

(4) A manufacturer, importer or distributor of a tobacco product or alcohol product who contravenes the provisions of subsection (1) or any person who contravenes the provisions of subsection (2) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a period not exceeding two years or to such fine and imprisonment.

Offences relating to trade marks of tobacco products and alcohol products.

38. (1) A person shall not distribute, sell or offer for sale, any article which is not a tobacco product or an alcohol product, bearing the trade mark, characteristic symbols, distinctive logo, or brand name of a tobacco product or any alcohol product.

(2) A person shall not manufacture or import for sale, or distribute free of charge, any article which is not a tobacco product having the appearance of a tobacco product.

(3) Any manufacturer or importer who contravenes the provisions of subsection (1) or any person who contravenes the provisions of subsection (2) or subsection (3) shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

39. (1) No person shall smoke or allow any person to smoke any tobacco product within any enclosed public place.

(2) Any person who being the owner, occupier, proprietor, manager, trustee or person in charge of any enclosed public place shall ensure that no person smokes any tobacco product within any such enclosed public place :

Provided however, —

(a) any hotel, guest-house or lodge having thirty rooms or more ;

Smoking in an area to which the public have access to be an offence.

(b) any restaurant or club having the seating capacity of a minimum of thirty persons ; or

(c) an airport,

may, notwithstanding the provisions of subsection (1), have within its premises an enclosed space or enclosed area as the case may be, set aside exclusively for smoking. Such area shall be provided with adequate ventilation and shall conform to the prescribed air quality standards.

(3) The Minister may, in consultation with the Director-General of Health Services, from time to time, issue general or special directions not inconsistent with any written law, as may be required for the enforcement and monitoring of the provisions of this section.

(4) Any person who contravenes the provisions of subsections (1) and (2) shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two thousand rupees or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

(5) For the purposes of this section,

"public place" means any place to which the public have access, whether as of right or otherwise,

"enclosed public place" includes any government department, statutory authority or board or public institution, office premises, bank, court house, auditorium, sports complex, hospital, clinic, dispensary, laboratory, school, university or other educational institution, library, museums, places of worship, hotel, guesthouse, lodge, hostel, restaurant, club, internet cafe, cinema, theatre, supermarket, airport, a waiting room in a railway station or bus terminal, any public conveyance, building, any built a in area and lift.

Tests for  
constituents  
of tobacco  
products.

40. Every manufacturer and every importer of a tobacco product shall, at such intervals and in accordance with such requirements, as may be prescribed, in consultation with the necessary Government Analyst conduct tests for the purpose of identifying the constituents of each brand of tobacco product manufactured or imported, as for the case may be, by such manufacturer or importer and for the respective quantities of those constituents, and shall cause the results of such tests to be sent to the Authority.

Provision  
relating to the  
Motor Traffic  
Act.

41. Where any person appears, or is produced, before a Court accused or suspected of committing an offence under subsection (1) of section 151, or subsection (1a) of section 151, or subsection (2) of section 151 of the Motor-Traffic Act, the court may, notwithstanding anything to the contrary in such law, suspend the driving licence issued to such person under the aforesaid Act until the conclusion of the trial of such offence; and if after trial such person is convicted of such offence may suspend such driving licence for such further period as may be determined by the Court having regard to all the circumstances of the case.

Evidence.

42. Where in any prosecution instituted under this Act, any question arises as to whether any article is a tobacco product or is an alcohol product or as to the constituents of a tobacco product or an alcohol product, a Certificate purporting to be under the hand of the Government Analyst, to the effect that the article referred to in the Certificate is a tobacco product or any alcohol product or as to the constituents of the tobacco product or any alcohol product referred to in the Certificate, shall be admissible in evidence without proof of signature and shall be *prima facie* evidence of the facts stated therein.

Miscellaneous  
offences.

43. Every person who—

- (a) fails to furnish any return or information in compliance with any requirement imposed on him under this Act;
- (b) knowingly makes any false statement in any return or information furnished by him;

(c) being a member, officer or servant of the Authority discloses any information obtained by him in or in connection with the exercise of his powers or the discharge of his functions under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act; or

(d) contravenes the provisions of this Act or any regulation made thereunder, or fails to comply with any direction given to him by the Authority, shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act for which no punishment is expressly provided for shall on conviction after trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(3) Where an offence under this Act is committed by a body of persons, then—

(a) if that body of persons is a body corporate, every director or officer of that body corporate; or

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided however, that a director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all due diligence to prevent the commission of such offence.

(4) An officer or servant authorized in writing by the Authority shall be deemed to be a public officer within the meaning of section 136 of the Code of Criminal Procedure Act, No. 15 of 1979, for the purpose of instituting proceedings in respect of offences under this Act.

Sinhala text to prevail in case of inconsistency.

44. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Interpretation.

45. In this Act unless the context otherwise requires—

“alcohol product” means a beverage containing a volume of one *per centum* (1%) or more of alcohol;

“Chairman” means the Chairman of the Authority appointed under section 8 ;

“local authority” means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any authority created or established by or under any law to exercise perform and discharge, powers, duties and functions corresponding to or similar to the powers duties and functions exercised, performed and discharged by any such Council or Sabha ;

“National Dangerous Drugs Control Board ” means the National Dangerous Drugs Control Board established by the National Dangerous Drugs Control Board Act, No. 11 of 1984;

“ Provincial Council” means a Provincial Council established under Chapter XVIII A of the Constitution ;

“tar” means the raw anhydrous nicotine free condensate of smoke ;

“tobacco product” means any product manufactured wholly or partly from tobacco and which is intended to be smoked, snuffed, sucked or chewed.