

**Consolidated Smoking and Tobacco Products Usage (Control) Act, 2005
(Act No. 11 of 2005, as amended by Act No. 16 of 2013)**

An act for amending the Smoking and Tobacco Products Usage (Control) Act, 2005

WHEREAS amendment to the Smoking and Tobacco Products Usage (Control) Act, 2005 (ACT NO. 11 OF 1005) should be done and is necessary;

It is hereby enacted as follows:-

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

(2) It will come into force immediately.

2. DEFINITIONS. - In this Act, unless there is anything repugnant to the subject or context -

- (a) **“authorized officer”** means Upazilla Nirbahi Officer or Upazilla Health and Family Planning Officer or any of Directorate of Health equivalent or senior to his rank and shall include any or all officers empowered under different laws, or empowered by the Government, by notification in the Official Gazette to carry out the concerned duties;
- (b) **“tobacco”** means any *Nicotima Tobacum* or *Nicotima Bustica* plant or any other related plant or its leaf or crop, root, branch or any part of it;
- (c) **“tobacco products”** means any product made from tobacco, tobacco leaf or its extract which can be sucked or chewed, or inhaled through smoking, and shall include bidi, cigarette, cheroot, gul, jarda, khoinee, sadapata, cigar and mixture used in pipe or hukkah;
- (d) **“smoking”** means inhaling and exhaling the smoke of any tobacco product and shall include the holding of or controlling any ignited tobacco product;
- (e) **“smoking zone”** means any area specified for smoking in any public place or public vehicles;
- (f) **“public place”** means educational institution, government office, semi-government office, office of autonomous body and non-government office, library, elevator, indoor work place, hospital and clinic building, court building, airport building, sea port building, river port building, railway station building, bus terminal building, cinema hall, exhibition hall, theatre hall, market building, restaurant covered by four walls, public toilet, children’s park, fair, queue of passengers for riding public vehicles, or any other place accessible for collective use by people or any other or all places declared by general or special order of the Government or local government intuitions;
- (g) **“public vehicles”** means motor car, bus, train, ship, launch, all kinds of mechanical public transport, aeroplane and such other vehicles as may be determined by the Government, by

notification in the Official Gazette.

(h) “**rules**” means rules made under this Act.

(i) “**person**” also includes company, cooperatives, organization or body of persons, whether incorporated or not, producers and distributors of tobacco products.

3. APPLICATION OF OTHER LAWS. - The provisions of this Act, unless there is anything contrary therein, shall be deemed to be additional to and not derogatory to The Railways Act 1890 (Act IX of 1890), The Dhaka Metropolitan Police Ordinance, 1976 (Ord. No. III of 1976), The Chittagong Metropolitan Ordinance, 1978 (Ord. No. XLV III of 1978), The Khulna Metropolitan Ordinance 1985 (Ord. No. LII of 1985), The Rajshahi Metropolitan Police Act, (Act No. XXIII of 1992), The Sylhet Metropolitan Police Act, 2009 (Act No. XXIII of 2009), The Barishal Metropolitan Police Act (Act No. XXIV of 2009), and any other laws.

4. SMOKING PROHIBITED IN PUBLIC PLACES AND PUBLIC VEHICLES. – (1)
Subject to the provisions of section 7, no person shall smoke in public place or public vehicle.

(2) Any person contravening the provision of sub-section (1) shall be punished with a fine not exceeding three hundred taka and if that person repeats similar contravention, the penalty shall be doubled for each subsequent violations.

5. PROVISIONS REGARDING PROHIBITION OF ADVERTISEMENT AND PROMOTION OF TOBACCO PRODUCTS AND CONTROL OF SPONSORSHIP. – (1)
No person shall –

- (a) disseminate or make disseminated advertisement of tobacco products in the print or electronic media, any books, leaflets, handbill, poster, printed paper, billboard or signboard or in any other means;
- (b) supply or offer to supply or make supplied to public any sample of tobacco products for free or in lower price for the purpose of inducing in buying those products;
- (c) provide or make provided any donation, award, scholarship or sponsor or make sponsored any program for the purpose of advertising tobacco products or inducing in the use of those products;
- (d) disseminate or make disseminated any advertisement regarding tobacco or tobacco products in any cinema halls, print and electronic media or web pages;
- (e) disseminate or make disseminated, display or make displayed, or describe or make described in television, radio, Internet, stage program or any other mass media scene of tobacco use in cinema, drama or documentary made or available and disseminated in Bangladesh or made in abroad;

however, if it is essential for the story of the cinema, such scenes can be displayed

provided that text warnings regarding harmful effects of the use of tobacco products are displayed on the screen, in a way determined by the rules, while displaying the cinema having scene of tobacco use;

- (f) produce, sell or distribute or make produced, sold or distributed any product or packet or container of any product similar to any packet or container of tobacco products;
- (g) disseminate or make disseminated advertisement of tobacco products in any ways at the point of sales of tobacco products.

Explanation – For fulfilling the purpose of sub-section (1), “disseminate advertisement of tobacco products” means performing any kind of commercial actions with the aim of promoting a tobacco product or tobacco use either directly or indirectly.

(2) Nothing in the clause (e) of sub-section (1) will apply to dissemination of anti-tobacco health education.

(3) If any person participate in social activities as part of Corporate Social Responsibility or in case of providing fund for spending in those activities, he cannot use or make used name, sign, trademark, symbol of tobacco or institution manufacturing tobacco or motivate any other person to use those.

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

6. INSTALLATION OF AUTOMATIC VENDING MACHINE PROHIBITED. – (1) No person shall install automatic vending machine in any place for selling tobacco products.

(2) If any person contravenes the provision of this section and install automatic vending machine at any place for selling tobacco products, he shall be punishable with simple imprisonment for a term not exceeding three months or a fine which may extend to one hundred thousand taka or both, and if the person contravenes the provisions more than once, every time the amount of fine or punishment shall be doubled.

6A. SALE OF TOBACCO OR TOBACCO PRODUCTS TO MINORS PROHIBITED, ETC. – No person shall sell or make sold tobacco or tobacco products to any person under the age of 18, or engage or make engaged that 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.

7. ARRANGEMENT OF SMOKING ZONE. – (1) The owner, caretaker, controller or manager of public places and any owner, caretaker, controller or manager of the public vehicles

may designate or specify place for smoking.

(2) The area, description, equipments and the system of security of smoking zone of any public places or of public vehicles may be determined by the Rules.

7A. RESPONSIBILITY OF OWNERS, ETC OF PUBLIC PLACE AND PUBLIC VEHICLES. – (1) For fulfilling the purpose of this Act, the owner, caretaker, controller or manager of each public place and public vehicle shall perform his duty as determined by the rules.

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

8. DISPLAY OF VIGILANCE NOTICE. – (1) The owner, caretaker, controller or manager of public places and the owner, caretaker, controller or manager of public vehicles shall arrange to display a notice in Bangla and English as “**Be abstain from smoking, it is a punishable offence**” in one or more points of that place except in the place designated or specified as smoking zone as under section 7.

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

9. POWER OF AUTHORIZED OFFICER. – (1) The authorized officer within his jurisdiction entering into any public place and public vehicle, for the purpose of carrying out the provisions of this Act, may inspect that place.

(2) The authorized officer may remove the person, who contravenes the provision of this Act, from the public place or public vehicle.

(3) If a person, contravening the provision of this Act, sells or offers to see the tobacco product, the authorized officer may use, transfer, destroy or seize the tobacco product in such manner as determined by the rules.

(4) If any proceedings are taken under sub-section (3), the authorized officer shall inform the Government in writing within 7 days from the date in which proceedings were taken.

10. PRINTING PICTORIAL WARNINGS ABOUT HEALTH AND OTHER HARMS ON PACKETS OF TOBACCO PRODUCTS, ETC. – (1) Health warnings shall be printed on top on both sides of the packet, cover, carton or container, or on the main display area in cases of the packets not having two main sides, of tobacco products, covering at least 50% of the main display area and consisting of colored pictures and text about the harms caused by the use of tobacco products and these shall be printed in Bangla.

(2) The following pictorial warnings shall be printed on the packet, cover, carton or container of tobacco products, such as:-

- (a) For smoked tobacco products:
 - (i) Smoking causes throat and lung cancer;
 - (ii) Smoking causes respiratory problems;
 - (iii) Smoking causes stroke;
 - (iv) Smoking causes heart disease;
 - (v) Second-hand smoke causes harms to the fetus;
 - (vi) Smoking causes harms to the fetus.

- (b) For smokeless tobacco products:
 - (i) Consumption of tobacco products causes mouth and throat cancer
 - (ii) Consumption of tobacco products causes harms to the fetus.

- (c) Any other warning as determined by the rules.

(3) No tobacco products shall be sold in Bangladesh unless all packets, covers, cartons and containers of that product contains in printing the statement “approved to be sold only in Bangladesh”.

(4) No brand element (such as words like light, mild, low-tar, extra) shall be used on the packet, cover, carton or container of tobacco products to create a false impression about the effects and risks on public health.

(5) The method of printing the pictorial warning mentioned in sub-section (2) and the statement mentioned in sub-section (3) shall be determined by the rules.

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

11. DISCLOSURE OF INFORMATION ABOUT INGREDIENTS IN IMPORTING TOBACCO PRODUCTS – (1) The concerned importer shall, at the time of importing tobacco product, submit a report to the Government with specified information on the quantity of each constituents used in that imported product.

(2) If any person imports tobacco products without submitting the report under sub-section (1), the said products may be confiscated at any time.

12. DISCOURAGING PRODUCTION AND USAGE OF TOBACCO OR TOBACCO AS CROP. – For the purpose of gradually discouraging the production and usage of tobacco products and discouraging the establishment of tobacco industry, production and cultivation of tobacco crops, Government may adopt policies as required.

13. PUBLIC SERVANT. – The authorized officer while acting under this Act, shall be deemed to be a public servant within the meaning of section 21 of the penal Code (XLV) of 1860).

14. COGNIZANCE OF OFFENCE AND BAILABLE. – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be –

- (a) cognizable and bailable;
- (b) triable by the Magistrate of any class.

(2) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing by the authorized officer.

15. OFFENCE COMMITTED BY COMPANY. – If the person committing offence under this Act is a company, the owner, director, manager, secretary or any other officer or agent of the company shall be deemed to have committed the offence, unless he can prove that such offence was committed without his knowledge or he has tried his level best to prevent such offence.

Explanation. – In this section –

- (a) “**company**” includes any statutory corporation, trading organization, partnership business, association or organization also;
- (b) “**director**”, in the case of trading organization, includes any partner or any member of the board of directors.

15A. FORMATION OF NATIONAL TOBACCO CONTROL CELL, ETC. - (1) For the proper implementation of this Act, monitoring of the tobacco control activities, research and accomplishment of other related activities there shall be a cell named "**National Tobacco Control Cell**" under the Ministry of Health and Family Welfare..

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

16. POWER TO MAKE RULES. – The Government may, by notification in the official Gazette, make rules for the purpose of this Act.

17. MAIN TEXT AND ENGLISH TEXT. – The main Text of this Act shall be in Bangla and shall have an authentic English Text:

Provided that, in the case of any contradiction between the Bangla Text and English Text, the Bangla Text shall prevail.

18. Repeal and Savings. – (1) On the commencement of this Act –

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

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(aa) The East Bengal Prohibition of Smoking in Show Houses Act, 1952 (E B. Act XIII of 1952); and

(b) Tamakjat Shamogri Bipanan (Niontran) Aain, 1988 (Act, No. 45 of 1988) shall be repealed.

(2) Notwithstanding such repeal, any suit or proceeding laid under the repealed Acts shall continue as if this Act had not been enacted.

Md. Mahfuzur Rahman
Secretary