen, according to the rules;

- (f) produce, sale or distribute or cause to be produced, sold or distributed the cover, packet or box which is similar to the cover, packet or box of a tobacco product;
- (g) display tobacco products advertisements at the point of sales, in any way.

Explanation - To fulfill the objective of subsection (1), “advertisement of tobacco products” means conducting any kind of commercial programs for encouraging the direct or indirect usage of tobacco or tobacco products.

(2) Nothing of article (e) of subsection (1) shall be applicable for the anti-smoke health related educational campaigns.

- (3) No person shall use or cause to be used the name, sign, trademark, or symbol of any producer of tobacco or tobacco product, or entice any other person to use these if they participate in any social development work under the Corporate Social Responsibility programs or bear its expenses;
- (4) If any person contravenes the provisions of this section he shall be punishable with imprisonment for a term not exceeding three months or a fine which may extend to one lakh taka, or both and if he contravenes the provisions more than once, every time the amount of fine or punishment shall be doubled.

6. AMENDMENT OF SECTION 6 OF ACT NO. 11 OF 2005. Section 6 of the above mentioned act shall be replaced by the following section 6, such as:-

“6. PROHIBITION ON INSTALLATION OF AUTOMATIC VENDING MACHINE - (1) No person shall install automatic vending machines anywhere for sale of tobacco products.

- (2) If any person contravenes the provision of this section and installs automatic vending machines anywhere for sale of tobacco products, he shall be punishable with imprisonment for a term not exceeding three months or a fine which may extend to one lakh taka, or both and if he contravenes the provisions more than once, every time the amount of fine or punishment shall be doubled.”.

7. ADDITION OF A NEW SECTION 6A IN ACT NO. 11 OF 2005. A new section 6a shall be included after section 6 of the above mentioned act, such as:-

“6a. BAN ON SELLING TOBACCO PRODUCTS TO A MINOR, ETC.:- (1) No person shall sale tobacco or tobacco products to any person under the age of eighteen, or engage or cause to be engaged any such person in the marketing or distribution of tobacco or tobacco products.

- (2) If any person contravenes the provision of sub-section 1, he shall be punishable with fine, which may extend to five thousand taka and if a person contravenes the provisions more than once, every time the amount of fine shall be doubled.

8. ADDITION OF A NEW SECTION 7A IN ACT NO. 11 OF 2005. A new section 7a shall be included after section 7 of the above mentioned act, such as:-

7a. (1) RESPONSIBILITY OF THE OWNER OF PUBLIC PLACE AND PUBLIC TRANSPORT, ETC.:- (1) To fulfill the objectives of this act, the owner, caretaker, controlling person or manager of every public place and public transport shall carry out their duties according to the law.

- (2) If such a person contravenes the provision of sub-section 1, he shall be punishable with fine, which may extend to five hundred taka.

9. AMENDMENT OF SECTION 8 OF ACT NO. 11 OF 2005. The existing subsection of section 8 of the above mentioned act shall be renumbered as (1) and after the above mentioned renumbered subsection (1), a new subsection (2) shall be included, such as:-

(2) If the owner, caretaker or controlling person or manager of any public place and public transport contravenes the provision of sub-section (1), he shall be punishable with fine which may extend to one thousand taka and if he contravenes the provisions more than once, every time the amount of fine shall be doubled.

10. REPLACEMENT OF SECTION 10 OF ACT NO. 11 OF 2005. Section 10 of the above mentioned act shall be replaced by the following section 10, such as:-

“10. PICTORIAL WARNINGS ETC. ABOUT HEALTH AND OTHER HARMS ON THE BODY OF PACKETS OF THE TOBACCO PRODUCTS - (1) Health warnings shall be printed on both sides of the packet, cover, carton or box of tobacco products, covering at least 50% of the total area of each main display area or if the packets do not have two main sides in that case covering at least 50% of the main display area, with colored pictures and accompanying text, according to the act, about the harms caused by the use of tobacco products and these shall be printed in Bengali.

(2) The following warnings shall be printed on the packet, cover, carton or box of tobacco products, i.e.

(i) For smoked tobacco products:-

- (a) Smoking causes throat and lung cancer;
- (b) Smoking causes respiratory problems;
- (c) Smoking causes stroke;
- (d) Smoking causes heart disease;
- (e) Second-hand smoke causes harms to the fetus;
- (f) Smoking causes harms to the fetus.

(ii) For smokeless tobacco products:-

- (a) Consumption of tobacco products causes mouth and throat cancer;
- (b) Consumption of tobacco products causes harms to the fetus.

(iii) Any other warning prescribed by law.

(3) All packets, covers, cartons and boxes sold in Bangladesh shall carry the statement: "Sales allowed only in Bangladesh" and no tobacco products may be sold in Bangladesh without this statement.

(4) Packets, cartons, boxes, or covers of tobacco products shall not use brand elements (such as: light, mild, low-tar, extra, ultra, etc.) to create false impression about its impact and risk on public health.

(5) The printing methods on the packets, cartons, boxes, or covers of tobacco products of pictorial warnings described in subsection (2) and the statements described in subsection (3) shall be determined by law.

(6) If any person contravenes the provisions of this section he shall be punishable with imprisonment for a term not exceeding six months or a fine which may extend to two lakh taka, or both and if he contravenes the provisions more than once, every time the amount of fine or punishment shall be doubled.

11. REPLACEMENT OF SECTION 12 OF ACT NO. 11 OF 2005. Section 12 of the above mentioned act shall be replaced by the following section 12, such as:-

"12. DISCOURAGING THE PRODUCTION AND USAGE OF TOBACCO AND RELATED CROPS - For motivating in gradually discouraging the production and use of tobacco products and for the purpose of discouraging the establishment of tobacco products industry, and production and cultivation of tobacco crops the Government will formulate necessary policy."

12. AMENDMENT OF SECTION 15 OF ACT NO. 11 OF 2005. The existing subsection of section 15 of the above mentioned act shall be renumbered as (1) and after the above mentioned renumbered subsection (1), a new subsection (2) shall be included, such as:-

"(2) If the company mentioned in sub-section 1 is a corporate body, then along with the said person the above mentioned company can also be alleged and convicted under the same provision, however, in a criminal case only monetary penalty can be applied against them."

13. ADDITION OF A NEW SECTION 15A IN ACT NO. 11 OF 2005. A new section 15a shall be included after section 15a of the above mentioned act, such as:-

15a. FORMATION OF NATIONAL TOBACCO CONTROL CELL, ETC. -

(1) For the proper implementation of this act, observation of the tobacco control activities, research and completion of other related activities there shall be a cell named "**National Tobacco Control Cell**" under the Health and Family Planning Ministry.

(2) The formation, authority and activities of the above mentioned Cell shall be determined by a law.

14. AMENDMENT OF SECTION 18 OF ACT NO. 11 OF 2005. The existing subsection (a) of section 15 of the above mentioned act shall be renumbered as (aa) and before the above mentioned renumbered subsection (aa), a new subsection (a) shall be included, such as:-

“(a) The Juvenile Smoking Act, 1919 (Ben. Act, II of 1919);”.

Md Mahfuzur Rahman
Secretary

