



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 406

CAPE TOWN, 23 APRIL 1999

No. 19962

KAAPSTAD, 23 APRIL 1999

OFFICE OF THE PRESIDENT

No. 494.

23 April 1999

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 12 of 1999: Tobacco Products Control Amendment Act, 1999.

KANTOOR VAN DIE PRESIDENT

No. 494.

23 April 1999

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 van 1999: Wysigingswet op die Beheer van Tabakprodukte, 1999.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)
(Assented to 14 April 1999.)*

ACT

To amend the Tobacco Products Control Act, 1993, so as to amend and insert certain definitions; to provide for the prohibition of advertising and promotion of tobacco products; to provide further, for the prohibition of advertising and promotion of tobacco products in relation to sponsored events; to prohibit the free distribution of tobacco products and the receipt of gifts or cash prizes in contests, lotteries or games to or by the purchaser of a tobacco product in consideration of such purchase; to provide for the prescription of maximum yields of tar, nicotine and other constituents in tobacco products; to increase fines; and to provide for matters connected therewith.

BE IT THEREFORE, ENACTED by the Parliament of the Republic of South Africa, as follows:—

Insertion of Preamble in Act 83 of 1993

1. The following preamble shall be inserted in the Tobacco Products Control Act, 1993 (hereinafter referred to as the principal Act);

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“PREAMBLE”**ACKNOWLEDGING** that tobacco use—

is extremely injurious to the health of both smokers and non-smokers and warrants, in the public interest, a restrictive legislation; is a widely accepted practice among adults, which makes it inappropriate to ban completely;

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REALISING that the association of smoking with social success, business advancement and sporting prowess through the use of advertising and promotion may have the particularly harmful effect of encouraging children and young people to take up smoking;

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CONSIDERING that the extent of the effects of smoking on health calls for strong action to deter people from taking up smoking and to encourage existing smokers to give up smoking; and

RESOLVING to align the health system with the democratic values of the Constitution and to enhance and protect the fundamental rights of citizens by discouraging the use, promotion and advertising of tobacco products in order to reduce the incidence of tobacco-related illness and death;”.

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WYSIGINGSWET OP DIE BEHEER VAN
TABAKPRODUKTE, 1999

Wet No. 12, 1999

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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(Engelse teks deur die President geteken.)
(Goedgekeur op 14 April 1999.)

WET

Tot wysiging van die Wet op die Beheer van Tabakprodukte, 1993, ten einde sekere woordomskrywings te wysig en in te voeg; voorsiening te maak vir die verbod op die adverteer en promosie van tabakprodukte; verder voorsiening te maak vir die verbod op die adverteer en promosie van tabakprodukte met betrekking tot geborgde gebeurtenisse; die gratis verspreiding van tabakprodukte en die ontvangs van geskenke of kontantpryse in kompetisies, loterye of speletjies aan of deur die koper van 'n tabakproduk as beloning van sodanige aankoop te verbied; voorsiening te maak vir die voorskryf van die maksimum opbrengsvermoë van teer, nikotien en ander bestanddele in tabakprodukte; boetes te verhoog; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:

Invoeging van Aanhef in Wet 83 van 1993

1. Die volgende aanhef word hierby in die Wet op die Beheer van Tabakprodukte, 1993 (hierna die hoofwet genoem), ingevoeg:

“AANHEF

MET DIE WETE dat die gebruik van tabak —

- uiters skadelik is vir die gesondheid van sowel rokers as nierokers en in die openbare belang, beperkende wetgewing regverdig;
10 'n algemeen aanvaarde praktyk onder volwassenes is, wat 'n algehele verbod daarvan onvanspas maak;

IN DIE BESEF dat die assosiasie van rook met sosiale sukses, besigheidsvoortgang en vaardigheid in sport, deur die gebruik van adverteer en promosie die besonder 15 nadelige gevolg kan hê dat dit kinders en jong mense aanmoedig om te begin rook;

MET INAGNEMING DAARVAN dat die omvang van die gevolge van rook op gesondheid, streng optrede vereis om mense daarvan te weerhou om te begin rook en rokers aan te moedig om op te hou rook; en

MET DIE VOORNEME om die gesondheidsstelsel in ooreenstemming met die 20 demokratiese waardes van die Grondwet te bring en om fundamentele regte van burgers te verhef en te beskerm deur die gebruik, promosie en adverteer van tabakprodukte te ontmoedig, ten einde die voorkoms van tabakverwante siektes en dood te verminder.”.

Act No. 12, 1999 TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 1999

Amendment of section 1 of Act 83 of 1993

2. Section 1 of the principal Act is hereby amended—

- (a) by the substitution for the definition of “advertisement” of the following definition:

“advertisement”, in relation to any tobacco product, means any [statement, communication, representation or reference distributed to members of the public or brought to their notice in any other manner and which is intended] drawn, still or moving picture, sign, symbol, other visual image or message or audible message aimed at the public and designed to promote [the sale of such] or publicise a tobacco product or [encourage the use thereof or draw attention to the nature, properties, advantages or uses thereof] to promote smoking behaviour and includes the use in any advertisement or promotion aimed at the public of a tobacco product manufacturer’s company name where the name or any part of the name is used as or is included in a tobacco product trade mark, and ‘advertise’ has a corresponding meaning;”;
- (b) by the insertion after the definition of “advertisement” of the following definition:

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);”;
- (c) by the substitution for the definition of “hazardous constituent” of the following definition:

“constituent”, in relation to any tobacco product, means nicotine, tar and any other constituent of a tobacco product or of tobacco smoke which the Minister may by notice in the *Gazette* declare to be a constituent for the purposes of this Act;”;
- (d) by the substitution for the definition of “Director-General” of the following definition:

“Director-General” means the Director-General: [National] Health [and Population Development];”;
- (e) by the insertion after the definition of “Director-General” of the following definition:

“employed” or “employment” means employed or employment as an employee as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);”;
- (f) by the substitution for the definition of “Minister” of the following definition:

“Minister” means the Minister of [National] Health;”;
- (g) by the insertion after the definition of “officer” of the following definition:

“organised activity”—

 - (a) means any activity or event—
 - (i) which the public attend or participate in;
 - (ii) which is organised for the purposes of entertainment, sport or recreation or for educational or cultural purposes; and
 - (iii) where a tobacco product, or brand name, trade mark, logo or company name in relation to a tobacco product, is used in the name of or portrayal of the activity or event; but
 - (b) excludes any private activity or event arranged by a manufacturer, importer, distributor or retailer of a tobacco product where only its shareholders or its employees or their spouses or partners attend;”;
- (h) by the insertion after the definition of “prescribe” of the following definition:

“private dwelling” means any part of—

 - (a) any room or apartment of a building or structure which is occupied as a residence; or
 - (b) any building or structure or outdoor living area which is accessory to, and used wholly or principally for, residential purposes;”;
- (i) by the substitution for the definition of “public place” of the following definition:

“public place” means any indoor or enclosed area which is open to the public or any part of the public and includes a workplace and a public conveyance;”;

Wysiging van artikel 1 van Wet 83 van 1993

2. Artikel 1 van die Hoofwet word hierby gewysig—

- (a) deur die omskrywing van “advertensie” deur die volgende omskrywing te vervang:
- 5 “‘advertensie’, met betrekking to ’n tabakproduk enige **[verklaring, mededeling, voorstelling of vermelding wat aan lede van die publiek versprei word of wat op enige ander wyse onder die aandag van die publiek gebring word en wat bedoel is]** geskrewe, stil of bewegende prent, teken, simbool, ander visuele beeld, boodskap of hoorbare boodskap op die publiek gemik en wat daarop gerig is om **[die verkoop van]** die tabakproduk te bevorder of bekend te stel **[die gebruik daarvan aan te moedig of aandag te vestig op die aard, eienskappe, voordele of gebruikte daarvan]** of rookgedrag te bevorder en sluit in die gebruik in enige advertensie of bekendstelling aan die publiek van ’n tabakprodukvervaardiger se maatskappynama waar die naam of enige gedeelte van daardie naam gebruik word as of ingesluit word in ’n handelsmerk van ’n tabakproduk, en het ‘adverteer’ ’n ooreenstemmende betekenis;”;
- 10 (b) deur die omskrywing van “Direkteur-generaal” deur die volgende omskrywing te vervang:
- 15 “‘Direkteur-generaal’ die Direkteur-generaal: **[Nasionale] Gesondheid [en Bevolkingsontwikkeling].**;”
- 20 (c) deur die omskrywing van “gevaarlike bestanddeel” deur die volgende omskrywing te vervang:
- 25 “‘bestanddeel’, met betrekking tot ’n tabakproduk, nikotien, teer en enige ander bestanddeel van ’n tabakproduk of van tabakrook wat die Minister by kennisgewing in die Staatskoerant vir doeleinades van hierdie Wet tot ’n bestanddeel verklaar;”;
- 30 (d) deur na die omskrywing van “Direkteur-generaal” die volgende omskrywings in te voeg:
- 35 “‘georganiseerde bedrywigheid’—
(a) enige bedrywigheid of geleentheid—
(i) wat die publiek bywoon of aan deelneem;
(ii) wat georganiseer word vir doeleinades van ontspanning, sport of rekreasie of vir opvoedkundige of kulturele doeleinades; en
(iii) waar ’n tabakproduk, of handelsnaam, handelsmerk, logo of maatskappynama met betrekking tot ’n tabakproduk in die naam van of uitbeelding van die bedrywigheid of geleentheid gebruik word; maar
- 40 (b) nie ’n private bedrywigheid of geleentheid wat deur ’n vervaardiger, invoerder, verspreider of handelaar van ’n tabakproduk gereël word wat slegs sy aandeelhouers of sy werknelers of hulle eggenotes of metgeselle bywoon nie;
‘Grondwet’ die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);”
- 45 (e) deur na die omskrywing van “Grondwet” die volgende omskrywing in te voeg:
- 50 “‘handelsmerk’ ook—
(i) enige merk, hetsy geregistreer of geregistreerbaar vir handelsdoeleinades of enige erkende weergawe daarvan wat maklik aangesien kan word as, of verwarr kan word met, daardie handelsmerk;
(ii) waarmerkingshandelsmerk of versamelhandelsmerk; en
(iii) “handelsmerk” soos omskryf in artikel 1 van die Wet op Handelsmerke, 1993 (Wet No. 194 van 1993);”;
- 55 (f) deur na die omskrywing van “hierdie Wet” die volgende omskrywing in te voeg:
- 60 “‘in diens’ of ‘diens’ in diens of diens as ’n werkneler soos omskryf in artikel 1 van die Wet op Basiese Diensvoorwaardes, 1997 (Wet No. 75 van 1997);”;
- (g) deur die omskrywing van “Minister” deur die volgende omskrywing te vervang:
- “‘Minister’ die Minister van **[Nasionale] Gesondheid.**;”;

Act No. 12, 1999 TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 1999

- (j) by the substitution for the definition of "smoke" of the following definition:
 "smoke" [includes sniff, suck, or chew a tobacco product, and also have] means to inhale, exhale, hold or otherwise have control over an ignited tobacco product [or any device containing an ignited tobacco product], weed or plant, and 'smoked' and 'smoking' have corresponding meanings;" 5
- (k) by the substitution for the definition of "tobacco product" of the following definition:
 "tobacco product" means any product manufactured from tobacco and intended [to be smoked] for use by smoking, inhalation, chewing, sniffing or sucking;" 10
- (l) by the insertion after the definition of "tobacco product" of the following definition:
 "trade mark" includes—
 (i) any mark whether registered or registrable for trade purposes or any recognised version thereof that is likely to be taken as, or confused with, that trade mark; 15
 (ii) certification trade mark or collective trade mark; and
 (iii) 'trade mark' as defined in section 1 of the Trade Marks Act, 1993 (Act No. 194 of 1993);"; 20
- (m) by the insertion after the definition of "trade mark" of the following definition:
 "workplace"—
 (a) means any indoor or enclosed area in which employees perform the duties of their employment; and 25
 (b) includes any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented by such employees during the course of their employment; but
 (c) excludes any private dwelling, and any portion of an area mentioned in paragraph (a) specifically designated by the employer as a smoking area and which complies with the prescribed requirements." 30

Amendment of section 2 of Act 83 of 1993

3. Section 2 of the principal Act is hereby amended—
 (a) by the substitution for subsection (1) of the following subsection:
 "(1)(a) The smoking of tobacco products in any public place is prohibited." 35
 (b) Notwithstanding the provisions of subsection (1)(a), the Minister may by notice in the *Gazette* declare specified public places permissible smoking areas, subject to any conditions that may be specified in such notices. 40
 (c) Notwithstanding the fact that a private dwelling is excluded from the definition of "workplace", if a private dwelling is used for commercial child care activities or for schooling the smoking of tobacco products in such dwelling or on the terrain of such dwelling is prohibited, except in an area of the private dwelling which is specifically designated by the employer, owner, tenant or possessor as a smoking area and which complies with the prescribed requirements." 45
- (b) by the substitution for subsection (2) of the following subsection:
 "(2) The Minister may at the request of any local authority, but subject to subsection (3), grant any or all of his or her powers contemplated in subsection (1) to such local authority." 50
- (c) by the insertion after subsection (5) of the following subsections:
 "(6) A local authority which has made regulations relating to the control of smoking in public places in terms of this Act shall have the power, duty and obligation to enforce the regulations in its area of jurisdiction." 55
 (7) A local authority which has not made regulations relating to the control of smoking in public places in terms of this Act shall have the power, duty and obligation to enforce any national regulations in connection therewith in its area of jurisdiction."

WYSIGINGSWET OP DIE BEHEER VAN
TABAKPRODUKTE, 1999

Wet No. 12, 1999

- (h) deur die omskrywing van "openbare plek" deur die volgende omskrywing te vervang:
 "openbare plek' enige binnenshuise of ingeperkte gebied wat vir die publiek of 'n gedeelte van die publiek toeganklik is en ook 'n werkplek en 'n openbare vervoermiddel;";
- 5 (i) deur na die omskrywing van "plaaslike bestuur" die volgende omskrywing in te voeg:
 "privaatwoning' enige deel van—
 10 (a) 'n kamer of vertrek van 'n gebou of bouwerk wat as 'n woonplek bewoon word; of
 (b) 'n gebou of bouwerk of buite-woonarea wat bykomend is tot en geheel en al of hoofsaaklik vir die doeleindes van bewoning gebruik word.";
- 15 (j) deur die omskrywing van "rook" deur die volgende omskrywing te vervang:
 "rook", [ook 'n tabakproduk snuif, suig of pruim en ook] inasem, hou of andersins beheer hê oor 'n aangestekke tabakproduk [of 'n toestel wat 'n aangestekke tabakproduk bevat], gewas of plant, en het 'gerook' en 'om te rook' ooreenstemmende betekenis";
- 20 (k) deur die omskrywing van "tabakproduk" deur die volgende omskrywing te vervang:
 "tabakproduk' 'n produk wat van tabak vervaardig is en bestem is om gerook, inreasem, gepruim, gesnuif of gesuig te word";
- (l) deur na die omskrywing van "voorskryf" die volgende omskrywing in te voeg:
 25 "werkplek"—
 (a) enige binnenshuise of ingeperkte gebied waar werknemers die pligte van hul diens verrig; en
 (b) ook enige gang, portaal, trapkuil, hyser, kafeteria, waskamer of ander gemeenskaplike gebied wat dikwels deur sodanige werknemers gedurende die verrigting van hul diens besoek word; maar
 30 (c) nie 'n privaatwoning nie en nie enige gedeelte van 'n gebied vermeld in paragraaf (a) wat in besonder deur die werkewer as 'n rookarea aangewys is en wat aan die voorgeskrewe vereistes voldoen nie".

Wysiging van artikel 2 van Wet 83 van 1993

- 35 3. Artikel 2 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
 "(1)(a) Die rook van tabakprodukte in enige openbare plek is verbode.
 (b) Die Minister kan, ondanks die bepalings van subartikel (1)(a), by kennisgewing in die Staatskoerant gespesifieerde openbare plekke as toelaatbare rookgebiede afkondig, onderworpe aan enige voorwaardes wat in sodanige kennisgewings vermeld mag word.
 40 (c) Ondanks die feit dat 'n privaatwoning uitgesluit is van die omskrywing van "werkplek", indien 'n privaatwoning gebruik word vir kommersiële kindersorgfasilitete of vir skoling is die rook van tabakprodukte in sodanige woning of op die terrein van sodanige woning verbode behalwe in 'n area van die privaatwoning wat in besonder deur die werkewer, eienaar, huurder of besitter as 'n rookarea aangewys is en wat aan die voorgeskrewe vereistes voldoen.";
- 45 (b) deur subartikel (2) deur die volgende subartikel te vervang:
 "(2) Die Minister kan op versoek van 'n plaaslike bestuur, maar behoudens subartikel (3), enige van of al sy of haar bevoegdhede in subartikel (1) beoog aan daardie plaaslike bestuur verleen."
- 50 (c) deur die volgende subartikels na subartikel (5) in te voeg:
 "(6) 'n Plaaslike bestuur wat regulasies betreffende die beheer van rook in openbare plekke kragtens hierdie Wet uitgevaardig het, het die bevoegdheid, reg en verpligting om die regulasies in sy regsgebied af te dwing.
 55 (7) 'n Plaaslike bestuur wat nie regulasies betreffende die beheer van rook in openbare plekke kragtens hierdie Wet uitgevaardig het nie, het die bevoegdheid, reg en verpligting om enige nasionale regulasie in verband daarmee in sy regsgebied af te dwing".

Act No. 12, 1999 TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 1999**Substitution of section 3 of Act 83 of 1993**

4. The following section is hereby substituted for section 3 of the principal Act:

"Advertising, sponsorship, promotion and required information in respect of packages of tobacco products"

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| <p>3. (1) No person shall—</p> <ul style="list-style-type: none"> (a) advertise, including the use of tobacco trade marks, logos, brand names or company names used on tobacco products; or (b) use tobacco trade marks, logos, brand names or company names used on tobacco products for the purposes of advertising any organisation, service activity or event. <p>(2) No manufacturer, importer, distributor or retailer of tobacco products shall—</p> <ul style="list-style-type: none"> (a) organise or promote any organised activity that is to take place in whole or in part in the Republic; (b) make any financial contribution to any organised activity that is to take place, or is taking place, or has taken place in whole or in part in the Republic; (c) make any financial contribution to any person in respect of— <ul style="list-style-type: none"> (i) the organisation or promotion of any organised activity in the Republic by that person; (ii) the participation, by that person, in any organised activity that is to take place, or is taking place in whole or in part, in the Republic. <p>(3) A retailer of tobacco products may post in accordance with the regulations passed in relation to this Act, signs at the point of sale that indicate the availability of tobacco products and their price.</p> <p>(4) No person shall sell or import for subsequent sale any prescribed tobacco product, unless—</p> <ul style="list-style-type: none"> (a) such product is in a package; (b) the package in which the tobacco product is sold bears the prescribed warning concerning the health hazards incidental to the smoking of tobacco products; and (c) the quantities of the constituents present in the tobacco product concerned are stated on the package. <p>(5) Notwithstanding the provisions of section 3, the Minister may, by regulations, provide for exemptions for unintended consequences or the phasing out of existing sponsorship or contractual obligations.”.</p> | <p style="margin: 0;">5</p> <p style="margin: 0;">10</p> <p style="margin: 0;">15</p> <p style="margin: 0;">20</p> <p style="margin: 0;">25</p> <p style="margin: 0;">30</p> <p style="margin: 0;">35</p> |
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Insertion of section 3A in Act 83 of 1993

5. The following section is hereby inserted after section 3 of the principal Act:

"Maximum yields of tar and other constituents in a tobacco product"

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| <p>3A. The Minister may, by notice in the <i>Gazette</i>, declare the maximum permissible levels of tar, nicotine and other constituents which tobacco products may contain and the maximum yield of any such substance that may be obtained therefrom.”.</p> | <p style="margin: 0;">40</p> <p style="margin: 0;">45</p> |
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Amendment of section 4 of Act 83 of 1993

6. Section 4 of the principal Act is hereby amended by the deletion of subsection (2) and subsection (3).

Vervanging van artikel 3 van Wet 83 van 1993

4. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

"Adverteering, promosie en vereiste inligting ten opsigte van pakkette van tabakprodukte"

- 5 3. (1) Niemand mag—
 (a) adverteer, met inbegrip van die gebruik van tabakhandelsmerke, -logos, -handelsname of -maatskappyname wat op tabakprodukte gebruik word nie; of
 (b) tabakhandelsmerke, -logos, -handelsname of -maatskappyname wat op tabakprodukte gebruik word, gebruik vir doeleinnes van adverteering van enige onderneming, diens, bedrywigheid of gebeurtenis nie.
- 10 (2) Geen vervaardiger, invoerder, verspreider of kleinhandelaar van tabakprodukte mag—
 (a) enige georganiseerde bedrywigheid wat in geheel of gedeeltelik in die Republiek gaan plaasvind, organiseer of bevorder nie;
 (b) enige finansiële bydrae maak tot enige georganiseerde bedrywigheid wat in geheel of gedeeltelik in die Republiek gaan plaasvind, of plaasvind, of plaasgevind het nie;
 (c) enige finansiële bydrae maak nie aan enige persoon met betrekking tot—
 (i) die organisering of bevordering van enige georganiseerde bedrywigheid in die Republiek, deur daardie persoon;
 (ii) die deelname van daardie persoon, aan enige georganiseerde bedrywigheid wat in geheel of gedeeltelik in die Republiek gaan plaasvind of plaasvind nie;
- 15 (3) 'n Kleinhandelaar van tabakprodukte, kan in ooreenstemming met die regulasies uitgevaardig met betrekking tot hierdie Wet, tekens by die verkooppunt aanbring wat die beskikbaarheid van tabakprodukte en hul prys aandui.
- 20 (4) Niemand mag 'n voorgeskrewe tabakproduk verkoop of vir die daaropvolgende verkoop invoer nie, tensy—
 (a) sodanige produk in 'n pakket is;
 (b) die voorgeskrewe waarskuwing betreffende die gesondheidsgevare verbonde aan die rook van tabakprodukte op die pakket waarin die tabakproduk verkoop word; verskyn; en
 (c) die hoeveelhede van die bestanddele wat in die betrokke tabakproduk aanwesig is, op die pakket vermeld word.
- 25 (5) Die Minister kan, ondanks die bepalings van artikel 3, by regulasie voorsiening maak vir vrystelling vir onbedoelde gevolge of die uitfasering van bestaande borgskap- of kontrakuele verpligtings."

Invoeging van artikel 3A in Wet 83 van 1993

5. Die volgende artikel word hierby na artikel 3 van die Hoofwet ingevoeg:

"Maksimum opbrengsvermoë van teer en ander bestanddele in 'n tabakproduk"

- 45 3A. Die Minister kan, by kennisgewing in die Staatskoerant, die maksimum toelaatbare vlakke teer, nikotien en ander bestanddele wat tabakprodukte mag bevat, asook die maksimum opbrengsvermoë van enige sodanige stof wat daaruit verky kan word, afkondig."

Wysiging van artikel 4 van Wet 82 van 1993

- 50 6. Artikel 4 van die Hoofwet word hierby gewysig deur subartikel (2) en subartikel (3) te skrap.

Act No. 12, 1999 TOBACCO PRODUCTS CONTROL AMENDMENT ACT, 1999**Insertion of section 4A in Act 83 of 1993**

7. The following section is hereby inserted after section 4 of the principal Act:

"Free distribution and reward prohibited"

4A. (1) No manufacturer, distributor, importer or retailer of a tobacco product shall for free, or at a reduced price, other than a normal trade discount—
 (a) distribute any tobacco product; or
 (b) supply any tobacco product to any person for subsequent distribution.
 (2) No person shall offer any gift, cash rebate or right to participate in any contest, lottery or game, to any person in consideration of the purchase of a tobacco product, or the furnishing of evidence of such a purchase.”.

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Amendment of section 5 of Act 83 of 1993

8. Section 5 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The sale of tobacco products from vending machines shall be restricted to places in which purchases from such machines are inaccessible to persons under the age of sixteen years."

(b) by the substitution for subsection (2) of the following subsection:

"(2) It shall be the responsibility of any person during such time as he or she is responsible for or has control of the premises in which any vending machine is kept to ensure that no person under the age of sixteen years makes use of any such machine."

(c) by the deletion of subsection (4).

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Substitution of section 7 of Act 83 of 1993

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9. The following section is substituted for section 7 of the principal Act:

"Offences and penalties"

7. (1) Any person who contravenes or fails to comply with any notice issued in terms of section 2 (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or to such penalties as may be determined.

(2) Any person who contravenes or fails to comply with the provisions of section 4(1) or 5 shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to such imprisonment as may be determined.

(3) Any person who contravenes or fails to comply with the provisions of section 3 or 4A or any notice issued in terms of section 3A shall be guilty of an offence and liable on conviction to a fine not exceeding R200 000 or to such imprisonment as may be determined.”.

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Extension and application of Act 83 of 1993

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10. The Tobacco Products Control Act, 1993, and all amendments thereof shall apply throughout the Republic.

Short title and commencement

11. (1) This Act shall be called the Tobacco Products Control Amendment Act, 1999, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Different dates may be fixed in respect of different provisions of this Act.

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Invoeging van artikel 4A in Wet 83 van 1993

7. Die volgende artikel word hierby na artikel 4 van die Hoofwet ingevoeg:

"Gratis verspreiding en beloning verbode"

5 **4A.** (1) Geen vervaardiger, verspreider, invoerder of kleinhandelaar van
'n tabakproduk mag gratis, of teen 'n verlaagde prys anders as die normale
handelsafslag—

- (a) enige tabakproduk versprei; of
(b) aan enige persoon enige tabakproduk vir daaropvolgende versprei-
ding voorsien nie.

10 (2) Niemand mag aan enige persoon, enige geskenk, kontantkorting of
die reg om aan enige kompetisie, lotery of spel deel te neem, as
teenprestasie vir die aankoop van 'n tabakproduk, of die verskaffing van
bewys van sodanige aankoop, aanbied nie."

15 Wysiging van artikel 5 van Wet 83 van 1993

8. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

20 “(1) Die verkoop van tabakprodukte deur middel van munt-outomate is
beperk tot plekke waar aankope vanaf sodanige outomate nie toeganklik is
vir persone onder die ouderdom van sestien jaar nie.”;

- (b) deur subartikel (2) deur die volgende subartikel te vervang:

25 “(2) Dit is die verantwoordelikheid van enige persoon om, gedurende
die tydperk wat sodanige persoon verantwoordelik is vir of beheer het oor
die perseel waarin 'n munt-outomaat gehou word, toe te sien dat geen
persoon onder die ouderdom van sestien jaar van enige sodanige outomaat
gebruik maak nie.”;

- (c) deur subartikel (4) te skrap.

Vervanging van artikel 7 van Wet 83 van 1993

9. Artikel 7 van die Hoofwet word hierby deur die volgende artikel vervang:

"Misdrywe en strawwe"

30 7. (1) Iemand wat 'n kennisgewing uitgereik ingevolge artikel 2(1)
oortree of versuum om dit na te kom, is skuldig aan 'n misdryf en is by
skuldigbevinding strafbaar met 'n boete van hoogstens R200 of met
sodanige strawwe as wat bepaal mag word.

35 (2) Iemand wat die bepalings van artikel 4(1) of 5 oortree of versuum om
dit na te kom, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar
met 'n boete van hoogstens R10 000 of met sodanige gevengenisstraf as
wat bepaal mag word.

40 (3) Iemand wat die bepalings van artikel 3 of 4A of enige kennisgewing
uitgereik kragtens artikel 3A oortree of versuum om dit na te kom, is
skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van
hoogstens R200 000 of met sodanige gevengenisstraf as wat bepaal mag
word.”.

45 Uitbreidung en toepassing van Wet 83 van 1993

10. Die Wet op die Beheer van Tabakprodukte, 1993, en alle wysigings daarvan, is
in die hele Republiek van toepassing.

Kort titel en inwerkingtreding

11. (1) Hierdie Wet heet die Wysigingswet op die Beheer van Tabakprodukte, 1999,
50 en tree in werking op 'n datum wat die Staatspresident by proklamasie in die
Staatskoerant bepaal.

(2) Verskillende datums kan kragtens subartikel (1) bepaal word ten opsigte van
verskillende bepalings van hierdie Wet.

