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༢༠༡༠ ཅན་མ།



**Tobacco Control Act of Bhutan
2010**

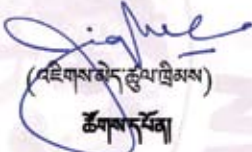


PARLIAMENT OF BHUTAN

མེན་མེདི་ལེ་ས་མི/མ/༢༠༡༠/༡༣༢༢

སྤྱི་ཚེས ༢༣/༠༦/༢༠༡༠ ལ།

༢ མི་རྒྱུ་མེདི་རྒྱུ་ལོ་ལ་ལེ་ལྟེན་ལངས་ལ། ཚེད་ལེས་ འདི་ནི་ སྤྱི་ཚེས ༠༢/༠༦/༢༠༡༠ ལ། སྤྱི་ཚེས་ལྷན་
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བབུ་ལྟེ་ སྤྱི་ཚེས་ཀྱི་མོས་ཚེད་དང་འཕྱི་ལ་ བསྐྱར་སྤྱོད་འབད་དགོངས་ལྟེ་ བཀའ་རྒྱལ་ལོ་དཔ་བཞིན་དུ་ དེར་ལྷན་ལགས་
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(འཛིན་ལས་མེད་ ལུ་ལེ་ལས་)
ཚོགས་དོན་

- འདེ ༡. མི་རྒྱུ་མེད་མཚོགས་ ལྷན་ལྷན་
- ༢. མི་རྒྱུ་མེད་ལེས་སྤྱི་ཚོན་ལོ་ལེ་ལྷན་ ལྷན་ལྷན་
- ༣. ཚོགས་ལྟེ་མི་རྒྱུ་ལེ་འཛིན་མཚོགས་ ལྷན་ལྷན་
- ༤. དྲན་ལོ་མཚུངས་ལེ་བདག་དུང་ཚེན་ལུ་ ལྷན་ལྷན་ལེ་
- ༥. ཚོགས་འདུའི་ལོ་དང་ལུ་དུང་ཚེན་ལ།

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PREAMBLE

The Royal Government and People of Bhutan

Concerned with the physical health and well being of the people of Bhutan which are important elements of the development principle of Gross National Happiness,

Recognizing the harmful effects of tobacco consumption and exposure to tobacco smoke, from a spiritual and social health point of view,

Recalling that the National Assembly of Bhutan during the 82nd session held on 12th August 2004 ratified the WHO Framework Convention on Tobacco Control (FCTC),

And acknowledging that as a party to the WHO Framework Convention on Tobacco Control, Bhutan is implied by its provisions to implement it through national legislation and policies to fulfill the obligations and to ensure the effective control of tobacco and tobacco related products,

Parliament of Bhutan do hereby enact the Tobacco Control Act of Bhutan on the 19th Day of 4th Month of Male Iron Tiger Year of the Bhutanese Calendar corresponding to the 6th Day of June, 2010 at its 5th Session of the First Parliament as follows:

CHAPTER ONE

PRELIMINARY

Title, Commencement and Extent

1. This Act shall:
 - a) be called the Tobacco Control Act of Bhutan, 2010;
 - b) come into force on the 4th Day of 5th month of Male Iron Tiger Year of the Bhutanese calendar corresponding to 16th Day of 6th Month of the Year 2010; and
 - c) extend to the whole of Bhutan.

Repeal

2. Any provision of any law, rule or regulation, government directives, circulars and announcements that are inconsistent with this Act shall be repealed.

CHAPTER TWO
PROTECTION FROM EXPOSURE TO
TOBACCO SMOKE

Non-smoking areas

3. No person shall smoke in the following **public places** but not limited to:
- a) **Commercial centers:** all shops, shopping complexes, supermarkets, showrooms, exhibition halls, lobbies and places to which public have access in hotels, motels, guest houses, inns and lodging, bars and restaurants, clubs, internet cafes;
 - b) **Recreation centers:** discotheques, snooker rooms, health clubs, sports and game centers, playing fields and related offices, cinema, theatre, video halls and other buildings of entertainment;
 - c) **Institutions:** all offices including those in the private sector, dzongs, monasteries, museums,

health, educational, religious and training centers and their vicinity;

- d) **Public gatherings/spaces:** public meetings, Tschechu, festivals and traditional celebrations, vegetable markets, bus and taxi stands, airports;
- e) **Public transportation:** all buses and taxis, all forms of motor vehicles and aircrafts for passenger transport; and
- f) Any other public places or areas as may be declared by the Tobacco Control Board.

Duties of the person-in-charge

- 4. The person-in-charge shall display notices indicating smoking is prohibited in the area.
- 5. The person-in-charge shall supervise and carry out measures to ensure that no person smokes in violation of the provisions of this Act.

6. The person-in-charge who finds a person smoking in contravention of Section 3 shall request the offending person to refrain from smoking and if the offending person continues to smoke, the person-in-charge shall demand the offender to leave the place or transport.
7. Where the offending person refuses to stop smoking or leave, the person-in-charge shall report to an authorized officer or law enforcement personnel
8. The person-in-charge shall accept the inspection by the authorized officer or by the supervisory body and provide necessary assistance for inspection.
9. The person-in-charge of the hotels, motels, guest-houses, inns and lodgings shall arrange smoking floors or smoking rooms/spaces as appropriate.
10. The person-in-charge may install smoke detector in all the non smoking areas mentioned under section 3.

CHAPTER THREE
TRADE AND COMMERCE OF TOBACCO
PRODUCTS

Cultivation, manufacture, sale, supply and distribution of tobacco products

11. No person in the country shall:
- a) cultivate or harvest tobacco.
 - b) manufacture, supply or distribute tobacco and tobacco products.
 - c) sell and buy tobacco and tobacco products.

Import and taxation

12. A person may import tobacco and tobacco products for personal consumption as per the quantity approved by the Tobacco Control Board.
13. A person importing tobacco and tobacco products for personal consumption shall pay duties and taxes as specified in the rules.

14. Any person with the possession of tobacco and tobacco products for personal consumption on demand shall provide proof of tax and duty payments.
15. All tobacco products imported for personal consumption shall show the country of origin and appropriate health warnings as required by the Ministry of Health.
16. All tobacco and tobacco products imported for personal consumption shall show printed labels displaying the information on relevant constituents and emissions.
17. All tobacco products imported for personal consumption shall not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions and any other indications that creates the false impression that a particular tobacco product is less harmful than other tobacco products.

CHAPTER FOUR
TOBACCO ADVERTISEMENT, PROMOTION
AND SPONSORSHIP

Tobacco advertisement, promotion and sponsorship

18. No person shall
- a) advertise tobacco and tobacco products through any medium;
 - b) sell or authorize to sell a film or video tape containing advertisement of tobacco and tobacco products;
 - c) distribute samples of tobacco and tobacco products;
 - d) promote, sponsor or render service to hold any educational, cultural, social or sporting organization or event such as athletic games, funfairs, fashion and model shows, school functions and international events to promote consumption of tobacco and tobacco products;
 - e) be allowed to advertise any goods using the

name or trade mark of tobacco and tobacco products;

f) be allowed to manufacture, import, sell or distribute toys, edibles, wares or any other goods showing the name, trademark or label of tobacco and tobacco product; and

g) be allowed to exchange tobacco and tobacco products with other goods or services.

19. Scenes depicting tobacco use including smoking should be strictly prohibited from domestic production of videos, movies and cultural shows except in educational clips produced for the purpose of health promotion.

CHAPTER FIVE

EDUCATIONAL MEASURES

Education, information, training and public awareness

20. The Royal Government shall designate relevant agencies to promote:
- a) access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;
 - b) the benefits of the cessation of tobacco use and tobacco-free lifestyles ;
 - c) effective and appropriate training or awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

- d) awareness and participation of private agencies and non-governmental organizations in developing and implementing inter sectoral programmes and strategies for tobacco control; and
- e) access to information on the adverse health hazards on individual, family, society and environmental consequences of tobacco consumption.

Research, surveillance and recording

21. The Tobacco Control Board through the Tobacco Control Office and in collaboration with relevant agencies shall:
 - a) initiate and conduct research and scientific assessments on tobacco control addressing the consequences of tobacco consumption and exposure to tobacco smoke;
 - b) establish tobacco surveillance programme and integrating it into national, regional and global health surveillance programmes;

- c) establish progressively a national system for the epidemiological surveillance of tobacco consumption and health indicators;

CHAPTER SIX

TOBACCO DEPENDENCE AND CESSATION

Tobacco dependence and cessation

- 22. The Tobacco Control Board through the Tobacco Control Office shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.
- 23. The Tobacco Control Board through the Tobacco Control Office shall:
 - a) design and implement effective cessation programme in the health care facilities;
 - b) collaborate with rehabilitation centers and organize programme for diagnosing, counseling, preventing and treating tobacco dependence; and
 - c) collaborate with international agencies to

facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products.

CHAPTER SEVEN

THE TOBACCO CONTROL BOARD

Formation of the Tobacco Control Board

24. The Royal Government of Bhutan shall constitute a “Tobacco Control Board” to take all measures for tobacco control for the purpose of preventing the people of Bhutan from the health, social, and environmental consequences of tobacco consumption and exposure to tobacco smoke.

Board Members

25. Bhutan Narcotic Control Board shall also function as the Tobacco Control Board.

Powers of the Board

26. The Board may exercise necessary powers for tobacco control as follows:
- a) authorize designated officials of any department or agency, in coordination with the relevant law enforcement agencies, to search and seize of any premises, conveyance and properties if it has reason to believe that an offence has been committed against any provision of this Act, in accordance with Civil and Criminal Procedure Code of Bhutan;
 - b) Board shall designate smoking rooms/areas in public places under section (3) from time to time.
 - c) facilitate to fulfill the obligations under the WHO Framework Convention on Tobacco Control and its protocols to which Bhutan is a Party.

- d) approve rules framed under this Act; and
- e) constitute demand and supply reduction committee from relevant agencies to implement the provisions of this Act. The Board may also constitute such other committees as deemed necessary;

Functions of the Board

27. The Board shall:

- a) provide effective leadership and coordination in implementing this Act;
- b) formulate and implement national tobacco control strategy;
- c) provide guidance and direction to the Tobacco Control Office and other law enforcement agencies relating to the effective implementation of this Act;

- d) co-operate and co-ordinate with the relevant Government agencies for enabling measures for tobacco control;
- e) provide direction to network with international organizations, regional organizations, local and foreign non-governmental organizations for carrying out tobacco control effectively;
- f) monitor the enforcement of the provisions under this Act and
- g) propose amendments to this Act as and when necessary to the Parliament.

Procedures of the Board

28. The Board shall regulate its own procedure as follows:-

- a) The Board shall meet at least three times a year.
- b) The Chairperson shall convene the meeting

and in the absence of the Chairperson, the Vice Chairperson shall convene the Board meeting.

- c) At every meeting of the Board, the Chairperson shall preside, and in his absence, the Vice Chairperson shall preside.
- d) The Tobacco Control Office shall maintain records of the proceedings. The minutes of all meetings of the Board shall be dated and signed by the Chairperson.
- e) The quorum for the board meetings shall be two third of the members;
- f) The Board shall report to the Government periodically.

CHAPTER EIGHT

THE TOBACCO CONTROL OFFICE

Establishment of the Office

29. The Royal Government of Bhutan shall direct the Bhutan Narcotic Control Agency also to serve as

the Secretariat to the Tobacco Control Board and to implement the provisions of this Act.

Head of the Office

30. The Executive Director of Bhutan Narcotic Control Agency, *ex officio*, shall be the head of Tobacco Control Office.

Staff of the Office

31. The Office may employ such staff as per the Civil Service Act.

Functions of the Office

32. The Office shall;
- a) carry out such activities as the Board may assign;
 - b) develop, implement and monitor the tobacco control activities in coordination with relevant agencies and individuals under the guidance of the Board;
 - c) develop guidelines and standards for tobacco control under the guidance of the Board;

- d) acquire information from all relevant agencies relating to the implementation or enforcement of the provisions of this Act
- e) record and report tobacco control activities to the Tobacco Control Board periodically.
- f) carry out measures for effective enforcement of the provisions of this Act under the guidance of the Board;
- g) conduct research works in the area of tobacco control;
- h) coordinate and communicate with relevant agencies, regional, sub-regional and international organizations for tobacco control.
- i) develop training materials and conduct training of trainers for law enforcement personnel, health workers, media, government service personnel, employers and employees in the private sector.
- j) develop and produce captions and signs for non-smoking areas;
- k) assist the law enforcement agencies in promoting

contact details for the public complaints, comments and notifications;

- l) promote public awareness on import limitations, especially at border areas;
- m) progressively establish and maintain an updated database of laws and regulations on tobacco control and information about their enforcement; and
- n) cooperate in regional and international intergovernmental organizations and financial and development institutions for technical and financial assistance on research, surveillance and exchange of information;

CHAPTER NINE

RESPONSIBILITIES OF IMPLEMENTING AGENCIES

Functions of the Ministry of Health

33. The Ministry of Health has the responsibility to:
- a) promote awareness on the dangers of tobacco and health hazard to the public and all institutions;
 - b) establish effective cessation programmes in the health institutions;
 - c) carry out research on the ill effects of tobacco consumption on health; and
 - d) implement health promotion measures through all forms of media and through community based programmes;

Functions of the Ministry of Economic Affairs

34. The Ministry of Economic Affairs has the responsibility to:

- a) ban production, manufacturing and sale of tobacco and tobacco products in the Kingdom;
- b) control illicit trade of tobacco and tobacco products;

Functions of the Ministry of Finance

35. The Department of Revenue and Customs has the responsibility to:

- a) enforce quantity limitation on import of tobacco and tobacco products across borders at the entry points;
- b) enforce as per section 13 of this Act.
- c) control illicit trade on tobacco and tobacco products;

Functions of the Ministry of Education

36. To conduct awareness and education programme on ill effects of tobacco consumption for in-school and out of school youths.

Functions of the Ministry of Home and Cultural Affairs

37. Shall provide necessary support and cooperation to co-ordinate and conduct awareness programme on tobacco control at the Dzongkhag level

Functions of the Royal Bhutan Police

38. The Royal Bhutan Police have the responsibility to:
 - a) enforce the provisions under Section 3 of this Act.
 - b) Assist the relevant agencies on prohibition of production, manufacturing , distribution and sale of tobacco and tobacco products;
 - c) Assist the relevant agencies on prohibition of tobacco advertisement , promotion and sponsorship;
 - d) Assist the relevant agencies on control of illicit trade of tobacco and tobacco products;

Functions of Thromde

39. To co-ordinate and conduct awareness programme on tobacco control in the Thromde.

Functions of Road Safety and Transport Authority of Bhutan

40. To coordinate and conduct awareness programme on tobacco control in public and private transport system.

Functions of Civil Society Organization

41. To conduct awareness programme on ill effects of tobacco consumption in their locality and community.

CHAPTER TEN ENFORCEMENT MEASURES

42. The Tobacco Control Board shall identify Authorized Officers from relevant agencies to enforce the provisions of this Act.

Powers of Authorized Officer

43. (1) Wherein an Authorized Officer has reasonable grounds to believe that there has been a violation of any provision of this Act or of any regulation made there under, he may:
- a) at any reasonable time enter and inspect any place where he/she believes tobacco and tobacco product is manufactured, prepared, packaged, stored for distribution or for sale; any individual, shop, vendor, market, shopping mall, supermarket, factory, hotels, motels, inns, lodgings, restaurants, business center or any other place where he believes tobacco and any tobacco products are sold;
 - b) at any reasonable time enter any place with a search warrant that he/she believes contains/ stores tobacco and any tobacco products;

- c) at any check point open and examine any container or package that he/she believes contains tobacco and any tobacco products;
- d) at any reasonable time stop any person with the possession of tobacco and tobacco products and demand for proof of tax and duty payment;
- e) for the purpose of carrying out effective search operation, stop or detain any vehicle in which he/she believes that any tobacco product is being conveyed/imported,
- f) detain and seize tobacco products for such time as may be necessary or as recommended by the Tobacco Control Board,
- g) at any reasonable time enter any place where any advertisement of the tobacco and tobacco products has been made or is being made,

- h) at any reasonable time enter any place in section (3) where smoking is not allowed;
- (2) An Authorized Officer acting under this section may, if so required, produce his/her authority/identity card.
- (3) The person-in-charge of a place shall provide necessary assistance to the Authorized Officer in carrying out his or her duties under this section.

Confiscation

- 44. The Court may order confiscation of any property derived directly or indirectly through the commission of a criminal offence against this Act or a relevant offence in the Penal Code of Bhutan.

Search and seizure

- 45. Any authorized officer shall have the power of search

and seizure in accordance with the provisions of the Civil and Criminal Procedure Code of Bhutan.

Disposal

46. Disposal of seized tobacco products by Authorized Officer as per rules and regulations.

CHAPTER ELEVEN OFFENCES AND PENALTIES

47. The Board shall have the authority to impose fines on the offenders and may revise the fines (as given in the annexure) when necessary.
48. A person smoking in any non-smoking area designated under section 3 shall be fined with an amount specified by Tobacco Control Board.
49. In a public gathering place the person in charge/ proprietor shall designate an area for smokers. If this is not specified and if a person is found smoking in non-smoking area, the person in charge/proprietor of that place shall be fined with an amount specified by

Tobacco Control Board.

50. Any person who contravenes the provision of section 11 (a) and (b) shall be punishable with a felony of the fourth degree as per the Penal Code of Bhutan.
51. Any person who contravenes the provision of section 11(c) shall be punishable with misdemeanor if the source of supply is revealed. If the accused fails to disclose the source of supply, he or she shall be liable for the offence of smuggling in addition to the offence of misdemeanor.
52. Any person found smuggling tobacco or tobacco products shall be guilty of an offence of smuggling and shall be punishable with minimum sentence of felony of fourth degree.
53. Any person who contravenes the provision of section 19 shall be punishable with a petty misdemeanor and shall be penalized as per the Penal Code of Bhutan.
54. Any person found with more than the permissible quantity for personal consumption under section 12 shall be guilty of the offense for smuggling and shall be punishable with minimum sentence of felony of fourth degree.

CHAPTER TWELVE

MISCELLANEOUS

Financial Resources

55. The Government shall provide adequate financial support to implement the provisions of this Act.
56. All relevant potential and existing resources comprised of both public and private that are available for tobacco control activities, should be mobilized and utilized for implementing the provisions of this Act.

Rules Making Power

57. The Tobacco Control Board may make rules for the effective implementation of this Act.

Authoritative Text

58. The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.

Amendments

59. The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of not less than two-third of the total members of parliament present and voting on a motion submitted by one-third of the members of either Houses, provided that the amendment does not undermine the functions and effectiveness of Bhutan Narcotic Control Agency.

Definitions

60. In this Act, unless the context otherwise requires, the following definitions shall apply throughout the Act:

- a) **“Agencies”** means Government, Non-Government Organization, Private, Public
- b) **“Authorized officer”** means an officer duly assigned by the Tobacco Control Board from relevant agencies to carry out the provisions for the purposes of this Act.

- c) **“Cultivation”** means farming or growing tobacco plant (*Nicotania tabecum*) or (*Nicotinia rustica*).
- d) **“Harvesting”** means reaping, gathering or picking tobacco plant (*Nicotania tabecum*) or (*Nicotinia rustica*).
- e) **“Label”** means a name, sign, shape or mark denoted by any means to make known any kind of tobacco product;”
- f) **“Package”** means a packet, bottle, card, wrapper, box, carton, tin or any other similar material into which a tobacco product is collected and inserted and which packs the same;
- g) **“Person-in-charge”** means an owner, manager, supervisor or a person responsible for the operation of the public place or public transport designated in section 3.
- h) **“Production”** means the making of tobacco products in the form of cigarettes, cigars,

bidis, cigarette tobacco, pipe tobacco, hookah tobacco, chewing tobacco, pan masala or any chewing material having tobacco as one of its ingredients or snuff ;

- i) **“Smoking”** means inhaling and exhaling the smoke of any tobacco product whether in the form of cigarette, cigar, pipe, bidi or otherwise and shall include the holding of or controlling any ignited tobacco product;

- j) **“Tobacco and tobacco product”** means any raw material or any material prepared from the whole or part of the tobacco plant (*Nicotania tabecum*) or (*Nicotinia rustica*) leaf or stalk of the same, to be smoked, sniffed, sucked or chewed.

- k) **“Thromde”** means a urban area or a municipality as specified in the Local Government Act.