

TOBACCO CONTROL ACT 1998

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ACT NO. 47 OF 1998



I assent.

[L.S.]

K. K. T. MARA
President

[9 November 1998]

AN ACT

TO RESTRICT ADVERTISING AND PROMOTION OF CIGARETTES AND OTHER TOBACCO PRODUCTS, TO REGULATE THE LABELLING OF TOBACCO PRODUCT CONTAINERS, TO RESTRICT THE NICOTINE AND TAR CONTENT OF CIGARETTES, TO BAN THE SALE OF TOBACCO PRODUCTS TO YOUNG PEOPLE, TO RESTRICT SMOKING IN PUBLIC PLACES AND ON PUBLIC TRANSPORT, AND FOR ANCILLARY PURPOSES.

ENACTED by the Parliament of the Fiji Islands—

Part I—PRELIMINARY

Short title, commencement and application

1.—(1) This Act may be cited as the Tobacco Control Act 1998.

(2) This Act comes into force 12 months after it receives the President's assent, except for section 5, which comes into force 24 months after the Act receives the President's assent.

(3) Nothing in this Act applies to—

- (a) any tobacco product or the labelling of any tobacco product container if the tobacco product is packed for sale outside the Fiji Islands and is not sold in the Fiji Islands; or

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- (b) anything which causes, permits, authorises or assists in the sale, supply or promotion of the sale, purchase, use or consumption of a tobacco product if the use or consumption occurs solely outside the Fiji Islands.

Interpretation

2. In this Act, unless the context otherwise requires—

“amusement centre” means any building, erection, structure, watercraft or any other such place, whether temporary or permanent and whether partially or completely enclosed, in or at which a public amusement takes place and to which the public are admitted with or without payment;

“authorised officer” means—

- (a) a person of a class or description prescribed by regulations under section 16; or
- (b) a person appointed in writing by the Permanent Secretary to the Minister under that section;

“cigarette” means any product which—

- (a) consists wholly or partly of cut, shredded or manufactured tobacco, or of any tobacco derivative or substitute, rolled up in a single wrap of paper; and
- (b) is capable of being immediately used for smoking;

“clinic” means any building used or intended to be used by a medical practitioner, dental practitioner or any other person for the diagnosis or treatment of persons suffering from, or believed to be suffering from, any mental or physical disease and includes any such place operated by the Government;

“container” includes a box, tin, packet, or carton but does not include any outer wrapper, cellophane or other transparent material;

“council of a municipality” means the council of a city, town or district constituted under section 8 of the Local Government Act;

“eating-house” means any place or any part thereof, where the principal business is the serving of meals or refreshments to the public for consumption at such place, and includes any such room or area on a watercraft;

“exempt sponsored event” means any event, including a sporting, cultural, entertainment or recreational event, other than a community festival—

- (a) which is open to the public;
- (b) for which a sponsorship, gift, prize, reward, scholarship or other like benefit is or is to be given in exchange for the promotion or publicity at the event of—

- (i) a tobacco product, or a trademark or brand name, or part of a trademark or brand name, of a tobacco product; or
 - (ii) the name or interests of a manufacturer or distributor of a tobacco product (whether or not that manufacturer or distributor also manufactures or distributes a product other than the tobacco product) in association directly or indirectly with the tobacco product;
- (c) which is not targetted primarily at persons under the age of 18 years;
 - (d) the duration of which does not exceed the period, if any, prescribed by the Minister by regulations; and
 - (e) which otherwise complies with any regulations made by the Minister;

“hospital” means any building in which 2 or more patients are or may be maintained at the same time and includes any such place operated by the Government;

“ISO standard” means the standard specified by the International Standards Organisation;

“local authority” means any local authority constituted under the provisions of the Public Health Act;

“prescribed smoke-free area” means the part of any building which is prescribed by regulations or an order under section 14 as a smoke-free area;

“prescribed smoke-free building” means any building which is prescribed by regulations or an order under section 14 as a smoke-free building;

“public” includes a section of the public;

“public amusement” means any game of any kind whatsoever provided for the public in which a member or members of the public may take part;

“regulations” means regulations made by the Minister under section 28;

“sell” includes—

- (a) barter or exchange;
- (b) offer or expose for sale, barter or exchange;
- (c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
- (d) supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain;

“smoke-free zone” means the area of an eating-house designated as a smoke-free zone under section 13;

“smoking”, with its grammatical variations, means puffing or inhaling and expelling the smoke of any tobacco product and includes the holding of, or control over, any ignited tobacco product;

“sports stand” means any building, erection or structure, whether temporary or permanent, which is partially or completely enclosed and which is used for the seating of members of the public, with or without payment, primarily to view any sporting contest, but does not include any such building, erection or structure belonging to any club, association, institution or other body intended for the benefit primarily of its members;

“tar” means the Condensate Particulate Matter (CPM) which results from the ignition of any tobacco product;

“theatre” means the auditorium of any building used for the performance or presentation of any stage play or any musical, singing or dancing show or recital or any competition, sporting contest, exhibition, variety act or other entertainment, or the exhibition of films, to which members of the public are admitted upon payment of an admission fee, but does not include any part of the building of any club, association, institution, or other body in which any of the same are performed, presented, or exhibited for the benefit primarily of its members;

“tobacco” means any product obtained from the leaf of the *nicotiana tabacum* plant or other related plants;

“tobacco product” means any tobacco or cigarette or any other product the main ingredient of which is tobacco and which is designed for human consumption by smoking;

“tobacco product advertisement” means any words, whether written, printed, spoken, broadcast or telecast, including on film, video recording or other medium, and any pictorial representation, design, device, visual image, sign, symbol, trademark, brand name, or company name, or part of a trademark, brand or company name, or a combination of 2 or more of the foregoing, used to encourage the use or to notify the availability or to promote the sale of any tobacco product or to promote smoking;

“vending machine” means a machine or device that is constructed to contain tobacco products and which can automatically retail any tobacco product upon the insertion of a coin, token or similar object into the machine or device;

“watercraft” means any vessel designed to float on water, whether or not it is suitable, adapted or used for transportation.

Part II—RESTRICTIONS ON ADVERTISING AND PROMOTION
OF TOBACCO PRODUCTS

Prohibition of certain tobacco product advertisements

3.—(1) A person must not for any direct or indirect pecuniary benefit—

- (a) display, exhibit, announce, broadcast or telecast, or cause or permit to be displayed, exhibited, announced, broadcast, or telecast, or authorise the display, exhibition, announcement, broadcast or telecast to the public of, a tobacco product advertisement;
- (b) sell or distribute, or cause or permit to be sold or distributed, or authorise the sale of, any film or video tape, that contains a tobacco product advertisement;
- (c) distribute, or cause or permit to be distributed, or authorise the distribution, to the public of any leaflet, handbill or document that is a tobacco product advertisement; or
- (d) print or publish, or cause or permit to be printed or published, or authorise the printing or publication, of a tobacco product advertisement in any printed publication, book, magazine, leaflet, handbill, newspaper or other printed matter intended for the public.

(2) Subsection (1) does not apply to—

- (a) a tobacco product advertisement in or on a container containing a tobacco product;
- (b) a tobacco advertisement containing only the company name of a tobacco manufacturer or distributor and any trade mark or brand name of a tobacco product or any part or combination thereof which is placed on or adjacent to a place of business of the manufacturer or distributor;
- (c) the publication by a tobacco manufacturer of a tobacco product advertisement in a magazine, newsletter, chart or poster which is intended only for use by employees on the manufacturer's premises or for distribution only to employees of the manufacturer;
- (d) any tobacco product advertisement included in any book, magazine, or newspaper printed outside the Fiji Islands, or in any radio or television transmission originating outside the Fiji Islands, or any film or video recording made outside the Fiji Islands, unless—
 - (i) the principal purpose of the book, magazine, newspaper, broadcast, telecast, film, or video recording is the promotion of the use of a tobacco product;

- (ii) the book, magazine, newspaper, film, or video recording is intended for sale, distribution, or exhibition primarily in the Fiji Islands;
- (iii) in the case of a tobacco product advertisement in any radio or television transmission, the advertisement is targeted primarily at a Fiji audience:
- (e) a tobacco product advertisement that is an incidental accompaniment to the subject of a film, video recording, broadcast or telecast (not being a film video recording, broadcast or telecast which is wholly or mainly concerned with the promotion of tobacco products); or
- (f) an invoice, statement, order, letterhead, business card, cheque, manual or other document that is ordinarily used in the course of business.

(3) Nothing in subsection (1) applies to a tobacco product advertisement that is, or is to be, displayed inside a shop or other retail place where tobacco products are offered for sale so long as—

- (a) the advertisement is, or is to be displayed, only at the point of sale of a tobacco product;
- (b) one of the health warnings specified in Part A of the Schedule together with the message specified in Part B of the Schedule are clearly and conspicuously printed or otherwise marked in English, Fijian and Hindustani in a prominent position in a block on each such advertisement and the block covers not less than 20% of the total area of advertisement; and
- (c) the advertisement complies with any regulations made by the Minister.

(4) Nothing in subsection (1) applies to a visual or audible tobacco product advertisement that—

- (a) is displayed, exhibited or announced within the venue of a exempt sponsored event;
- (b) is not clearly visible or audible from outside the side of the event;
- (c) is not included in the names of the event or the facilities, trophies, participants or uniforms at the event;
- (d) if visual is removed at the conclusion of the event; and
- (e) complies with any regulations made by the Minister.

Prohibition on giving or distributing of free samples

4. A person must not, for the purpose of inducing or promoting the sale of any tobacco product, offer, give or distribute to any person a free sample of the tobacco product.

Restrictions on sponsorship

5.—(1) Subject to subsection (3), a person must not, under a contract, agreement, undertaking or understanding, whether or not legally binding, with another person, promote or publicise, or agree to promote or publicise—

- (a) a tobacco product or a trademark or brand name, or part of a trademark or brand name, of a tobacco product; or
- (b) the name or interests of a manufacturer or distributor of a tobacco product (whether or not that manufacturer or distributor also manufactures or distributes a product other than the tobacco product) in association directly or indirectly with the tobacco product,

in exchange for a sponsorship, gift, prize, reward, scholarship or like benefit given or agreed to be given by another person.

(2) Subject to subsection (3), a person must not, under a contract, agreement, undertaking or understanding with another person, whether or not legally binding, give or agree to give any sponsorship, gift, prize, scholarship or like benefit in exchange for the promotion of, or an agreement to promote, a tobacco product or a name, interest, trademark or brand name referred to in subsection (1).

(3) Nothing in subsection (1) or (2) applies to a person who under any contract, agreement, undertaking or understanding, whether or not legally binding, displays, exhibits or announces, or agrees to display, exhibit or announce, a tobacco product advertisement at any exempt sponsored event or who gives or agrees to give any sponsorship, gift, prize, scholarship or like benefit in exchange therefor, so long as the advertisement complies with section 3(4).

Competitions

6.—(1) A person must not, in connection with the sale of a tobacco product or for the purpose of promoting the sale of a tobacco product—

- (a) supply to the purchaser or any other person—
 - (i) a prize, gift or other benefit; or
 - (ii) a stamp, coupon, token, voucher, ticket or other thing by virtue of which the purchaser or any other person may become entitled to, or may qualify for a prize, gift or other benefit (whether the entitlement or qualification is absolute or conditional); or

(iii) any thing which, or a copy or facsimile of which, is a necessary prerequisite to participation in, or is likely to confer an advantage in, any game, contest or other activity in which a participant may become entitled to, or may qualify for, a prize, gift, or other benefit (whether the entitlement or qualification is absolute or conditional); or

(b) conduct a scheme declared by regulations made by the Minister to be a scheme to promote the sale of a tobacco product or to promote smoking generally.

(2) In proceedings for an offence against subsection (1), it is a defence to prove that the benefit or thing supplied, or participation in the scheme, was only incidentally connected with the purchase of a tobacco product and that equal opportunity to receive the benefit or thing, or to participate in the scheme, was afforded generally to persons who purchased products whether or not they were tobacco products.

Part III—LABELLING OF TOBACCO PRODUCT CONTAINERS

Obligation to print health warnings etc

7.—(1) There must be clearly and conspicuously printed or otherwise marked on every container of a tobacco product sold in the course of any trade or business one of the health warnings specified in Part A of the Schedule in English, Fijian and Hindustani.

(2) The notice specified in Part B of the Schedule must appear in the appropriate language below the health warning specified in Part A of the Schedule in letters which are no less than the size of those used in the health warning.

(3) The Minister may, by regulations, amend, add to or replace the health warnings specified in Part A of the Schedule and the notice specified in Part B of the Schedule.

(4) If the container is a packet which is a rectangular block in shape, the health warnings and notice in Hindustani and Fijian must be placed at the top of the front surface and the health warning and notice in English placed on the back surface.

(5) The health warning required by subsection (1), together with the notice required by subsection (2), must be placed in a block which must cover not less than—

(a) 20% of the appropriate surface; or

(b) such other area of the appropriate surface as the Minister may prescribe by regulations.

(6) A manufacturer or distributor of tobacco products must ensure that during each calendar year the different health warnings prescribed by subsection (1) or under subsection (3), insofar as practicable, appear on equal numbers of containers of each brand of any tobacco product sold or distributed by that manufacturer or distributor.

(7) If the health warning and notice appear on a label, the label must be securely affixed to the container.

(8) Notwithstanding the foregoing subsections, the Minister may, by regulations, exempt an imported brand of tobacco product from exhibiting the health warnings and notice required by this section if he is satisfied that—

- (a) the imported brand accounts, or is likely to account, for less than 3% of sales of tobacco products, to consumers in the Fiji Islands; and
- (b) the container of the imported brand carries a health warning and notice in English substantially similar to a health warning and notice prescribed by or under this section.

(9) The Minister may, by regulations, revoke any exemption granted under subsection (8)—

- (a) if he is satisfied that the imported brand—
 - (i) has in the previous calendar year accounted for more than 3% of tobacco products sold to consumers in the Fiji Islands; and
 - (ii) is likely to account for more than 3% of tobacco products sold to consumers in the Fiji Islands in the future; or
- (b) if he is satisfied that the health warning and notice contained on the tobacco product is not substantially similar to a health warning and notice prescribed by or under this section; or
- (c) for any other reason deemed sufficient in opinion of the Minister and which is consistent with the objects of this Act.

(10) Before revoking an exemption granted under subsection (8), the Minister must give the manufacturer or the distributor and any other person who, in the opinion of the Minister, has an interest in the matter, a reasonable opportunity to be heard.

(11) A person must not sell any tobacco product which is not labelled or marked in accordance with this section or with any regulations made by the Minister under this section.

Obligation to print tar and nicotine content

8.—(1) There must be clearly and conspicuously printed or otherwise marked on every cigarette container a statement of the level or maximum level of tar and nicotine in milligrams (mg) per cigarette in the container.

(2) The statement of the level of tar and nicotine must comply with any regulations made by the Minister as to the size, placement, colour, style or any other aspect of the statement.

(3) A person must not sell any cigarette—

- (a) in any container which is not marked in accordance with subsection (1) or with any regulations made by the Minister; or
- (b) which contains tar or nicotine in excess of the level stated on the container.

Part IV—RESTRICTIONS ON TAR AND NICOTINE CONTENT

Restrictions on tar and nicotine content

9.—(1) The level of tar in any cigarette must not exceed 15 milligrams (mg) (ISO standard) and the level of nicotine must not exceed 1.5 milligrams (mg) (ISO standard).

(2) The Minister may, by regulations, increase or decrease the maximum allowable levels of tar and of nicotine per cigarette specified in subsection (1).

(3) A person must not sell any cigarette which contains tar or nicotine in excess of the maximum level prescribed by subsection (1) or under subsection (2).

Part V—RESTRICTIONS ON SALE AND SMOKING OF TOBACCO PRODUCTS

Prohibition on supplying tobacco to persons under 18 years

10. A person must not—

- (a) sell or supply any tobacco product to a person under the age of 18 years;
- (b) purchase a tobacco product for the use of a person under the age of 18 years;
- (c) permit a person under the age of 18 years to purchase a tobacco product from a vending machine situated on premises occupied by the first-mentioned person.

(2) It is a defence to a prosecution under this section if a person proves that he -

- (a) had reasonable cause to believe that the person purchasing the tobacco product, or for whom the tobacco product was purchased, or to whom the tobacco product was supplied, was not under the age of 18 years; or
- (b) had taken all reasonable precautions to ensure that the tobacco product was not sold to a person under the age of 18 years.

(3) A person who contravenes this section is liable upon conviction to a fine of \$1,000.

Vending machines

11.—(1) The Minister may by regulations prescribe the warnings to be displayed on a vending machine and the size, placement, colour, style and any other aspect of such warnings.

(2) A person must not place, or cause or permit to be placed, a vending machine for tobacco products—

- (a) for use by members of the public in any place to which persons under the age of 18 are allowed access; or
- (b) which does not comply with any regulations in respect of vending machines made by the Minister.

(3) A person who contravenes this section is liable upon conviction to a fine of \$1,000.

Prohibition on smoking in certain public places

12.—(1) A person must not smoke in any—

- (i) amusement centre, theatre or sports stand at any time when such place is open to the public;
- (ii) hospital or clinic;
- (iii) lift;
- (iv) public transportation at any time when it is carrying fare-paying passengers, except in designated smoking sections on an aircraft during an international flight or on a ship;
- (v) airport terminal building;
- (vi) prescribed smoke-free building or prescribed smoke-free area; or
- (vii) smoke-free zone in an eating-house.

(2) A person who contravenes subsection (1) is liable upon conviction to a fine of \$500.

(3) The occupier and the person in charge of any place referred to in subsection (1) must both ensure that—

- (a) no person smokes; and
- (b) a 'no smoking' sign and any other prescribed signage is clearly and conspicuously displayed,

in that place.

(4) The Minister may by regulations prescribe the “no smoking” signage to be displayed at any place referred to in subsection (1) and the size, placement colour, style and any other aspect of the signage.

(5) A person who contravenes subsection (3) or any regulations made under subsection (4) is liable upon conviction to a fine of \$1,000.

Designation of smoke-free zone in eating-houses

13.—(1) The proprietor of every eating-house must designate not less than one half of the area of the eating-house available for the use of the public as an area in which smoking is prohibited, to be known as “the designated smoke-free zone”.

(2) The proprietor and the person in charge of every eating-house must both ensure that—

- (a) a smoke-free zone, is, so far as is reasonably practicable, separated from areas where smoking is permitted;
- (b) a smoke free-zone is ventilated in accordance with any regulations made by the Minister; and
- (c) a smoke-free zone otherwise complies with the regulations.

(3) A person who contravenes subsection (1) or (2) is liable upon conviction to a fine of \$1,000.

(4) Nothing in this section is to be taken as preventing the proprietor or person in charge of any eating-house from prohibiting smoking in all areas in the eating house.

Minister may prescribe smoke-free buildings or smoke-free areas

14.—(1) The Minister may, by regulations and subject to any conditions he thinks fit, prescribe any class of buildings or any part thereof to which members of the public have access to be places in which smoking is prohibited.

(2) The Minister may, by order in the Gazette and subject to any conditions he thinks fit, prescribe any specific building, or part thereof, to which members of the public have access to be a place in which smoking is prohibited either permanently or for any period he thinks fit.

Part VI—MISCELLANEOUS

Minister may exempt

15.—(1) The Minister may, by regulations and subject to any conditions he thinks fit, exempt a class of persons, advertisements or events wholly or in part from the operation of section 3 or 5.

(2) The Minister may, by order in the *Gazette*, and subject to any conditions he thinks fit, exempt a person, advertisement or event wholly or in part from the operation of section 3 or 5.

Authorised officer

16.—(1) The Minister may, by regulations, and subject to such conditions or limitations as he may specify, prescribe persons of a specified class or description as authorised officers for the purposes of this Act.

(2) Regulations made under subsection (1) may prescribe that proceedings may be brought by officers of, or otherwise on behalf of, the council of a municipality or local authority or a statutory body.

(3) The Permanent Secretary may, in writing and subject to such conditions or limitations as he may specify, appoint any public officer, who is not of a description or class prescribed by regulations under subsection (1), to be an authorised officer for the purposes of this Act.

Offences and penalty

17. A person who contravenes or fails to comply with any provision of this Act creating an offence commits an offence and upon conviction is liable, if no other penalty is specified, to a fine of \$5,000 for a first offence and \$10,000 for a second or subsequent offence.

Offences by corporate bodies

18. If a body corporate commits an offence against this Act, each director or other person concerned in the management of the body corporate is also guilty of, and liable to the penalty provided for, that offence unless the director or other person proves that he exercised reasonable diligence to prevent the commission of the offence.

Proceedings

19.—(1) Proceedings for an offence under this Act may be brought—

- (a) by or on behalf of the Director of Public Prosecutions;
- (b) by a member of the police; or
- (c) by an authorised officer.

(2) A person referred to in subsection (1)(b) or (c), whether or not a legal practitioner, may lay, institute or conduct any charge, information, complaint or other proceeding arising under this Act, subject to any directions issued by the Director of Public Prosecutions.

Application of penalties

20.—(1) Except as provided in subsection (2), penalties under this Act form part of and must be paid into the Consolidated Fund

(2) If the Minister makes regulations of the kind described in section 16(2), the Minister responsible for finance may by regulations prescribe that all or a proportion of penalties payable under this Act in respect of proceedings brought by or on behalf of the council of a municipality or local authority or of a statutory body are payable to the general revenue fund of that council or to the statutory body.

Powers of entry, search and seizure

21.—(1) For the purposes of this Act, an authorised officer may at all reasonable times —

- (a) enter any premises he knows or reasonably suspects—
 - (i) are being used for the production, manufacture, assembly, preparation, storage or sale of any tobacco product, tobacco product container or tobacco product advertisement;
 - (ii) have been or are being or are likely to be used by any person in connection with a contravention of this Act;
- (b) enter any premises where he knows or reasonably suspects that records are kept relating to the sale or manufacture of tobacco products or to tobacco product advertisements or relating to a contravention of this Act;
- (c) enter any premises which he knows or reasonably suspects are being used by any person for the printing, or as an office in connection with the printing, of any newspaper or other publication, or the manufacture or distribution of any videotape, associated with any contravention of this Act;
- (d) enter any broadcasting or television station which he knows or reasonably suspects is associated with any contravention of this Act;
- (e) in any premises entered by him—
 - (i) search for, examine, take possession of or make copies of or extracts from records relating to any tobacco product or tobacco product advertisement or container supplied or to be supplied or relating to any matter the subject of an investigation under this Act;
 - (ii) search for and examine goods found thereon;
 - (iii) seize any tobacco product or tobacco product advertisement or container without payment or take any such thing found thereon, upon payment or tendering of a reasonable price for the product or advertisement;
 - (iv) seize without payment any brochures, leaflets, books, writing, documents or other materials that he knows or reasonably suspects have been, are being, or are likely to be used to advertise, promote, publicise or packag any tobacco product in contravention of this Act.

- (v) open any room, place, container or package that he knows or reasonably suspects contains any tobacco product or tobacco product advertisement;
- (vi) question with respect to matters under this Act any person he finds thereon;
- (f) make such inquiry and examination as he believes to be necessary or desirable to assist the discharge or exercise of any function or power under this Act or to ascertain whether any contravention of this Act has been, is being or is likely to be committed.

(2) Subsection (1) does not authorise forcible entry by an authorised officer to any premises except under the authority of a warrant obtained pursuant to subsection (3) or (4).

(3) Before an authorised officer enters part of any premises, he must, if the part is used as a dwelling, and unless he has the permission of the occupier of that part to enter, obtain from a Resident Magistrate a search warrant to enter that part.

(4) A Resident Magistrate, if satisfied upon the information of an authorised officer that there is reasonable cause to suspect that any place has been or is being or is likely to be used in connection with a contravention of this Act or for the keeping of records relating to a contravention of this Act, may issue a search warrant directing the authorised officer to enter the place specified in the search warrant for the purpose of exercising the powers conferred on an authorised officer by this Act.

(5) A search warrant issued under this section is, for a period of one month from its issue, sufficient authority—

- (a) to the authorised officer to whom it is directed and to all persons acting in aid of the officer to enter the place specified in the search warrant; and
- (b) to the authorised officer to whom it is directed to exercise in respect of the place specified in the search warrant all the powers conferred on an authorised officer by this Act.

(6) For the purpose of gaining entry to any place an authorised officer may call in aid such persons as he considers necessary and such persons, while acting in aid of an authorised officer in the lawful exercise of a power of entry, have a like power of entry.

(7) If an authorised officer has taken possession of records or of other property for the purposes of this Act he may—

- (a) in the case of records, retain them for as long as necessary for those purposes, but the person otherwise entitled to possession of the records,

if he so requests, is entitled to be furnished as soon as practicable with a copy certified by the authorised officer to be a true copy and such a certified copy must be received in all courts and elsewhere as evidence of the matters contained in it as if it were the original;

- (b) in the case of other property, subject to this Act, retain the property for as long as is necessary for those purposes, and thereafter dispose of it as the Court directs.

Power to obtain information

22.—(1) In relation to any matter relevant to the operation or enforcement of this Act, an authorised officer may require a person (either by oral or written requisition) to furnish—

- (a) any information;
- (b) any records or a copy thereof,

in the person's possession.

(2) For the purpose of subsection (1), a person is to be taken to be in possession of—

- (a) information, if the person has the information or is entitled to access to the information;
- (b) records, if the person has them in his possession or under his control in any place, whether for his own use or benefit or for another's use or benefit and although another person has the actual possession or custody of the records.

(3) A requisition made under subsection (1) may require that the information or records or copy thereof be furnished—

- (a) to the authorised officer or another authorised officer or to an officer of a specified department of the Government;
- (b) at the place the requisition is made or at another place;
- (c) forthwith or at, by or within a time specified;
- (d) in person, or by registered mail or in another manner specified;
- (e) by means of, or accompanied by, verification in the form of a statutory declaration;
- (f) in the case of information, orally or in writing.

(4) A person must not without reasonable cause—

- (a) refuse or fail to furnish any information, records or copy as required under this section;
- (b) in response to a requisition made under this section furnish information, records or copies that is or are false or misleading in a material particular.

(5) A person may not refuse to furnish any information, records or copy on the ground that its contents may incriminate him, but if a person, at the time he supplies any information, records or copy states in writing that the information, records or copy is, or may be, incriminating of him, the information, records or copy may not be used in any proceedings against that person for an offence against this Act.

(6) If a person records or stores any matter by means of a mechanical, electronic or other device, the duty imposed by this section to produce any records containing those matters is to be construed as including a duty to produce the matters in written form if that is demanded.

(7) The duty imposed by this section to produce a copy of any records is to be construed as a duty to produce a clear reproduction.

(8) An authorised officer may take notes or copies of or extracts from records or a copy of any records produced under this section.

Continuing offence

23.—(1) If a person commits an offence by failing to furnish information required under section 22 or to produce any records or a copy of any records—

- (a) the obligation to furnish the information or produce the records or a copy of them, as the case may be, continues until the person complies with the requirement notwithstanding that in a particular case a time was specified at, by or within which compliance was required and that time has passed;
- (b) the person commits a continuing offence in respect of each day after the day of conviction during which the failure to comply with the requisition continues;
- (c) the person is liable to a fine of \$100 for each day during which the offence continues; and
- (d) the person may be prosecuted from time to time in respect of the offence.

Obstruction

24.—(1) A person must not obstruct an authorised officer in the exercise of his powers under this Act.

(2) For the purposes of this Act, a person obstructs an authorised officer in the exercise of his powers under this Act if he—

- (a) assaults, abuses, intimidates or insults the authorised officer or any other person assisting the authorised officer in the exercise of his powers under this Act;
- (b) directly or indirectly deliberately prevents any person from being questioned by an authorised officer or from furnishing under this Act any information or records or copies or attempts to do so; or
- (c) in any other way obstructs or attempts to obstruct an authorised officer in the exercise of his powers under this Act.

Directions may be issued to secure compliance

25.—(1) If—

- (a) any tobacco product, container, label, tobacco product advertisement, eating-house, smoke-free building, smoke-free area, exempt sponsored event or other place or thing does not comply in every respect with the provisions of this Act; or
- (b) any provision of this Act has not been complied with in relation to any of the aforementioned,

an authorised officer may, in writing, direct any person who has contravened the provision by such non-compliance to take within a specified time, not exceeding 14 days, such steps as may be specified to prevent any further contravention and to remedy the matters in respect of which the non-compliance has occurred.

(2) The issue of a direction under this section does not affect any proceeding under this Act which has been or may be taken for the non-compliance which gave rise to the direction.

(3) A person to whom a direction is issued under this section and who does not comply with the direction commits an offence.

Removal of advertisements and destruction of tobacco products

26.—(1) If a person is convicted of an offence under section 3, the Court, in addition to imposing any other penalty, may order—

- (a) that the advertisement be removed or obscured or destroyed by an authorised officer; and

- (b) that the person convicted pay the reasonable costs incurred by the authorised officer in removing or obscuring or destroying the advertisement.

(2) If a person is convicted of an offence under section 7, 8 or 9, the Court, in addition to imposing any other penalty, may order—

- (a) that the tobacco product be forfeited and thereafter confiscated and destroyed by an authorised officer; and
- (b) that the person convicted pay the reasonable costs incurred by an authorised officer in confiscating and destroying the tobacco product.

(3) Costs payable under subsection (1) or (2) may be recovered as a debt due to the State or to the council of a municipality or local authority or to a statutory body, as the case requires.

Contracts etc. void

27.—(1) A contract, agreement, undertaking or understanding which is in effect when this Act comes into force is void to the extent to which it is inconsistent with this Act.

(2) Neither the State nor any person is liable to pay any damages or other compensation to any other person in consequence of subsection (1).

Regulations

28.—(1) The Minister may make regulations, not inconsistent with this Act, prescribing matters necessary or convenient to be made for carrying out or giving effect to this Act.

(2) The regulations—

- (a) may be of general or limited application;
- (b) may differ according to differences in time, place or circumstance; and
- (c) may prescribe offences and provide for penalties on conviction of not more than \$5,000 for a first offence or \$10,000 for a second or subsequent offence.

SCHEDULE
(Section 7)
HEALTH WARNINGS
Part A

"SMOKING HARMS UNBORN BABIES
NA VAKATAVAKO E VAKACACANA NA BULĀ NI GONE
E KUNEKUNETAKI TIKO"

तम्बाकू पीने से गर्भावस्था में शिशुओं को हानि होती है।

"SMOKING CAUSES CANCER
NA VAKATAVAKO E VAKAVUNA NA KENISA"

तम्बाकू पीने से कैंसर की बीमारी होती है।

"SMOKING CAUSES HEART DISEASE
NA VAKATAVAKO E VAKAVUNA NA MATE NI UTO"

तम्बाकू पीने से दिल का रोग होता है।

Part B

"FIJI GOVERNMENT HEALTH WARNING
A I VAKARO MAI NA TABACAKAKA NI BULA"

"फ़ीजी सरकार की स्वास्थ्य सम्बन्धी चेतावनी"

Tobacco Control— 47 of 1998

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Passed by the House of Representatives this 7th day of October 1998.

Passed by the Senate this 27th day of October 1998.