

Tobacco Act¹

Passed 4 May 2005

(RT² I 2005, 29, 210),

entered into force on 5 June 2005.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides the requirements for tobacco products and their packaging, special requirements for the handling of tobacco products, restriction on sponsorship and ban on the promotion of tobacco products, prohibition of and restriction on the consumption of tobacco products, and supervision over compliance with this Act and liability for violation of this Act. The primary objective of this Act is to ensure the protection of human health.

(2) Revenue stamps shall be affixed to the sales packaging of tobacco products according to the Alcohol, Tobacco and Fuel Excise Duty Act (RT I 2003, 2, 17; 48, 345; 88, 591; 90, 602; 2004, 84, 569).

(3) In this Act, the definitions of “territory of the European Community”, “Member State” and “third country” provided in § 1¹ of the Alcohol, Tobacco and Fuel Excise Duty Act apply.

(4) The requirements provided in this Act regarding tobacco products and their packaging do not apply:

1) in the case specified in clause 27 (1) 1¹) of the Alcohol, Tobacco and Fuel Excise Duty Act;

2) to tobacco products which a traveller who is of at least 18 years of age brings into Estonia in an amount and under the conditions permitted by law inside the baggage with which he or she is travelling;

3) to tobacco products which are sent for consumption to a person in Estonia who is of at least 18 years of age by a natural person residing in a third country in an amount and under the conditions permitted by law or which are sent for consumption to a person in Estonia who is of at least 18 years of age by a natural person residing in a Member State;

4) upon retail trade in tobacco products on board an aircraft or a ship during a passenger service outside of the Community.

(5) The requirements provided in this Act regarding the packaging of tobacco products do not apply:

1) upon retail trade in tobacco products on board an aircraft or a ship during an intra-Community passenger service;

2) upon retail trade in tobacco products at sales facilities located in the customs control zone;

3) upon the distance sale of tobacco products within the meaning of subsection 21² (1) of the Alcohol, Tobacco and Fuel Excise Duty Act;

4) to tobacco products which are produced or stored in an excise warehouse for the purpose of their transfer into a foreign state.

(6) The Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Tobacco

Tobacco is a plant from the genus *Nicotiana*.

§ 3. Tobacco product

(1) Tobacco products mean products for the purposes of smoking, chewing, sucking or sniffing, inasmuch as they are, even partly, made of tobacco.

(2) Tobacco products are classified as smoking and smokeless tobacco products.

(3) Smoking tobacco products mean a cigarette, a cigar, a cigarillo, a cigarette and smoking tobacco within the meaning of subsections 16 (2)-(4) of the Alcohol, Tobacco and Fuel Excise Duty Act.

(4) Smokeless tobacco products include chewing tobacco within the meaning of subsection 16 (5) of the Alcohol, Tobacco and Fuel Excise Duty Act and other tobacco products which, does not produce smoke when used for its intended purpose.

§ 4. Packaging

(1) The sales packaging of tobacco products means the packaging of tobacco products within the meaning of clause 3 (1) 1) of the Packaging Act (RT I 2004, 41, 278; 89, 611).

(2) The grouped packaging of tobacco products means packaging within the meaning of clause 3 (1) 2) of the Packaging Act.

§ 5. Brand

For the purposes of this Act, brand means a name assigned to a tobacco product with or without an extension characterising the tobacco product or its sales packaging.

§ 6. Handling

(1) The handling of tobacco products means:

1) the manufacture, processing and packaging of tobacco products (hereinafter manufacture of tobacco products);

2) trading in tobacco products;

3) the possessing, storage or distribution of tobacco products for commercial purposes or in a commercial quantity.

(2) The Alcohol, Tobacco and Fuel Excise Duty Act applies upon determination of a quantity of tobacco products possessed by a person as a commercial quantity.

(3) Trading in tobacco products means:

1) offer for sale and sale of tobacco products on a wholesale basis (hereinafter wholesale trade in tobacco products);

2) offer for sale and sale of tobacco products on a retail basis (hereinafter retail trade in tobacco products).

(4) If an undertaking offers use of a pipe in which smoke goes through liquid (hereinafter hookah) for the consumption of the corresponding smoking tobacco (hereinafter hookah tobacco), it is deemed to be a service related to retail trade in tobacco products to which the provisions concerning retail trade in tobacco products apply.

§ 7. Smoking

For the purposes of this Act, smoking means the use of a cigarette for its intended use, a cigar, a cigarillo, a cigarette and smoking tobacco regardless of whether any and which means are used therefor.

Chapter 2

Handling of Tobacco Products

Division 1

Requirements for Tobacco Products

§ 8. Tar, nicotine and carbon monoxide yields of cigarettes

- (1) The tar yield of cigarettes is the yield of raw anhydrous nicotine-free condensate of smoke which shall not exceed 10 mg per cigarette.
- (2) The nicotine yield of cigarettes is the yield of nicotinic alkaloids which shall not exceed 1 mg per cigarette.
- (3) The carbon monoxide yield of cigarettes is the yield of carbon monoxide upon burning which shall not exceed 10 mg per cigarette.

§ 9. Verification of yield of cigarettes

The requirements and procedure for laboratory tests regarding the tar, nicotine and carbon monoxide yields of cigarettes shall be established by the Minister of Social Affairs.

§ 10. Information on ingredients of tobacco products

- (1) An undertaking importing tobacco products into Estonia for transfer or an undertaking manufacturing tobacco products in Estonia shall submit each year by October 10 to the Ministry of Social Affairs a written report on the ingredients of tobacco products handled thereby during the fourth quarter of the previous year and the first three quarters of the current year and their quantities.
- (2) The report specified in subsection (1) of this section shall consist of three lists:
 - 1) a list submitted in the alphabetical order including all ingredients of tobacco products which are added to tobacco and of which tobacco products sold on the Estonian market are

manufactured; the list shall set out the maximum quantity and function of the ingredients used in each brand on the basis of the maximum quantity;

2) a list submitted in descending order of the weight including all ingredients of tobacco products which are contained in the following materials which are used upon manufacture of tobacco products sold on the Estonian market: cigarette paper, side seam adhesive, ink used on cigarette paper, filter overwrap, filtration material and filter adhesive; the list shall set out the maximum quantity of each category on the basis of the maximum quantity used in each brand;

3) a list submitted in descending order of the weight and by brands including ingredients of tobacco products which are used upon manufacture of tobacco products sold on the Estonian market; the list shall specify the used flavourings as a separate type.

(3) The list specified in subsection (1) of this section shall also be accompanied by the toxicological data available to the undertaking regarding the ingredients used in tobacco products in burnt or unburnt form as appropriate, referring in particular to their effects on health and taking into account, inter alia, any addictive effects.

(4) The information submitted on the basis of subsections (1)-(3) of this section shall be published on the website of the Ministry of Social Affairs by 1 November each year. Upon publication of the information, except in the case of information concerning the tar, nicotine and carbon monoxide yields of tobacco products, account shall be taken of the need to protect business secrets relating to the ingredients of tobacco products.

(5) The Ministry of Social Affairs shall forward the information submitted on the basis of subsections (1)-(3) of this section to the European Commission each year.

Division 2

Requirements for Packaging of Tobacco Products

§ 11. General requirements for packaging of tobacco products

(1) The shape and labelling of a packaging of tobacco products shall not mislead the consumer with regard to the contents of the packaging.

(2) Texts, names, trade marks and figurative or other signs suggesting that a particular tobacco product is less harmful than others shall not be used on the packaging of tobacco products.

(3) The manufacturer's lot code shall be visible on the packaging of tobacco products without opening the packaging and shall be readily recognised given ordinary attention.

(4) It is prohibited to print the labelling on a transparent wrapper used for the packaging of tobacco products.

§ 12. Labelling of packaging of tobacco products

(1) The following shall be printed on the sales packaging and grouped packaging of tobacco products:

1) in the case of smoking tobacco products, an optional general health warning and an optional additional health warning and, in the case of chewing tobacco, a health warning regarding smokeless tobacco products;

2) the type, brand and number of pieces or quantity in grams of the tobacco products;

3) existence of menthol or other flavouring (in the case of cigarettes with flavourings if existence of the corresponding substance is not reflected in the brand);

4) absence of a filter (in the case of filterless cigarettes if absence of a filter is not reflected in the brand);

5) the manufacturer's lot code.

(2) In addition to the provisions of subsection (1) of this section, information concerning the tar, nicotine and carbon monoxide yields of cigarettes shall be printed on the sales packaging of cigarettes.

(3) Subsection (1) of this section does not apply to the grouped packaging of cigarettes if they are in a transparent wrapper.

(4) In the case of several grouped packagings of tobacco products, subsection (1) of this section only applies to the grouped packaging directly covering the sales packaging.

(5) Information specified in subsection (1) of this section may be affixed on the sales packaging and grouped packaging of cigars, cigarillos, smoking tobacco or chewing tobacco by means of stickers. Use of stickers is mandatory if the grouped packaging of the aforementioned tobacco products is only a transparent wrapper. Stickers shall be affixed in a manner that prevents their removal without damaging the packaging. Texts on stickers shall be durable.

§ 13. Health warnings regarding smoking tobacco products

- (1) Health warnings regarding smoking tobacco products are divided into general health warnings and additional health warnings.
- (2) General health warnings are the following texts in Estonian:
 - 1) “*Suitsetamine võib tappa.*” [Smoking can kill];
 - 2) “*Suitsetamine kahjustab raskelt sinu ja sind ümbritsevate inimeste tervist.*” [Smoking seriously harms you and others around you.]
- (3) Additional health warnings are the following texts in Estonian:
 - 1) “*Suitsetamine lühendab eluiga.*” [Smokers die younger.];
 - 2) “*Suitsetamine ahendab artereid ning põhjustab südameinfarkti ja ajurabandust.*” [Smoking clogs the arteries and causes heart attacks and strokes.];
 - 3) “*Suitsetamine põhjustab kopsuvähki.*” [Smoking causes fatal lung cancer.];
 - 4) “*Raseduse ajal suitsetamine kahjustab sinu last.*” [Smoking when pregnant harms your baby.];
 - 5) “*Kaitse lapsi: ära sunni neid hingama tubakasuitsu.*” [Protect children: don't make them breathe your smoke.];
 - 6) “*Suitsetamisest loobumiseks saad abi arstilt või apteekrilt.*” [Your doctor or your pharmacist can help you stop smoking.];
 - 7) “*Suitsetamine tekitab kergesti sõltuvust. Ära alusta!*” [Smoking is highly addictive, don't start.];
 - 8) “*Suitsetamisest loobumine vähendab ohtu haigestuda südame- ja kopsuhaigustesse.*” [Stopping smoking reduces the risk of fatal heart and lung diseases.];
 - 9) “*Suitsetamine võib põhjustada aeglase ja valuliku surma.*” [Smoking can cause a slow and painful death.];
 - 10) “*Otsi abi suitsetamisest loobumiseks: küsi nõu oma perearstilt või apteekrilt.*” [Get help to stop smoking: (telephone/postal address/internet address/consult your doctor/pharmacist).];
 - 11) “*Suitsetamine põhjustab vereringehäireid ja impotentsust.*” [Smoking may reduce the blood flow and causes impotence.];
 - 12) “*Suitsetamisega kaasneb naha kiire vananemine.*” [Smoking causes ageing of the skin.];
 - 13) “*Suitsetamine kahjustab spermat ja vähendab viljakust.*” [Smoking can damage the sperm and decreases fertility.];

14) “*Tubakasuits sisaldab benseeni, nitrosoamiini, formaldehüüdi ja sinihapet.*” [Smoke contains benzene, nitrosamines, formaldehyde and hydrogen cyanide.].

(4) General health warnings specified in subsection (2) of this section shall be printed on the sales packaging of smoking tobacco products and on any outside grouped packaging directly covering the sales packaging, regularly and alternately. General health warnings shall be printed on the most visible surface of the sales packaging and on any outside grouped packaging directly covering the sales packaging. Additional health warnings shall not be printed on the grouped packaging covered with a transparent wrapper.

(5) Additional health warnings specified in subsection (3) of this section shall be printed on the sales packaging of smoking tobacco products and on any outside grouped packaging directly covering the sales packaging, regularly and alternately. Additional health warning shall be printed on the other most visible surface of the sales packaging and on any outside grouped packaging directly covering the sales packaging. Additional health warnings shall not be printed on the grouped packaging covered with a transparent wrapper.

§ 14. Health warning regarding smokeless tobacco products

(1) The health warning regarding smokeless tobacco products is the following text in Estonian:

“*See tubakatoode kahjustab sinu tervist ja tekitab sõltuvust.*” [This tobacco product can damage your health and is addictive.]

(2) The health warning regarding smokeless tobacco products shall be printed on the most visible surface of the sales packaging and on any outside grouped packaging directly covering the sales packaging. The health warning regarding smokeless tobacco products shall not be printed on the grouped packaging covered with a transparent wrapper.

§ 15. Information concerning tar, nicotine and carbon monoxide yields of cigarettes

(1) Information concerning the tar yield of cigarettes shall be expressed in milligrams (rounded to the nearest whole number) as the following text in Estonian: “*tõrva mg*” [“tar mg”].

(2) Information concerning the nicotine yield of cigarettes shall be expressed in milligrams (rounded to the nearest decimal) as the following text in Estonian: “*nikotiini mg*” [“nicotine mg”].

(3) Information concerning the carbon monoxide yield of cigarettes shall be expressed in milligrams (rounded to the nearest whole number) as the following text in Estonian: “*vingugaasi mg*” [“carbon monoxide mg”].

§ 16. Location of health warning and information concerning tar, nicotine and carbon monoxide yields of cigarettes

(1) A general health warning shall be printed on the most visible surface of the sales packaging of smoking tobacco products and on any grouped packaging directly covering the sales packaging, on white background, which shall cover not less than 30 per cent of the external area of the corresponding surface of the packaging.

(2) An additional health warning shall be printed on the other most visible surface of the sales packaging of smoking tobacco products and on any grouped packaging directly covering the sales packaging, on white background, which shall cover not less than 40 per cent of the external area of the corresponding surface of the packaging.

(3) The health warning regarding smokeless tobacco products shall be printed on the most visible surface of the sales packaging of chewing tobacco and on any grouped packaging directly covering the sales packaging, on white background, which shall cover not less than 30 per cent of the external area of the corresponding surface of the packaging.

(4) If the most visible surface of the sales packaging of cigars, cigarillos, smoking tobacco and chewing tobacco or any grouped packaging directly covering the sales packaging exceeds 75 cm², the white background on which the health warning is printed shall cover not less than 22.5 cm² of the surface.

(5) Information concerning the tar, nicotine and carbon monoxide yields of cigarettes shall be printed on the white background on one of the side surfaces of the sales packaging of the cigarettes and shall cover not less than 10 per cent of the side surface.

(6) Health warnings and information concerning the tar, nicotine and carbon monoxide yields of cigarettes shall be printed:

1) centred on a white background;

- 2) parallel to the top edge of the packaging, except in the case specified in clause 3) of this subsection;
- 3) perpendicular to the top edge of the packaging, information concerning the tar, nicotine and carbon monoxide yields of cigarettes on the sales packaging the side surface of which is 15 mm wide;
- 4) in black;
- 5) in Helvetica bold type;
- 6) using the point size of the font which is such as to occupy the greatest possible proportion of the white area set aside for the text required.
- (7) For health warnings regarding smoking tobacco products and information concerning the tar, nicotine and carbon monoxide yields of cigarettes, the white background is surrounded by a black border not less than 3 mm and not more than 4 mm in width. The border is not included in the white background and it shall in no way interfere with the text of the warning or information given in the white background.
- (8) The health warnings regarding smoking tobacco products and information concerning the tar, nicotine and carbon monoxide yields of cigarettes shall be located such that the opening of the packaging does not make the text illegible, incomprehensible or distorted.

§ 17. Number of cigarettes in sales packaging

A sales packaging of cigarettes shall contain not less than 20 cigarettes.

Chapter 3

Special Requirements for Handling of Tobacco Products

§ 18. Operation on basis of registration

- (1) Undertakings entered in the commercial register and holding a wholesaler's registration in the register of economic activities which also indicates the right to engage in wholesale trade in tobacco products have the right to engage in wholesale trade in tobacco products. If an undertaking wishes to import tobacco products within the meaning of § 10 of the Alcohol, Tobacco and Fuel Excise Duty Act or export tobacco products within the meaning of § 11 of the

Alcohol, Tobacco and Fuel Excise Duty Act, a corresponding notation shall be made to the registration.

(2) Retail trade in tobacco products is permitted to undertakings concerning which a registration has been made in the register of economic activities which also indicates the right to engage in retail trade in tobacco products.

(3) In order to be granted the right to trade in tobacco products, an application shall be submitted to the rural municipality or city government, a rural municipality or city government agency or rural municipality or city government structural unit authorised thereby, which sets out at least the following information:

- 1) the name and registry code of the undertaking, the name of the corresponding register, and the address of the undertaking and other contact details of the undertaking;
- 2) the clearly worded content of the application;
- 3) the name of the undertaking if the undertaking has a name;
- 4) the address of the place of business or the information specified in subsection (4) of this section;
- 5) the date of submission of the application, and signature;
- 6) the name, official title and details of the person who signed the application.

(4) If an application is submitted for retail trade in tobacco products at a public event, the name, time and location of the public event and the number of places of sale of the undertaking shall be indicated in the application instead of the address of the place of business. The written consent of the organiser of the public event shall be submitted together with the application.

(5) The provisions of the Trade Act (RT I 2004, 12, 78) and the Register of Economic Activities Act (RT I 2004, 12, 79) apply to the registration procedure with the specifications arising from this Act.

§ 19. Transfer of tobacco products in execution or bankruptcy proceedings

(1) A bailiff or a trustee in bankruptcy may transfer conforming tobacco products which have been seized or belong to the bankruptcy estate in execution or bankruptcy proceedings to a person who has the right to engage in the wholesale or retail trade in tobacco products.

(2) In the case specified in subsection (1) of this section, all the requirements established by this Act to undertakings engaged in wholesale trade apply to bailiffs or trustees in bankruptcy, except the provisions of subsection 18 (1) of this Act.

§ 20. Settlement upon wholesale trade in tobacco products

Upon wholesale trade in tobacco products, payment for tobacco products shall be made by way of non-cash settlement.

§ 21. Special requirements for documents accompanying goods

Documents accompanying tobacco products, including internal accompanying documents, shall set out:

- 1) the manufacturer's lot code of the tobacco products;
- 2) in the case of cigarettes, the maximum retail price.

§ 22. Prohibitions upon retail trade in tobacco products

(1) Retail trade in tobacco products is prohibited on sales premises located in the rooms of the following agencies or their designated territories:

- 1) children's social welfare institutions;
- 2) pre-school child care institutions, nursery-primary schools, primary schools, basic schools, upper secondary schools, vocational educational institutions, hobby schools, open youth centres or youth or project camps;
- 3) hospitals.

(2) Retail trade in tobacco products is prohibited:

- 1) in peddling;
- 2) from automatic vending machines;
- 3) in street or market trading within the meaning of § 17 of the Trading Act;
- 4) in pharmacies;
- 5) in excise warehouses.

(3) It is prohibited to trade in tobacco products by the piece or out of open sales packaging or by weight, except:

- 1) out of the open sales packaging upon retail trade in cigars on the condition that cigars are packaged one by one and each cigar is separately revenue stamped;
- 2) out of the open sales packaging upon retail trade in cigars in catering establishments on the condition that cigars originate from a conforming sales packaging and that the packaging is located on the sales premises;
- 3) out of the open sales packaging upon retail trade in hookah tobacco in catering establishments or on the sales premises of public events for consumption on the premises on the condition that the hookah tobacco originates from a conforming sales packaging and that the packaging is located on the sales premises.
- (4) It is prohibited to trade in tobacco products and other products which are in the same packaging.
- (5) Upon retail trade in cigarettes, it is prohibited to apply measures the purposeful or possible result of which is excess of the maximum retail price of the cigarettes.
- (6) A seller shall not grant use of a mouthpiece of a hookah which has already been used.

§ 23. Obligation of undertaking to cooperate

- (1) An undertaking who carries out retail trade in tobacco products in a shop, mobile shop, stands or on the sales premises of a public event shall:
 - 1) accept publications approved by the Ministry of Social Affairs which are prescribed for distribution without charge in order to reduce the consumption of tobacco products from a representative of a state or local government agency, a non-profit association or foundation which promotes the idea to reduce the consumption of tobacco products;
 - 2) display the publications specified in clause 1) of this subsection in the vision range or within the reach of consumers on the premises where tobacco products are offered for sale.
- (2) An undertaking may demand from representatives of a state or local government agency, a non-profit association or foundation which promote the idea to reduce the consumption of tobacco products that the representatives provide proof as regards their identity, prove their authorisations and that the publications which they wish to deliver are approved by the Ministry of Social Affairs and, upon absence of proof, refuse acceptance of the publications.

§ 24. Restriction on handling of smokeless tobacco products

It is prohibited to handle smokeless tobacco products other than chewing tobacco.

Chapter 4

Restriction on Sponsorship and Ban on Promotion of Tobacco Products

§ 25. Restriction on sponsorship and sponsor's announcements

- (1) It is prohibited to sponsor persons or activities not connected with the handling of tobacco products, i.e. grant material support in any manner, if the objective of the activity is to promote the sale of a specific tobacco product or the consumption of tobacco products.
- (2) If the handler of tobacco products is a sponsor, information on the sponsor or the material support granted thereby may be disclosed in connection with the sponsorship.
- (3) The handler of tobacco products may disclose a brand in a manner which does not refer to the tobacco products or the consumption thereof.

§ 26. Ban on promotion of tobacco products

- (1) It is prohibited to engage in activities directed at the public which means offer of tobacco products or linked products or services to consumers without charge or at a price which is significantly lower than the maximum possible retail price of the tobacco products or distribution of gifts or organisation of consumer competitions, games or lotteries to promote sales (hereinafter promotion) in order to increase the sale of tobacco products.
- (2) For the purposes of this Act, the following is not deemed to be promotion:
 - 1) trade information provided on the sales premises of tobacco products within the meaning of § 10 of the Trading Act, including the names of the tobacco products by trade marks and information on the relevant characteristics of the tobacco products;
 - 2) marking of the place of business of the handler of tobacco products, including marking of the place of business of the handler with trade marks owned or used by the handler;
 - 3) the price formation of tobacco products and publication of information thereon on the sales premises of tobacco products;
 - 4) communication of information on tobacco products or related information in a speciality publication directed at handlers of tobacco products or provision of information on tobacco

products at a speciality exhibition or exposition directed at handlers of tobacco products or during other appropriate events;

5) any communication and activities between the handlers of different tobacco products which relate to trade in tobacco products.

Chapter 5

Prohibitions on and Restrictions of Consumption of Tobacco Products

Division 1

Prohibition Applied with regard to Minors and Measures to Enforce Prohibition

§ 27. Prohibition applied with regard to minors

A person of less than 18 years of age (hereinafter minor) shall not smoke or consume smokeless tobacco products.

§ 28. Measures to enforce prohibition applied with regard to minors

- (1) Minors shall not acquire or possess tobacco products.
- (2) Tobacco products shall not be sold to minors. In order to observe the prohibition, a seller may demand identification from the buyer and refuse to sell tobacco products if the buyer fails to present such identification.
- (3) Adults are prohibited from buying tobacco products for, offering tobacco products to and handing tobacco products over to minors.
- (4) It is prohibited to offer for sale or sell to minors products the shape of which is similar to tobacco products.
- (5) Minors shall not be employed for work related to the handling of tobacco products.

Division 2

Places where Smoking is Prohibited and Places where Smoking is Allowed

§ 29. Places where smoking is prohibited

Smoking is prohibited:

- 1) in rooms of children's social welfare institutions and their designated territories;
- 2) in rooms of pre-school child care institutions, nursery-primary schools, primary schools, basic schools, upper secondary schools, vocational educational institutions, hobby schools, open youth centres or youth or project camps and their designated territories;
- 3) in rooms of pharmacies;
- 4) in industrial premises and warehouses of enterprises;
- 5) in sales areas of shops and mobile shops;
- 6) in catering establishments, except rooms provided for in subsection 31 (1) of this Act;
- 7) in enterprises where services specified in clause 3 (2) 4) of the Trading Act or other services are offered, in rooms open for clients (except in accommodation establishments);
- 8) in space intended for sports;
- 9) in changing rooms and lavatories if not in private use;
- 10) in public transport shelters, passenger waiting rooms and passenger terminals;
- 11) in vehicles used for the provision of passenger service, except in vehicles specified in clause 30 (2) 6) of this Act;
- 12) in the immediate vicinity of tanker vessels, petrol storage tanks or petrol pumps;
- 13) in the vicinity of flammable or combustible substances, at a site with flammable or combustible storage areas, places where dangerous goods are loaded, in the vicinity of consignments ready to be loaded, near standing transport units and in transport units;
- 14) in the territory of an explosive substances store, at a distance of up to twenty metres from the place where explosive substances are stored on board a ship, in the rooms of a pyrotechnic articles store or in the vicinity of ammunition containing explosive substances;
- 15) in the workings of a mine, lamp rooms and battery-charging rooms and at a distance of up to twenty metres from a portal;
- 16) upon loading of cartridges in the vicinity of propellant, in weapons magazines, weapons stores and weapons rooms;
- 17) in forests and other areas covered with vegetation during a fire hazard period;
- 18) in pedestrian tunnels;
- 19) corridors and stairwells of apartment buildings, and other rooms which are in common use in apartment buildings;
- 20) in other places prescribed by legislation.

§ 30. Places where smoking is restricted

(1) In the cases not specified in § 29 of this Act, the possessor of a room or a restricted area shall, at the discretion thereof, decide whether smoking is allowed in the room or restricted area, taking account of subsections (3) and (4) of this section and § 31 of this Act.

(2) In the following places, smoking is allowed only in a smoking room or smoking area:

- 1) the premises of state and local government agencies;
- 2) the premises of institutions of higher education;
- 3) the premises of cultural institutions;
- 4) the premises of recreation centres;
- 5) the premises of agencies or enterprises providing health services;
- 6) local trains, long-distance trains and passenger ships;
- 7) rooms where a game of chance, betting or a totalizator is organised;
- 8) the office premises and other public premises of enterprises;
- 9) sports halls and sports facilities and recreational facilities.

(3) A smoking room is a room located in a building or a vehicle to which the following requirements apply:

- 1) the room is designated with verbal information which permits smoking or with a corresponding symbol;
- 2) information “*Suitsetamine kahjustab tervist!*” [Smoking harms health!] is displayed in the room in Estonian in a visible place and in reasonable size;
- 3) the room is negatively pressurised;
- 4) air outflow in the room is not less than 8.4 litres/second per square metre, and if the room is not used, the air outflow may be reduced to 25 per cent of the normal air exchange;
- 5) the air outflow ventilation system is separate and continuous or connected to other continuously operating air outflow systems by a separate duct.

(4) A smoking area is an area located in a building or a vehicle without barriers which has a local ventilation system and to which the following requirements apply:

- 1) the area is designated with verbal information which permits smoking or with a corresponding symbol;

- 2) information “*Suitsetamine kahjustab tervist!*” [Smoking harms health!] is displayed in the room in Estonian in a visible place and in reasonable size;
- 3) an effective ventilation system ensures the movement of air directly into the outdoor environment.

§ 31. Smoking in catering establishments

- (1) It is allowed to smoke in a catering establishment only in smoking rooms prescribed for smoking or in the immediate vicinity of the sales premises of the catering establishment on a seasonal extension located outdoors.
- (2) Catering, where food is sold together with its preparation and serving or just its serving for consumption on the premises shall not be provided in a smoking room specified in subsection (1) of this section.
- (3) A seller has the right not to serve any persons who ignore the prohibitions and restrictions established regarding smoking in catering establishments and has the right to request that such persons leave.

Chapter 6

Supervision

§ 32. Agencies exercising supervision

Officials of the following agencies shall exercise supervision over compliance with the requirements established by this Act:

- 1) the Tax and Customs Board - compliance with the requirements established for tobacco products and the procedure for the handling of tobacco products and compliance with the special requirements applied upon handling of tobacco products according to the functions provided for in the statutes of the Board;
- 2) the Consumer Protection Board - compliance with the requirements established for tobacco products and the procedure for the handling of tobacco products, compliance with the special requirements applied upon handling of tobacco products and compliance with the requirement to restrict smoking areas according to the functions provided for in the statutes of

the Board, and also compliance with the restriction on sponsorship and ban on the promotion of tobacco products;

3) police prefectures - compliance with all the requirements within the territory of the police prefecture, except compliance with the restriction on sponsorship and sponsor's announcements, ban on the promotion of tobacco products and compliance with the requirements established for smoking rooms and smoking areas;

4) rural municipality and city governments - compliance with all the requirements within their administrative territory, except compliance with the requirements established for smoking rooms and smoking areas;

5) the Health Protection Inspectorate - compliance with the requirements established for smoking rooms and smoking areas according to the functions provided for in the statutes of the Inspectorate.

§ 33. Rights of supervisory officials

(1) Within his or her competence, a supervisory official has the right to:

1) monitor compliance with this Act without hindrance and without giving prior notice;

2) have unhindered access to inspect the premises of a handler of tobacco products, and open the means of transport of a handler of tobacco products in the presence of the handler or a representative thereof;

3) demand relevant explanations and documents, receive excerpts from and copies of all relevant documents presented to him or her, verify received information on site, openly use equipment to make record of the situation, prepare a report to record the facts;

4) take samples for laboratory analysis and refer such samples for analysis to a laboratory approved to perform the relevant analyses;

5) take specimen and submit such specimen for comparison to persons whose trade mark may be infringed by the handling of such tobacco products or to holders of the rights or representatives of such persons;

6) demand that the offence be terminated, that the initial situation be restored or that acts necessary for further lawful operation be performed;

7) seal storage facilities of tobacco products which are or may be subject to confiscation;

- 8) if tobacco products which may be subject to confiscation are discovered in a motor vehicle or a trailer attached to a motor vehicle, direct the motor vehicle to the nearest location where the confiscated tobacco products can be stored in order to unload the tobacco products transported in the vehicle or trailer;
 - 9) make a proposal for the revocation of a document which grants the right to handle tobacco products or for deletion of the notation concerning the right to handle tobacco products included in a registration made in the register of economic activities and receive a reasoned reply if the proposal is denied.
- (2) A report shall be prepared regarding the samples specified in clause (1) 4) of this section and specimen specified in clause (1) 5) of this section.

§ 34. Precepts of supervisory officials

- (1) A supervisory official may formalise the requirements provided for in clause 33 (1) 6) of this Act as a precept which sets out the following information:
- 1) the name and position of the person preparing the precept and the name and address of the agency exercising supervision;
 - 2) the date and place of making the precept;
 - 3) the name, and residence or seat of the recipient of the precept;
 - 4) the circumstances which are the basis for the issue of the precept or a reference to the document in which the circumstances are set out;
 - 5) the legal basis for the issue of the precept;
 - 6) the conclusion of the precept which shall set out the obligations of the recipient of the precept and the term for performance of the obligations;
 - 7) a reference to the possibility that, in the case of failure to perform an obligation imposed by the precept, penalty payment may be imposed;
 - 8) the procedure and term for contesting the precept;
 - 9) the signature of the person who prepares the precept.
- (2) A precept shall be prepared in two original copies of which one shall remain with the person who prepares the precept and the other shall be given to the recipient of the precept.

(3) If it is necessary to inform a third party of the precept, a copy of the precept certified by the person who prepared the precept shall be delivered to the third party by post or by electronic means.

§ 35. Penalty payment

(1) If the recipient of a precept fails to comply with a precept within the term specified in the precept, a supervisory official has the right to impose a penalty payment as a coercive measure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).

(2) The upper limit for a penalty payment is 10 000 kroons.

§ 36. Contestation of precept

(1) If the recipient of a precept does not agree with the precept of a supervisory official, the recipient of the precept has the right to file a written challenge with the head of the agency which exercises supervision within ten working days as of the date on which the recipient of the precept became or should have become aware of the contested precept.

(2) The director of the agency exercising supervision shall review a challenge and make a decision within ten working days as of the date on which the challenge is filed. The supervisory official against whose precept the challenge is filed shall not participate in the review of the challenge.

(3) The filing of the challenge shall not release the person from the duty to comply with the precept. The director of the agency exercising supervision may suspend compliance with a contested precept if the circumstances specified in § 81 of the Administrative Procedure Act occur until a decision is made on the challenge.

(4) A person whose challenge is dismissed or whose rights are violated in challenge proceedings has the right to file an action with an administrative court under the conditions and pursuant to the procedure provided by the Code of Administrative Court Procedure (RT I 1999, 31, 425; 33, correction notice; 40, correction notice; 96, 846; 2000, 51, 321; 2001, 53, 313; 58, 355; 2002, 29, 174; 50, 313; 53, 336; 62, 376; 2003, 13, 67; 23, 140; 2004, 46, 329; 56, 403; 2005, 15, 85).

Chapter 7

Liability

§ 37. Failure to give notification of ingredients of tobacco product

(1) Refusal to submit or failure to submit the information required pursuant to this Act to the Ministry of Social Affairs, or submission of incomplete or false information, is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 38. Violation of requirements established for tobacco products

(1) Storage, warehousing, or delivery of smokeless tobacco products other than chewing tobacco or cigarettes with the tar, nicotine and carbon monoxide yields larger than permitted for commercial purposes or in commercial quantities, or manufacture of or trade in such tobacco products, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 39. Violation of procedure for handling tobacco products

(1) Storage, warehousing, or delivery of tobacco products not marked with revenue stamps or packaged in the sales packaging which does not conform to the compulsory requirements or in non-conforming grouped packaging for commercial purposes or in commercial quantities, or trade in such tobacco products, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 40. Trading in cigarettes at price higher than prescribed

(1) Retail trade in cigarettes at a price which is higher than the maximum retail price printed on the revenue stamp attached to the sales packaging of the cigarettes, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 41. Violation of special requirements applied upon handling of tobacco products

(1) Violation of the special requirements established in this Act concerning the handling of tobacco products is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 42. Violation of restriction on sponsorship

(1) Violation of the restriction on sponsorship is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 43. Violation of ban on promotion of tobacco products

(1) Violation of the ban on the promotion of tobacco products is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 44. Inducing minor to consume tobacco products

An adult who by inducement, threat or any other act influences a minor in order to cause him or her to commence or increase the consumption of tobacco products or not to give up the consumption of tobacco products shall be punished by a fine of up to 300 fine units.

§ 45. Violation of age limit upon handling of tobacco products

(1) Violation of the age limit upon the handling of tobacco products is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 46. Purchase or offering of tobacco products to minors or handing tobacco products over to minors

Purchase or offering of tobacco products to minors or handing tobacco products over to minors by an adult person, provided that the necessary elements of a misdemeanour provided for in § 44 or 45 of this Act do not exist, is punishable by a fine of up to 100 fine units.

§ 47. Consumption of tobacco products by minors

Smoking by a minor or consumption of a smokeless tobacco product by a minor is punishable by a fine of up to 10 fine units.

§ 48. Acquisition or possession of tobacco products by minor

The acquisition or possession of tobacco products by a minor is punishable by a fine of up to 10 fine units.

§ 49. Smoking in area where smoking is prohibited

Smoking in an area where smoking is prohibited is punishable by a fine of up to 20 fine units.

§ 50. Violation of requirement to restrict smoking areas

(1) Granting permission to smoke in a place where smoking is prohibited by law and violation of the requirements established for smoking rooms or smoking areas is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 51. Procedure

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 82, 480; 105, 612; 2003, 4, 22; 83, 557; 90, 601; 2004, 7, 40; 46, 329; 54, 387; 56, 401; 88, 600; 2005, 20, 126) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590; RT III 2004, 9, 96; RT I 2004, 46, 329; 54, 387 and 390; 56, 403) apply to the misdemeanours listed in §§ 37–50 of this Act.

- (2) The Ministry of Social Affairs shall conduct extra-judicial proceedings in the matters of the misdemeanours specified in § 37 of this Act.
- (3) A rural municipality or city government is the extra-judicial body which conducts proceedings in the matters of the misdemeanours specified in §§ 38–50 of this Act.
- (4) The Tax and Customs Board is the extra-judicial body which conducts proceedings in the matters of the misdemeanours specified in §§ 38–41 of this Act.
- (5) Extra-judicial proceedings concerning the misdemeanours specified in §§ 38–41 and 44–50 of this Act shall be conducted by police prefectures.
- (6) The Health Protection Inspectorate shall conduct extra-judicial proceedings in the matters of the misdemeanours provided for in § 50 of this Act regarding requirements established for smoking areas and smoking rooms.
- (7) The Consumer Protection Board is the extra-judicial body which conducts proceedings in the matters of the misdemeanours provided for in §§ 38–43 and 50 of this Act.
- (8) It is mandatory to apply confiscation of an object which is the direct object of the commission of a misdemeanour provided for in §§ 38 and 39 of this Act. Confiscation shall be decided by a court, the Tax and Customs Board or a police prefecture.

§ 52. Acts performed with confiscated tobacco products

Confiscated tobacco products shall be destroyed pursuant to the procedure established in the Customs Act (RT I 2004, 28, 188) or the Code of Misdemeanour Procedure.

Chapter 8

Implementing Provisions

Division 1

Implementation of Act

§ 53. Transitional provisions

- (1) Retail trade and wholesale trade in cigarettes which comply with the requirements established regarding tobacco products and their sales packaging and the grouped packaging in which the sales packagings are contained by the Tobacco Act which is repealed is permitted

during one year after the entry into force of this Act. Retail trade and wholesale trade in cigars, cigarillos, smoking tobacco and chewing tobacco which comply with the requirements established regarding tobacco products and their sales packaging and the grouped packaging in which the sales packagings are contained by the Tobacco Act which is repealed is permitted during two years after the entry into force of this Act.

(2) Activity licences specified in clauses 7 (3) 2) and 3) of the Tobacco Act which is repealed shall be valid, if the activities permitted by the activity licence are not contrary to the provisions of this Act, until the holder of the licence is entered in the register of economic activities as a wholesaler and until a notation is made to the registration in the register concerning the right to engage in wholesale trade in tobacco products and, if necessary, also concerning the right to engage in the import or export of tobacco products but not for longer than the date of expiry indicated on the activity licence.

Division 2

Specific Provisions

§ 54. Strategic action plan for tobacco control

(1) The Government of the Republic shall establish a strategic action plan for tobacco control within five months after the entry into force of this Act.

(2) The costs of compliance with the action plan specified in subsection (1) of this section shall be prescribed in the state budget as costs intended for specific purposes.

§ 55. Annual report of Minister of Social Affairs

(1) Once a year, the Minister of Social Affairs shall report to the Social Affairs Committee of the Riigikogu³ on the trends in the consumption of tobacco products and on the applied and planned measures the objective of which is to reduce the consumption of tobacco products.

(2) A report specified in subsection (1) of this section shall be published on the website of the Ministry of Social Affairs.

Division 4

Amendment and Repeal of Acts

§ 56. Amendment of State Fees Act

Subsection 183 (3¹⁵) of the State Fees Act (RT I 1997, 80, 1344; 2004, 76, 526; 75, 521; 84, 572; 86, 583; 87, 593; 89, 611; 2005, 1, 1; 2, 4; 15, 87; 22, 151) is repealed.

§ 57. Amendment of Alcohol, Tobacco and Fuel Excise Duty Act

Subsection (1¹) is added to § 61 of the Alcohol, Tobacco and Fuel Excise Duty Act worded as follows:

„(1¹) Tobacco products sold to be taken away are deemed to be revenue stamped also if revenue stamps are affixed only on the grouped packaging of the tobacco products on the condition that the tobacco products are transferred to a traveller in the grouped packaging on board an aircraft or a ship during an intra-Community passenger service to be taken away. On revenue stamps affixed to grouped packaging containing cigarettes, the maximum retail price of the cigarettes in the grouped packaging shall be printed. A symbol indicating the type of the tobacco product and the quantity of the tobacco product in the grouped packaging shall be printed on the revenue stamp affixed to the grouped packaging of tobacco products other than cigarettes.”

§ 58. Repeal of Tobacco Act

The Tobacco Act (RT I 2000, 59, 379; 74, correction notice; 2001, 43, 242; 88, 531; 2002, 61, 375; 63, 387; 2003, 2, 17; 26, 156; 88, 591 and 594; 2004, 18, 131) is repealed.

Division 5

Entry into force of Act

§ 59. Entry into force of Act

Subsection 22 (4), §§ 25 and 26, clause 29 6) and subsection 31 (1) of this Act enter into force two years after the date of entry into force of this Act.

¹ Directive 2001/37/EC of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products (OJ L 194, 18.07.2001, p. 26–35).

² RT = *Riigi Teataja* = *State Gazette*

³ Riigikogu = the parliament of Estonia