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Tobacco (Control of Advertisements and Sale) (Amendment) Bill

Bill No. 40/2017.

Read the first time on 2 October 2017.

A BILL

i n t i t u l e d

An Act to amend the Tobacco (Control of Advertisements and Sale) Act (Chapter 309 of the 2011 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Tobacco (Control of Advertisements and Sale) (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Tobacco (Control of Advertisements and Sale) Act (called in this Act the principal Act) is amended —

(a) by deleting the words “or substitute” in the definition of “cigarette” in subsection (1) and substituting the words “or tobacco substitute”;

(b) by deleting the definitions of “tobacco product” and “tobacco substitute” in subsection (1) and substituting the following definitions:

““tobacco product” means —

(a) a cigarette or cigar, or any other form of tobacco;

(b) a tobacco derivative;

(c) a tobacco substitute; or

(d) a mixture containing any form of tobacco or a tobacco derivative or tobacco substitute,

but does not include a therapeutic product registered under the Health Products Act (Cap. 122D);

“tobacco substitute” means any article, object or thing that contains nicotine, but does not include any of the following:

(a) a cigarette or cigar, or any other form of tobacco;

(b) a tobacco derivative;

(c) a mixture containing any form of tobacco or a tobacco derivative;

(d) a therapeutic product registered under the Health Products Act;”;

(c) by inserting, immediately after the definition of “unauthorised advertisement” in subsection (1), the following definition:

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““under-aged person” means —

(a) for 12 months after the date prescribed, an individual who is below 19 years of age;

(b) for 12 months after the end of the period in paragraph (a), an individual who is below 20 years of age; and

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(c) at any time after the end of the period in paragraph (b), an individual who is below 21 years of age;”;

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(d) by deleting subsection (2) and substituting the following subsection:

“(2) For the purposes of this Act, a sale or a purchase, as the case may be, that is transacted online is regarded as a sale or a purchase in Singapore if, and only if, the purchaser is physically present in Singapore and the purchased product is intended to be delivered in Singapore.”.

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Amendment of section 10

3. Section 10 of the principal Act is amended —

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(a) by deleting the words “a person below the age of 18 years” in subsection (1)(a), (b) and (c) and substituting in each case the words “an under-aged person”;

(b) by deleting the words “below the age of 18 years” in subsection (2)(a) and (b) and substituting in each case the words “an under-aged person”; and

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- (c) by deleting the words “persons below age of 18 years” in the section heading and substituting the words “under-aged persons”.

Amendment of section 11

5 **4.** Section 11 of the principal Act is amended —

(a) by deleting the words “below the age of 18 years” in subsections (1) and (2) and substituting in each case the words “an under-aged person”; and

10 (b) by deleting the words “young persons” in the section heading and substituting the words “under-aged persons”.

Amendment of section 13

5. Section 13(4) of the principal Act is amended by deleting the words “persons below the age of 18 years” and substituting the words “under-aged persons”.

15 **Amendment of section 15**

6. Section 15 of the principal Act is amended —

(a) by deleting the words “or offer for sale in Singapore” in subsections (1) and (2) and substituting in each case the words “, offer for sale or possess for sale in Singapore”;

20 (b) by inserting, immediately after subsection (2), the following subsection:

“(2A) A person must not —

(a) subject to subsection (3), possess in Singapore, other than for the purpose of sale in Singapore;

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(b) purchase in Singapore; or

(c) use in Singapore,

any tobacco product mentioned in subsection (1) or (2).”;

- (c) by deleting the words “Subsections (1) and (2) shall not apply” in subsection (3) and substituting the words “Subsections (1), (2) and (2A) do not apply”;
- (d) by deleting subsection (6) and substituting the following subsection: 5
- “(6) A person who contravenes subsection (2A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.”; and
- (e) by deleting the words “on importation, distribution and sale” in the section heading. 10

Amendment of section 16

7. Section 16 of the principal Act is amended —

- (a) by deleting the words “or offer for sale in Singapore” in subsections (1) and (2) and substituting in each case the words “, offer for sale or possess for sale in Singapore”; 15
- (b) by inserting, immediately after subsection (2), the following subsection:
- “(2A) A person must not —
- (a) possess in Singapore, other than for the purpose of sale in Singapore; 20
- (b) purchase in Singapore; or
- (c) use in Singapore,
- any item mentioned in subsection (1) or (2).”; and
- (c) by inserting, immediately after subsection (5), the following subsections: 25
- “(6) A person who contravenes subsection (2A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.
- (7) It is not necessary for an item mentioned in subsection (1) or (2) to contain tobacco or a tobacco product or tobacco substitute.”. 30

Amendment of section 18

8. Section 18 of the principal Act is amended —

(a) by deleting paragraph (b) of subsection (4) and substituting the following paragraph:

5 “(b) the holder of a valid retail licence is authorised to do any act in subsection (3) only at a single point of sale within a retail outlet specified in the licence.”; and

10 (b) by deleting the words “subsection (1), (2) or (3)” in subsection (5) and substituting the words “subsection (1), (2), (3) or (4)”.

Amendment of section 34

15 **9.** Section 34(3) of the principal Act is amended by deleting the words “below the age of 18 years” and substituting the words “an under-aged person”.

Repeal and re-enactment of section 35

10. Section 35 of the principal Act is repealed and the following section substituted therefor:

20 **“Fees, charges, etc., collected by Chief Executive or authorised officer**

35.—(1) Subject to subsection (2), all fees, charges and other moneys recovered or collected by the Chief Executive or an authorised officer under this Act are to be paid to the Authority.

25 (2) All composition sums collected by the Chief Executive or an authorised officer under section 34 are to be paid into the Consolidated Fund.”.

New section 35A

11. The principal Act is amended by inserting, immediately after section 35, the following section:

“Public servants

35A.—(1) Each of the following persons is, in relation to that person’s administration, collection and enforcement of payment of composition sums under section 34, taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109): 5

(a) every member, officer and employee of the Authority; 10

(b) every person authorised by the Chief Executive in writing to compound offences under section 34.

(2) Section 20 of the Financial Procedure Act applies to each of the persons mentioned in subsection (1) even though that person is not or was not in the employment of the Government.” 15

EXPLANATORY STATEMENT

This Bill seeks to amend the Tobacco (Control of Advertisements and Sale) Act (Cap. 309) for the following main purposes:

(a) to reduce, with a view to ultimately eliminating, the opportunities for the young to be tempted and take up smoking before attaining 21 years of age;

(b) to further protect the public from the harmful effects of using harmful tobacco products and imitation tobacco products by prohibiting the possession, purchase and use of such products in Singapore.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 —

(a) to clarify and update the definitions of “tobacco product” and “tobacco substitute”;

(b) to introduce a new definition for “under-aged person” to support amendments elsewhere in the Bill. The age below which an individual is considered to be an under-aged person will be raised over successive 12-month periods from 18 years of age to 21 years of age; and

- (c) to define “purchase in Singapore” in the case of online transactions to support amendments elsewhere in the Bill.

Clause 3 amends section 10 to prohibit the supply of tobacco products to under-aged persons.

Clause 4 amends section 11 to prohibit under-aged persons from using, possessing or buying tobacco products.

Clause 5 makes a consequential amendment to section 13(4) as a result of the introduction of the term “under-aged person”.

Clause 6 amends section 15 to extend the prohibition on the importation, distribution and sale of harmful tobacco products (such as chewing tobacco, shisha tobacco and solutions or substances containing tobacco or nicotine that are intended to be used with an electronic nicotine delivery system or a vaporiser) to include the possession, whether for the purpose of sale or otherwise, purchase and use of such products. A new penalty is provided for persons who possess (other than for the purpose of sale), purchase or use these products, the maximum penalty being lower than that for importation, distribution and sale of such products. The amended section 15 adopts the general definition of “smoking” in section 2(1).

Clause 7 amends section 16 —

- (a) to extend the prohibition on the importation, distribution and sale of imitation tobacco products to include the possession, whether for the purpose of sale or otherwise, purchase and use of such products. A new penalty is provided for persons who possess (other than for the purpose of sale), purchase or use these products, the maximum penalty being lower than that for importation, distribution and sale of such products; and
- (b) to clarify that it is not necessary for imitation tobacco products to contain tobacco or a tobacco product or tobacco substitute.

Clause 8 amends section 18(4) to clarify that the holder of a valid retail licence is allowed to sell tobacco products only at a single point of sale within a retail outlet specified in the licence.

Clause 9 makes a consequential amendment to section 34(3) as a result of the introduction of the term “under-aged person”.

Clause 10 repeals and re-enacts section 35 to provide that all composition sums collected under section 34 are to be paid into the Consolidated Fund.

Clause 11 inserts a new section 35A, which provides that all members, officers and employees of the Health Sciences Authority (the Authority), and all persons authorised by the Chief Executive of the Authority in writing to compound offences under section 34, who are involved in the administration, collection and enforcement of payment of any composition sum collected under section 34 will be

treated as public officers for the purposes of the Financial Procedure Act (Cap. 109). These moneys are public moneys that must be accounted for in the Consolidated Fund. Section 20 of the Financial Procedure Act (on disciplinary punishment for loss of public moneys, etc.) applies to these persons even though they are not or were not in the employment of the Government.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
