

The Cigarettes And Other Tobacco Products (Prohibition Of Advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Rules, 2004

UNION OF INDIA

India

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Rule

THE-CIGARETTES-AND-OTHER-TOBACCO-PRODUCTS-PROHIBITION of 2004

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The Cigarettes And Other Tobacco Products (Prohibition Of Advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Rules, 2004 Published vide Notification G.S.R. 137, dated 25.2.2004, published in the Gazette of India, Extra, Part 2, Section 3(ii), Sl.No. 93, dated 25.2.2004.

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Published vide G.S.R. 137, dated 25.2.2004- In exercise of the powers conferred by section 31 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement .-(1) These rules may be called The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Rules, 2004.

(2) They shall come into force on the 1st day of May, 2004.

2. Definitions .-In these rules, unless the context otherwise requires,-

(a) "Act" means the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003; (b) "section" means a section of the Act; (c) "open space" mentioned in section 3(1) of the Act shall not include any place visited by the public such as open auditorium, stadium, railway station, bus stop and such other places; and (d) words and expressions used herein and not defined in these rules but defined in the Act, shall have the meanings, respectively, assigned to them in the Act; (e) ["indirect advertisement" means-(i) the use of a name or brand of tobacco products for marketing, promoting or advertising other goods, services and events; (ii) the marketing of tobacco products with the aid of a brand name or trademark which is known as, or in use as, a name or brand for other goods and services; (iii) the use of particular colours and layout and or presentation that are associated with particular tobacco products; and (iv) the use of tobacco products and smoking scenes when advertising other goods and services;]

3. Prohibition of smoking in a public place .-(1) The owner or the manager or in charge of the affairs of a public place shall cause to be displayed prominently a board, of a minimum size of sixty centimeter by thirty centimeter in the Indian language(s) as applicable, at least one at the entrance of the public place and one at conspicuous place(s) inside, containing the warning "No Smoking Area-Smoking Here is an Offence".

(2) The owner or the manager or in charge of the affairs of a hotel having thirty rooms or restaurant having seating capacity of thirty persons or more and the manager of the airport shall ensure that, -(i) the smoking and non-smoking areas as physically segregated; (ii) the smoking area shall be located in such manner that the public is not required to pass through it in order to reach the non-smoking area; and (iii) each area shall contain boards indicating thereon "Smoking Area/Non-Smoking Area".

4. [Prohibition of advertisement of cigarettes and other tobacco products

.- (1) The size of the board used for the advertisement of cigarettes and any other tobacco products displayed at the entrance of a warehouse or a shop where cigarettes or any other tobacco products is offered for sale shall not exceed sixty centimeters by forty-five centimeters. (2) Each such board shall contain in an Indian language as applicable, one of the following warnings occupying the top edge of the board in a prominent manner measuring twenty centimeters by fifteen centimeters, namely: -(i) Tobacco causes cancer, or (ii) Tobacco kills. (3) The health warning referred to in sub-rule (2) must be prominent, legible and in black colour with a white background. (4) The display board shall only list the type of tobacco products available and no brand pack shot, brand name of the tobacco product or other promotional message and picture shall be displayed on the board. The display board shall not be backlit or illuminated in any manner. (5) The owner or manager or in

charge of the affairs of a place where cigarettes and other tobacco products are sold shall not display tobacco products in such a way that they are visible so as to prevent easy access of tobacco products to persons below the age of eighteen years.(6)No individual or a person or a character in films and television programmes shall display tobacco products or their use:Provided that this sub-rule shall not apply to-(a)old Indian films and old television programmes, produced prior to coming into effect of this notification, being screened in a cinema hall or theatre or aired on television;(b)old foreign films and old television programmes, including dubbed and sub-titled "foreign films" and television programmes, being screened in cinema halls or theatres or aired on television;(c)Indian or foreign documentaries and health sports displaying use of tobacco products made to clearly and unambiguously reflect the dangers and dire consequences of tobacco use being screened in cinema hall or theatre or aired on television;(d)live coverage of news, current affairs, interviews, public meetings, sports events, cultural events and the like, being telecast on television whereby there is a purely incidental and completely unintentional coverage of use of tobacco products:Provided further that the exemptions under clauses (a) , (b) , (c) and (d) above shall not extend to display of brands of tobacco products or tobacco product placement in any form:Provided also that close ups of cigarette packages or tobacco products shall not be permissible and such scenes shall be edited by the producer or distributor or broadcaster prior to screening in cinemas or theatres or airing on television.Explanation (1).-For the purpose of this sub-rule, all films that receive Central Board of Film Certification prior to the effective date of this notification shall be categorised as "old films".Explanation (2).-For the purpose of this sub-rule, "foreign film" implies "Imported" as defined in the Cinematograph (Certification) Rules, 1983.(6-A) In case of old Indian and foreign films, the owner or manager of the cinema hall or theatre where the film is being screened shall ensure that anti-tobacco health spots of minimum thirty seconds duration each are screened at the beginning, middle and end of the said film. The provisions of this sub-rule shall not apply to clause (c) of sub-rule (6).(6-B)(a) In case of old television programmes, it shall be mandatory for the broadcaster to ensure either placement of an anti-tobacco health warning as a prominent scroll at the bottom of the television screen during the period of such display or airing of anti-tobacco health spots for a period of minimum thirty seconds during the telecast of each television programme of thirty minute duration or less.(b)In case the television programme is more than thirty minutes further airtime of thirty seconds shall be allocated for each incremental thirty minutes, for telecasting anti-tobacco spots.(c)The minimum duration of each anti-tobacco spot shall be not less than fifteen seconds.(d)The provisions of this sub-rule shall not apply to clauses (c) and (d) of sub-rule (6):Provided that, the anti-tobacco health warning scroll shall be legible and readable with font in black colour on white background with the warnings "Smoking causes cancer" or "Smoking kills" for smoking form of tobacco use and "Tobacco causes cancer" or "Tobacco kills" for chewing and other form of tobacco or such other warnings as may be specified by the Central Government from time to time:Provided further that, the anti-tobacco health warning scrolls or health spots shall be in the same language(s) as used in the film or television programme. In case of dubbed or sub-titled films or television programmes, the scrolls or spots shall be carried in the language of dubbing or sub-titling.(7)Sub-rule (6) shall not apply to new Indian or foreign films and television programmes displaying use of tobacco products necessary to represent the smoking or tobacco usage of a real historical figure or for representation of a historical era or classified well known character:-Provided that in very rare cases where there is display or use of tobacco products due to compulsions of the script, they shall be supported by a strong editorial justification:Provided

further that the display of usage of tobacco products in such movies and television programmes under this sub-rule shall be subject to the following safeguards: (a) Film and television programmes depicting tobacco related scenes shall mandatorily be given "A" Certification. Such films and television programmes may be permitted to be telecast at such timings as are likely to have least viewership from persons below the age of eighteen years. (b) The films or television programmes, which depict such scenes, would have a disclaimer by the concerned actor regarding the ill effects of use of such products. The disclaimer would be shown in the beginning, middle and end of the film. (c) Whenever such scenes are shown in a film or television programme, an anti-tobacco health warning scroll will be continuously displayed on the screen starting a minute before the scene and would be continuously displayed until one minute after the scene: Provided also that there shall not be any display of brands of tobacco products or tobacco product placement in any form: - Provided also that close-ups of cigarette packages or tobacco products shall not be permissible and such scenes shall be edited by the producer or distributor or broadcaster prior to screening in cinemas or theatres or airing on television. Explanation (1). - For the purpose of this sub-rule, all films and television programmes that receive Central Board of Film Certification after the effective date of this notification shall be categorised as "new". Explanation (2). - For the purpose of this sub-rule, representatives from Ministry of Health and Family Welfare shall also be represented in the Central Board of Film Certification. (8) Wherever brand names or logos of tobacco products form a part of the pictures to be printed in any form of print or outdoor media or footage to be aired through any form of electronic media, it shall be mandatory for the media to crop or mask the same to ensure that the brand names and logos of the tobacco products are not visible, except in case of live or deferred live telecast of sports, cultural and other events or activities held in other countries being aired on television in India. (9) A Steering Committee shall be constituted under the Chairmanship of the Union Health Secretary with representation from among others, the Ministry of Information and Broadcasting, Ministry of Law and Justice, Advertising Standards Council of India, Press Council of India, Members of Parliament and Voluntary Organisation. This Committee shall take cognizance suo motu or look into specific violations under section 5 of the Act and shall also evaluate cases related to indirect advertising and promotion and pass orders thereof.][5. Prohibition on sale of tobacco products to and by persons below the age of eighteen years. - (1) The owner or the manager or the in-charge of the affairs of a place where cigarettes or other tobacco products are sold shall ensure that, - (a) a board with a warning as specified in "Annexure I" is displayed at the entrance of the place where cigarettes or other tobacco products are sold and all the components of the board should appear in a manner exactly as in the soft copy provided in the compact disk [CD] accompanying these rules: Provided that such board shall not have any advertisement or promotional messages or pictures or images of cigarettes or any other tobacco products. (b) no tobacco product is sold through a vending machine; (c) no tobacco product is handled or sold by a person below the age of eighteen years; (d) tobacco products are not displayed in a manner that enables easy access of tobacco products to persons below the age of eighteen years. (2) The onus of proof, that the buyer of the tobacco product is not a person below the age of eighteen years lies with the seller of the tobacco products and the seller in case of doubts may request the buyer to provide appropriate evidence or age proof of having reached eighteen years of age.][6. Recovery of Fine by authorized officers. - The authorised officers mentioned in Annexure II shall be competent to act under and compound the offences committed in violation of clause (a) and clause (b) of section 6 of the Act.][7. Health Spots and Scroll in Old Films and Television Programmes. - The owner or

manager of a cinema hall or theatre where an old Indian or foreign film displaying tobacco products or its use displaying tobacco products or its use, is being screened, and the broadcaster telecasting old Indian or foreign television programme displaying tobacco products or its use, shall mandatorily screen the following, namely:-(a)anti-tobacco health spots or messages, of minimum thirty seconds duration each at the beginning and middle of the film or the television programme;(b)anti-tobacco health warning as a prominent scroll at the bottom of the screen during the period of such display;Provided that, the anti-tobacco health warning scroll shall be legible and readable,-(i)(a)with font in black colour on white background;(b)with the warnings "Smoking causes cancer" or "Smoking kills" for smoking forms of tobacco use;(c)with the warnings "Tobacco causes cancer" or "Tobacco kills" for chewing and other smokeless forms of tobacco;(ii)or such other warnings as may be specified by the Central Government from time to time;Provided further that, the anti-tobacco health warning scrolls or health spots shall be in the same language as used in the film or television programme and in case of dubbed or sub-titled films or television programmes, the scrolls or spots shall be carried in the language of dubbing or sub-title:Provided also that such television programmes may be permitted to be telecast on television at such timings that are likely to have least viewership from persons below the age of eighteen years.Explanation. - For the purpose of this rule,-(i)all films that receive Central Board of Film Certification prior to the effective date of this notification shall be categorized as "old films";(ii)all television programmes produced prior to coming into effect of this notification shall be categorized as "Old Television Programme";(iii)the expression "foreign film" implies "Imported" as defined in the Cinematograph (Certification) Rules, 1983.

8. Health Spots, Scroll and Disclaimer in New Films and television programmes. - (1) All new Indian or foreign films and television programmes displaying tobacco products or its use shall have,-

(a)a strong editorial justification explaining the necessity of such display to the Central Board of Film Certification for films and the concerned Authority under the Ministry of Information and Broadcasting for television programmes;(b)a 'U/A' Certification, from the Central Board of Film Certification for all films; and necessary approvals from the concerned authority under the Ministry of Information and Broadcasting for television programmes;Provided that such television programmes may be permitted to be telecast on television at such timings as are likely to have least viewership from persons below the age of eighteen years;(c)a disclaimer, of minimum twenty seconds duration, by the concerned actor regarding the ill effects of the use of such products, in the beginning and middle of the film or television programme;(d)anti-tobacco health spots or messages, of minimum thirty seconds duration each at the beginning and middle of the film or the television programme;(e)anti-tobacco health warning as a prominent scroll at the bottom of the screen during the period of such display;Provided that, the anti-tobacco health warning scroll shall be legible and readable,-(i)(a)with font in black colour on white background;(b)with the warnings "Smoking causes cancer" or "Smoking kills" for smoking forms of tobacco use;(c)with the warnings "Tobacco causes cancer" or "Tobacco kills" for chewing and other smokeless forms of tobacco;(ii)or such other warnings as may be specified by the Central Government from time to time;Provided further that, the anti-tobacco health warning scrolls or health spots shall be in the same language as used in the film or television programme and in case of dubbed or sub-titled films or television programmes,

the scrolls or spots shall be carried in the language of dubbing or sub-title. Explanation. - For the purpose of this rule, - (i) representatives from Ministry of Health and Family Welfare shall also be represented in the Central Board of Film Certification. (ii) all films that receive Central Board of Film Certification after the effective date of this notification shall be categorized as "New Films". (iii) all television programmes produced after the effective date of this notification shall be categorized as "New Television Programme";

9. Product Placement, Promotional materials and Posters. - (1) The display of tobacco products or their use in films and television programmes shall not extend to the following, namely :-

(a) display of the brands of cigarettes or other tobacco products or any form of tobacco product placement; (b) close ups of tobacco products and tobacco products packages; Provided that in a new film or television programme such scenes shall be edited by the producer or distributor or broadcaster prior to screening in cinema or theatre or airing on television, and in an old film or television programme such scenes shall be masked or blurred by the producer or distributor or broadcaster while screening. (2) Promotional materials and posters of films and television programmes shall not depict any tobacco products or their usage in any form.

10. Cropping or Masking of Brand names and Logos of Tobacco Products. - Wherever brand names or logos of tobacco products form a part of the pictures to be printed in any form of print or outdoor media or footage to be aired through any form of electronic media, it shall be mandatory for the media to crop or mask the same to ensure that the brand names and logos of the tobacco products are not visible, except in case of live or deferred live telecast of sports, cultural and other events or activities held in other countries being aired on television in India.]

[ANNEXURE I] [Inserted by Notification No. G.S.R. 619 (E) dated 11.8.2011 (w.e.f. 25.2.2004)] (See Rule 5(1)[a])

1. The Board shall be of a minimum size of 60 cm by 30 cm of white background.

2. The Board shall contain the warning "sale of tobacco products to a person below the age of eighteen years is a punishable offence", in Indian language(s) as applicable and a pictorial depiction of the ill-effects of tobacco use on health.

ANNEXURE II (See Rule 6)

Serial No.	Person authorised to take action
1	Vice Chancellor or Director or Proctor or Principal or Headmaster or In-Charge of an Educational Institution
2	Assistant Labour Commissioner from the Department of Labour
3	All officers of the rank of Sub-Inspector in State Food and Drug Administration from the Department of food and Drugs
4	All officers of the rank of Inspectors from the Department of Education
5	All police officers of the rank of Sub-Inspector of Police and above
6	Municipal Health Officers
7	Representatives of Panchayati Raj Institutions (Chairperson or Sarpanch or Panchayat Secretary)
8	District Programme Manager of Finance Manager-District Health Society (National Rural Health Mission)
9	Civil Surgeon or Chief Medical Officer at District Hospital or Medical Officer at Primary Health Centre (PHC)
10	Block Development Officer, Block Extension Educator (BEE)
11	Director or Joint Director Department of Health, and Department of Education in the State Government
12	Nodal Officers of State and District Tobacco Control Cell under National Tobacco Control Programme