

Dziennik Ustaw - Journal of Laws (J.L.) 96.10.55

1997-10-22	amended by	J.L. 97.121.770	article 82
1998-09-01	amended by	J.L. 97.88.554	article 5 §2 point 47
2000-01-01	amended by	J.L. 99.96.1107	article 1
2000-01-03	amended by	J.L. 99.96.1107	article 1
2000-12-04	amended by	J.L. 99.96.1107	article 1
2001-01-01	amended by	J.L. 99.96.1107	article 1
2001-12-04	amended by	J.L. 99.96.1107	article 1
2004-01-15	amended by	J.L. 03.229.2274	article 1

ACT**on Protection of Health against the Consequences of Consumption of Tobacco and Tobacco Products**

of 9 November 1995

(J.L. of 30 January 1996)

With a view to prevent addiction to tobacco and tobacco products, there shall be enacted as follows:

Article 1. The central and local government bodies shall undertake to protect the health of the public against the consequences of the consumption of tobacco and tobacco products. Any such body may choose to support relevant actions of professional medical government, community organisations, foundations, institutions and workplaces, and co-operate with churches and other religious associations.

Article 2. In this Act:

- 1) Tobacco means cultivated tobacco plants (*Nicotiana*);
- 2) ⁽¹⁾ Tobacco products means all products made of tobacco, including cigarettes, cigars, cigarillos, pipe tobacco, sacred tobacco, sneezing powder and other produce containing tobacco, tobacco components, save the pharmaceuticals with nicotine content;
- 3) ⁽²⁾ Smokeless tobacco products means the tobacco produce intended for sniffing (sneezing powder), sucking (snus), chewing, or otherwise entering in the body, save the pharmaceuticals with nicotine content;
- 4) Tobacco accessories means the articles and devices assisting consumers of tobacco include: cigarette boxes, mouthpieces, cigarette roll-up papers, rolling machines, pipes and tools for their cleaning and stuffing, ashtrays, cigar cutters, etc. (save lighters and matches);
- 5) ⁽³⁾ Tobacco advertising means any public dissemination of images of tobacco product brands, or logos thereof, and the names and logos of tobacco companies, substantially the same as the names and logos of tobacco products used for tobacco brands promotion; tobacco advertising shall not include the commercial information exchanged by the tobacco products manufacturers, distributors and traders;

- 6) ⁽⁴⁾ Information of tobacco products means any information on tobacco product brands and the content of harmful substances, without any message encouraging purchase or consumption of such products, posted solely in the retail outlets offering tobacco products;
- 6a) ⁽⁵⁾ Tar means raw, dehydrated, nicotine-less condensate of tobacco smoke condensate;
- 6b) ⁽⁶⁾ Nicotine means nicotine alkaloids;
- 6c) ⁽⁷⁾ Carbon monoxide (CO) means the colourless and odourless gas, the result of the incomplete combustion of organic substances, present in the gas phase of tobacco smoke;
- 6d) ⁽⁸⁾ Additives means all and any substances, or components thereof, save the tobacco leaves, or other, natural or unprocessed components of tobacco used throughout manufacturing of tobacco products and present in the finished tobacco product, transformed or otherwise, in having regard to the paper, filters, paints and glue;
- 7) ⁽⁹⁾ Tobacco products promotion means the public, free-of-charge distribution of tobacco products or accessories, orchestrating sampling, bonus sales of tobacco products, along with other schemes of public encouragement, or consumption of tobacco products;
- 8) ⁽¹⁰⁾ Sponsoring means support, financial, or in-kind, of the actions by individuals, or institutions that involve display of the names of products and companies, and their logos.

Article 3. The protection of health against the consequences of the consumption of tobacco shall be by the set-out of health, economic and social policy, including the following:

- 1) Protection of the right of non-smokers to live in the environment free from the tobacco smoke;
- 2) Promotion of health by putting pressure on the healthy lifestyle free from addiction to smoke cigarettes and consume other tobacco products;
- 2a) ⁽¹¹⁾ Upbringing and awareness rising;
- 3) Ensuring economic and legal conditions that encourage curbing of the consumption of tobacco;
- 4) ⁽¹²⁾ Information of the detrimental effects of smoking, stating the content of the harmful substances on the tobacco products packaging and information matter;
- 5) Reduction of the permissible rate of harmful substances content in tobacco products; and
- 6) Treatment and rehabilitation of tobacco addicts.

Article 4. 1. The Council of Ministers shall define the programme of the health, social and economic policy focussed on limiting consumption of tobacco products.

2. The Council of Ministers shall each year report to Parliament on the programme delivery, by April 30th.

3. ⁽¹³⁾ The programme referred to in item 1 shall be funded from the public purse, with the total balance accounting for 0.5% on the excise tax on tobacco products.

Article 5. 1. ⁽¹⁴⁾ Smoking shall be forbidden outside of the dedicated and adequately equipped rooms:

- 1) In Health Care Centres, subject to provisions of item 2;
- 2) In schools and other educational establishments; and
- 3) In workplaces and other public facilities, and, in small, one-room catering outlets, outside of the places clearly marked as smoking areas.

1a. ⁽¹⁵⁾ The owner, or user of the facilities shall be held accountable for the introduction of the smoking ban on the premises referred to in item 1.

2. The doctor responsible for the patient's treatment may in specific circumstances allow the patient admitted to the health care centre, to be allowed to smoke.

3. ⁽¹⁶⁾ The minister competent for health, the minister competent for interior and the minister competent for justice shall each by Order determine the rules of consuming the tobacco products in the facilities under their authority.

4. *Gmina* [district] Council may by Resolution define for the *gmina* the smoke-free public areas and spots, other than referred to in item 1.

Article 6. 1. Tobacco products shall no be sold to those under 18 years of age.

1a. ⁽¹⁷⁾ If the age of the buyer cannot be established right away, the shop assistant shall be authorised to request the document verifying the age of buyer.

2. ⁽¹⁸⁾ Tobacco products shall not be sold at Health Care Centres, schools, other educational outlets and the sporting and recreation facilities.

3. Tobacco products shall not be available in vending machines.

4. Cigarettes shall not be sold in the packs of fewer than twenty pieces, or bulk with no packaging.

Article 7. ⁽¹⁹⁾ 1. No smokeless tobacco products other than sneezing powder shall be manufactured, or distributed to the market.

2. ⁽²⁰⁾ (Repealed).

Literature quotations.

Article 7a. ⁽²¹⁾ It shall be forbidden to use any additives that increase addictive properties of nicotine.

Article 7b. ⁽²²⁾ Packaging of tobacco products shall not display any inscriptions, names, trademarks, symbols or any markings whatsoever, suggesting that the product shall have been less harmful than other products.

Article 8. ⁽²³⁾ 1. It shall be forbidden to advertise and promote tobacco products and accessories, and the products that imitate tobacco products, or accessories, and symbols alluding to the consumption of tobacco, notably:

1) On TV and radio, in cinemas, Health Care Centres, schools and other educational establishments, the press addressed to children and the youth, sporting and recreation facilities and other public places;

2) In the press other than referred to in point 1;

3) On posters in that displayed on large area advertising boards; or

4) ⁽²⁴⁾ In IT media.

2. It shall be forbidden for tobacco companies to sponsor sporting, cultural, community and political activities, health care and education.

Article 8a. ⁽²⁵⁾ 1. By December 31st each year, every manufacturer, or importer of tobacco products shall present the list of all additives and the volume thereof, used over the year at manufacturing the tobacco products, by their brands and types. The first list, advising on the additives used in 2004 shall be presented by December 31st 2004.

2. The manufacturer, or importer of tobacco products shall attach to the list referred to in item 1 the rationale for using each additive present in any given tobacco product, defining its functions and categories.

3. The manufacturer or importer of tobacco products shall attach to the list referred to in item 1 toxicological data thereby held, on the additives, combusted or un-combusted, as the case may be, with particular focus on their impact on health, including addictive consequences.

4. The lines of list referred to in item 1 shall be sequenced in decreasing order, by the mass of each of the additives contained in the product.

5. The manufacturer or importer of tobacco products shall present the list referred to in item 1 to the minister competent for health, who shall distribute it to the public on the Official Journal of the minister competent for health, in accounting for the need to protect trade secrets of the manufacturer, or importer of tobacco products.

Article 8b. ⁽²⁶⁾ 1. The minister competent for health may request the manufacturer, or importer of tobacco products to carry out certain studies in designated test laboratories to determine the substances other than referred to in article 2 point 6a through to 6c, emitted by tobacco products, and the assessment of impact of these substances on the human health, in having regard to the addictive properties of each substance.

2. The studies referred to in item 1 shall be carried out on the cost of the manufacturer, or importer of tobacco products.

3. The results of the studies referred to in item 1 shall be presented to the minister competent for health, who shall give credit to them in the information for consumers, in observing the trade secrets of the manufacturer, or importer of tobacco products.

4. The minister competent for health shall publish the information referred to in item 3 forthwith upon receipt thereof, in the Official Journal of the minister competent for health.

Article 9. ⁽²⁷⁾ 1. Each unit packet of cigarettes entered in the market of the Republic of Poland shall have the following affixed, visibly, legibly and permanently:

1) Two different warnings on the harmful consequences of the consumption of tobacco that is one universal and one extra warning;

2) The information on the content of tar, nicotine and carbon monoxide in one cigarette.

2. The warnings referred to in item 1 point 1, in Polish shall occupy no less than 30% of the largest surfaces of the unit pack and no less than 40% of the second largest surface of the that unit pack.

3. Provisions of 1 point 1 and item 2 shall apply to other tobacco products, having regard for item 4 and 5, as appropriate.

4. The packaging of the smoking tobacco products other than cigarettes, distributed to the retail market, whose largest and best displayed surfaces total over 75cm², the warning statements on the harmful effects of smoking shall occupy no less than 22.5cm² of every such surface.

5. The sneezing powder packs shall display one warning statement that shall have occupied no less than 30% of the single, best visible surface of the pack.

6. The warning statement referred to in item 1 point 2, in Polish, shall occupy no less than 10% of one of the side surfaces of reach unit pack of cigarettes.

7. Moreover, the statements referred to in item 1 point 1 shall be displayed on the transport packing in the retail market, occupying at least 30% of one of the largest surfaces thereof, and at least 40% of the second largest surface of the packing.

8. The information on tobacco products referred to in article 2 point 6, shall include clearly displayed and legible universal warning on the harmful effects of the consumption of tobacco, occupying at least 20% of the surface provided for the information.

Article 10.⁽²⁸⁾ The minister competent for health shall by Order determine the permissible content of tar, nicotine and carbon monoxide in the smoke, manner of selection and the list of the test laboratories authorised to establish the actual content of these substances, along with the content, layout and the fashion of placing of warning statements and the information referred to in article 9, in accounting for the need to break the warning statements down into the universal and extra warning statements, and in having regard to the goals of the health care policy pursued by the Act, notably the following:

- 1) Curbing distribution and intensity of consumption of the tobacco products;
 - 2) Reduction of the volume of damages to health, caused by tobacco-induced diseases;
 - 3) Effective oversight of tobacco products, and
- the fundamental standards applicable to tobacco products set out in the EU regulations.

Executive deeds

Article 11. The tobacco dependence shall be treated free of charge in the Public Health Care Centres.

Article 12.⁽²⁹⁾ Any person who

- 1) Manufactures, or introduces to the market the tobacco products, where the content of harmful substances exceeds the permissible limits;
- 2) Manufactures, or introduces to the market the smokeless tobacco products other than the sneezing powder;
- 3) Introduces to the market the tobacco products, whose packaging do not display the warning statements on the detrimental effects of tobacco consumption, or the content of the harmful substances, or
- 4) Advertises, promotes, or sponsors the tobacco products contrary to provisions of article 8;

shall be guilty of an offence and liable to a fine not exceeding PLN 200,000 or imprisonment, or both.

Article 12a.⁽³⁰⁾ Any person who affixes, on packing of tobacco products, any inscriptions, names, trademarks, symbols and other markings suggesting that the product is less harmful than other products, shall be guilty of an offence and liable to a fine not exceeding PLN 200,000 or limitation of freedom, or both.

Article 12b.⁽³¹⁾ Any person who, when manufacturing the tobacco products, uses the additives that addictive properties of these products, shall be guilty of an offence and liable to a fine not exceeding PLN 500,000 or limitation of freedom, or both.

Article 13. 1. Any person who

- 1) Sells tobacco products in violation of the bans referred to in article 6;
- 2) Smokes tobacco in the places where smoking is prohibited as set forth in article 5; or
- 3) ⁽³²⁾ Allows smoking at the site within the person's responsibility, contrary to the bans referred to in article 5;

shall be guilty of an offence and liable to a fine.

2. In any of the events referred to in item 1, decisions shall be adjudicated in pursuance of the petty offence handling procedure.

Article 14. ⁽³³⁾ Should any of the acts referred to in article 12, 12a and 12b, or in article 13 item 1 point 1 be committed as part of business, the perpetrator shall be the person responsible for launching the production process, commercial introduction of the tobacco products, or organisation of the market for the tobacco products.

Article 15. ⁽³⁴⁾ Should any of the acts referred to in article 12 point 1 through to 33, 12a and 12b, or in article 13 item 1 point 1, the court may decide on forfeiture of the tobacco products being the subject matter of that act, even if they be the property of the person other than the perpetrator.

Article 16. In the decree on Tobacco Growing and Manufacture of Tobacco Products, of June 24th 1953 (J.L. No. 34/1953, item 144, No. 41/1988, item 324, No. 35/1989 item 192 and No. 47/1993, item 211) there shall be deleted article 8a.

Article 17. This Act shall come into force 3 months upon promulgation hereof.

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- ¹⁾ Article 2 point 2 amended by virtue of article 1 point 1 letter a) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of January 3rd 2000.
 - ²⁾ Article 2 point 3 amended by virtue of article 1 point 1 letter b) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of January 3rd 2000.
 - ³⁾ Article 2 point 5 added by virtue of article 1 point 1 letter c) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of January 3rd 2000.
 - ⁴⁾ Article 2 point 6 added by virtue of article 1 point 1 letter d) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of December 4th 2000.
 - ⁵⁾ Article 2 point 6a added by virtue of article 1 point 1 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
 - ⁶⁾ Article 2 point 6b added by virtue of article 1 point 1 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
 - ⁷⁾ Article 2 point 6c added by virtue of article 1 point 1 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
 - ⁸⁾ Article 2 point 6d added by virtue of article 1 point 1 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
 - ⁹⁾ Article 2 point 7 added by virtue of article 1 point 1 letter e) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
 - ¹⁰⁾ Article 2 point 8 added by virtue of article 1 point 1 letter f) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.

- 11) Article 3 point 2a added by virtue of article 1 point 2 letter a) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
- 12) Article 3 point 4 amended by virtue of article 1 point 2 letter b) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of December 4th 2000.
- 13) Article 4 item 3 added by virtue of article 1 point 3 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 1 January 2000.
- 14) Article 5 item 1 amended by virtue of article 1 point 4 letter a) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 1 January 2001.
- 15) Article 5 item 1a added by virtue of article 1 point 4 letter b) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
- 16) Article 5 item 3 amended by virtue of article 1 point 4 letter c) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
- 17) Article 6 item 1a added by virtue of article 1 point 2 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 18) Article 6 item 2 amended by virtue of article 1 point 5 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
- 19) Article 7 amended by virtue of article 1 point 6 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.
- 20) Article 7 item 2 repealed by virtue of article 1 point 3 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 21) Article 7a added by virtue of article 1 point 4 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 22) Article 7b added by virtue of article 1 point 4 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 23) Article 8 amended by virtue of article 1 point 7 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000, however provisions of item 1 point 3 shall come into force on December 4th 2000 and provisions of item 1 point 2 and item 2 shall come into force on December 4th 2001.
- 24) Article 8 item 1 point 4 added by virtue of article 1 point 5 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 25) Article 8a added by virtue of article 1 point 6 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 26) Article 8b added by virtue of article 1 point 6 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 27) Article 9 amended by virtue of article 1 point 7 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.
- 28) Article 10:
 - amended by virtue of article 1 point 9 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.

- amended by virtue of article 1 point 8 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.

29) Article 12:

- amended by virtue of article 5 § 2 point 47 of the act of June 6th 1997: regulations introducing the Penal Code (J.L. 97.88.554) effective as of September 1st 1998.

- amended by virtue of article 1 point 10 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000;

- amended by virtue of article 1 point 9 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004;

30) Article 12a added by virtue of article 1 point 10 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.

31) Article 12b added by virtue of article 1 point 10 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.

32) Article 13 item 1 point 3 added by virtue of article 1 point 11 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000.

33) Article 14:

- amended by virtue of article 82 of the act of August 20th 1997: regulations introducing the National Court Register Act (J.L. 97.121.770) effective as of October 22nd 1997;

- amended by virtue of article 1 point 12 of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000;

- amended by virtue of article 1 point 12 letter b) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of December 4th 2000; and

- amended by virtue of article 1 point 11 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.

34) Article 15:

- amended by virtue of article 1 point 12 letter b) of the act of November 5th 1999 (J.L. 99.96.1107) amending this Act effective as of 3 January 2000; and

- amended by virtue of article 1 point 11 of the act of 28 November 2003 (J.L. 03.229.2274) amending this Act effective as of 15 January 2004.