

NORTHERN TERRITORY OF AUSTRALIA

TOBACCO ACT

As in force at 1 May 1997

Table of provisions

1	Short title	1
2	Commencement	1
3	Interpretation	1
4	Authorised officers	2
5	Duties and powers of authorised officers.....	2
6	Packaging of tobacco products.....	3
7	Vending machines to have health warning and prescribed notice affixed	4
8	Sale of tobacco products to children prohibited	4
9	Supply of tobacco products to children prohibited	5
10	Regulatory offences.....	5
11	Regulations.....	5
12	Repeal	6

Schedule Acts repealed

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1997

TOBACCO ACT

An Act to restrict the sale of tobacco products, and for related purposes

1 Short title

This Act may be cited as the *Tobacco Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

authorised officer means a person appointed under section 4 to be an authorised officer and includes a member of the Police Force exercising the duties and powers of an authorised officer.

brand name, in relation to a tobacco product, means the brand name, or any part of it, under which the product is sold, and includes a trade mark.

Chief Medical Officer means the Chief Medical Officer appointed under section 5 of the *Public Health Act*.

child means a person who has not attained the age of 18 years.

health warning means a prescribed health warning.

package, in relation to a tobacco product, includes:

- (a) a box, carton, cylinder, packet, pouch and tin; and
- (b) a wrapping other than a transparent outer wrapping.

premises includes a building, vehicle or boat.

sell includes:

- (a) to barter or exchange;

-
- (b) to offer or expose for sale, barter or exchange;
 - (c) to supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
 - (d) to supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain.

tobacco product means tobacco, cigarettes, cigars and all products the main ingredient of which is tobacco and which are prepared for human consumption or use, but does not include nicotine or a product containing nicotine so far as the *Poisons and Dangerous Drugs Act* applies to or in relation to nicotine or to the product containing nicotine.

trade mark means a registered trade mark within the meaning of the *Trade Marks Act 1955* of the Commonwealth.

vending machine means a machine, device or contrivance that is constructed to contain tobacco products which may be obtained from it by an operation that involves the insertion in the machine of a banknote, coin, token or similar object.

- (2) A reference in this Act to the carrying on of the business of selling tobacco products includes a reference to:
 - (a) the selling of tobacco products only, whether or not by a vending machine, or in conjunction with other merchandise; or
 - (b) the carrying on of the business whether or not in conjunction with another business.

4 Authorised officers

- (1) The Chief Medical Officer may, by notice in writing, appoint a person to be an authorised officer for the purposes of this Act.
- (2) The Chief Medical Officer shall cause to be issued to each authorised officer, other than a member of the Police Force, a certificate of appointment and an authorised officer shall produce the certificate on request by a person in respect of whom the authorised officer has exercised or is about to exercise his or her powers under this Act.

5 Duties and powers of authorised officers

- (1) The duties of authorised officers are to ensure that this Act is being observed.

-
- (2) An authorised officer may, at all reasonable times, enter premises where the officer believes that tobacco products are being packaged, sold or supplied for the purposes of:
- (a) examining tobacco products and packages used or intended for packaging tobacco products; and
 - (b) examining vending machines.
- (3) Where an authorised officer believes that an offence against this Act has been or is being committed, the authorised officer may take possession of goods or samples of goods for use as evidence in a prosecution for the offence.
- (4) Where an authorised officer believes on reasonable grounds that a person whose name, address or age is not known to him or her may be able to assist the officer in inquiries in connection with an offence against this Act that has been, may have been, is being or may be committed, the officer may request the person:
- (a) to state:
 - (i) his or her name and address; and
 - (ii) his or her age; and
 - (b) to provide, without delay, proof of the person's age.
- (5) Where an authorised officer has requested a person to make a statement or provide proof of age in accordance with subsection (4), the person shall not:
- (a) refuse or fail to make the statement requested or provide the proof of age; or
 - (b) make a false statement in answer to the request.

Penalty: \$200.

6 Packaging of tobacco products

- (1) A person shall not sell tobacco products unless they are enclosed in a package that displays a health warning in the size and manner prescribed and placed as prescribed in relation to the prescribed space on the package.

Penalty: \$5,000.

-
- (2) A person shall not sell tobacco products that are enclosed in 2 or more packages unless each package displays a health warning referred to in subsection (1).

Penalty: \$5,000.

- (3) A person shall not sell a package containing tobacco products on which the words:

- (a) "non-injurious" or "non-hazardous" appear; or
(b) words that convey, or tend to convey, an indication that smoking is not a hazard to health appear,

whether or not the package is otherwise marked in accordance with this Act.

Penalty: \$5,000.

7 Vending machines to have health warning and prescribed notice affixed

The owner of a vending machine and the occupier of the premises where the vending machine is installed shall ensure that:

- (a) a health warning; and
(b) a prescribed notice,

are affixed to, and kept conspicuously displayed on, the front of the machine.

Penalty: \$5,000.

8 Sale of tobacco products to children prohibited

- (1) The occupier of premises where the business of selling tobacco products is being carried on shall display a prescribed notice in a manner and position that is likely to attract the attention of his or her customers.

Penalty: \$5,000.

- (2) A person shall not sell, or cause or permit to be sold, a tobacco product to a child.

Penalty: \$10,000.

-
- (3) The occupier of premises on which a vending machine is installed shall not permit a child to obtain a tobacco product from the machine.

Penalty: \$10,000.

- (4) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant proves that he or she:
- (a) had reasonable cause to believe that the person purchasing or obtaining the tobacco product was not a child; or
 - (b) had taken all reasonable precautions to ensure that the tobacco product was not sold or supplied to the child.

9 Supply of tobacco products to children prohibited

- (1) A person shall not supply, or offer to supply, whether by gift or other means, a tobacco product to a child or to a person who the supplier knows or has reason to believe will supply the product to a child.

Penalty: \$10,000.

- (2) A person shall not purchase a tobacco product for use by a child.

Penalty: \$10,000.

- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant proves that he or she:
- (a) had reasonable cause to believe that the person to whom the tobacco product was supplied was not a child; or
 - (b) had taken all reasonable precautions to ensure that the tobacco product was not supplied to a child.

10 Regulatory offences

An offence against section 6 or 7 is a regulatory offence.

11 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

-
- (2) Without limiting the generality of subsection (1), the Regulations may prescribe:
- (a) the words or symbols that comprise health warnings or notices;
 - (b) the place where words or symbols are to be marked;
 - (c) the size, type face and colour in which words or symbols, and the colour of their background, are to be marked;
 - (d) the manner of marking, whether by printing or otherwise, a health warning or notice;
 - (e) the manner, form and method of displaying health warnings and notices;
 - (f) the area or size of a health warning or notice; and
 - (g) a penalty not exceeding a fine of \$10,000 for an offence against the Regulations.

12 Repeal

The Acts specified in the Schedule are repealed.

Schedule Acts repealed

section 12

Act	No.	Year
<i>The Children's Protection Amendment Act, 1904 of South Australia in its application to the Territory</i>	875	1904
<i>Cigarette Containers (Labelling) Ordinance 1972</i>	68	1972
<i>Cigarette Containers (Labelling) Amendment Act 1986</i>	7	1986

ENDNOTES**1****KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Tobacco Act 1992 (Act No. 47, 1992)***

Assent date 7 September 1992
Commenced 11 November 1992 (*Gaz G45*, 11 November 1992, p 2)

Tobacco Amendment Act 1993 (Act No. 20, 1993)

Assent date 16 June 1993
Commenced 16 June 1993

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date 11 April 1997
Commenced s 16: 10 December 1997 (s 2(1), s 2 *Meat Industries Act 1996* (Act No. 54, 1996) and *Gaz G49*, 10 December 1997, p 3);
rem: 1 May 1997 (s 2(2) and *Gaz G17*, 30 April 1997, p 2)

3**LIST OF AMENDMENTS**

s 3 amd No. 20, 1993, s 3; No. 17, 1997, s 17
s 4 amd No. 20, 1993, s 4; No. 17, 1997, s 17
s 5 amd No. 20, 1993, s 5
s 6 amd No. 20, 1993, s 6