

INTRODUCTION

SMOKING REGULATIONS IN PUBLIC PLACES

Legislation to control the hazards that smoking poses to human health has escalated in the last decade. In Lagos State, the Regulation of Smoking Law was assented to on 17th day of February 2014, with the full implementation of this Law commencing six (6) months afterwards.

At the Federal tier of governance, the Tobacco Smoking (Control) Act 1990, and the Tobacco Control Bill 2013, are legislations that are also worthy of review for a further appreciation of some of the legislations which regulate the smoking of tobacco products in public places.

CONTROL OF SMOKING IN PUBLIC PLACES

Save for the few exempted areas, the Lagos State Regulation of Smoking Law, 2014 forbids smoking in all public places.

One of the exceptions to this rule is the one that states that the only places where an individual can smoke, as from 16th August 2014, are on a street, a road or a highway.

A second exception to the no smoking in public places rule is the requirement that an owner, an occupier or a person in charge of a Tertiary Institution, a Bar, a Night Club or a Hotel is allowed to designate not more than Ten per cent (10%) of such a person's premises as a smoking area. A designated smoking area must however have the necessary smoking signs, with good cross ventilation, and where necessary, proper ventilating equipment.

CONDITIONS FOR NO-SMOKING AREAS

It is the duty of the owner or occupier or manager of a Tertiary Institution, a Bar, a Night Club or a Hotel to ensure that:-

- (i) The internationally recognised "No-Smoking" Signs or Symbols are conspicuously displayed at each entrance and in other prominent locations of his, her or its premises.
- (ii) "No-Smoking" Signs must be affixed with the Smoke Detectors in the premises.
- (iii) Ensure that people that smoke on the street, near its premises, do so at least Ten (10) meters from the premises.
- (iv) Ensure that Smoking outside the permitted No-Smoking area in its premises does not occur.

PENALTIES FOR BREACH OF NO SMOKING REGULATIONS

Any person who smokes in a public place that is not exempted under the Lagos State Regulation of Smoking Law commits an offence which on conviction carries a fine of not less than Ten Thousand Naira (N10,000) and not more than Fifteen Thousand Naira (N15,000); or to a term of imprisonment that is not less than One (1) month and not more than Three (3) months; or to such other non-custodial punishment as a Judge may deem fit; or to both the fine and the term of imprisonment.

Where a smoker is a repeat offender, the Lagos State Regulation of Smoking Law prescribes a fine of Fifty Thousand Naira (N50,000) or a term of imprisonment of Six (6) months; or both the fine and the term of imprisonment as the Judge deems fit.

PENALTIES FOR BREACH ? SIGNS, SMOKE DETECTORS

It is an offence for the owner, occupier or a person in charge of a "No-Smoking Area" to fail to put up the "No-Smoking Signs" in such areas; or to fail to install smoke detectors; or to stop anyone from smoking in the non-exempted areas of his or her or its premises.

The penalties for the above offence, on conviction, includes a fine of One Hundred Thousand Naira (N100,000) or a term of imprisonment of Six (6) months; or to both the fine and the term of imprisonment. The Judge that hears the case is also allowed to award other non-custodial punishments.

Where the smoking control offence is committed by a corporate body, firm or association, the Directors, Managers, Partners, Company Secretary or such other similar or senior official of such an establishment could be held liable as if they personally committed the offence; and on conviction, they will suffer a fined Two Hundred and Fifty Thousand Naira (N250,000). The only permissible defence is for such an individual to establish that he took all reasonable steps to stop the smoker from smoking in his premises.

Where further or repeated violations occur, the premises so affected could be sealed up for the repeated smoking regulations violation.

SMOKING IN THE PRESENCE OF CHILDREN ? SECTION 9

To protect children from third party smoking, which is arguably as harmful as direct smoking itself, it is now an offence to smoke in the presence of a child under the age of Eighteen (18) years old; or to expose a child to any form of smoking.

The punishment for smoking in the presence of a child is a fine of Fifteen Thousand Naira (N15,000), or a term of imprisonment of One (1) month; or both the fine and the term of imprisonment. The trial Judge is equally given the discretion to order a non-custodial punishment for this infringement.

For repeat offenders, who expose children to smoking, the punishment, on conviction, is a fine of One Hundred Thousand Naira (N100,000), or a term of imprisonment of One (1) year; or to both the term of imprisonment and the fine herein stated.

TOBACCO SMOKING (CONTROL) ACT ? FEDERAL LAW

The existing Federal Law that regulates tobacco smoking is the Tobacco Smoking (Control) Act, 1990. This Federal Law prohibits the smoking of tobacco in certain public places like Cinemas, Theatres, Stadia, Offices, Public Transportation, Lifts, Medical establishments, Schools and Nursery Institutions.

TOBACCO PRODUCTS AND ADVERTISEMENT WARNINGS

The advertisement of tobacco products through the medium of newspapers, magazines, radio, television, cinema, billboards and handbills must contain a prominent warning which says that tobacco smoking is dangerous to health.

In furtherance of the tobacco warning requirement, all tobacco packages must have inscribed on them the following package-rotational warnings, namely:-

- a. "The Federal Ministry of Health warns that tobacco smoking is dangerous to health;" and
- b. "Smokers are liable to die young."

It is also compulsory that all tobacco products must state the amount of the tar, and the nicotine content in each unit of each tobacco product.

The promotion or sponsorship of sporting events by tobacco and tobacco related firms is not allowed as a medium to advertise tobacco products at such events without the tobacco warning that "smoking is dangerous to health" prominently displayed.

PENALTIES ? PUBLIC SMOKING AND ADVERTISEMENT WARNINGS

Any person who smokes tobacco in prohibited public places is guilty of an offence and liable, on conviction, to a fine of not less than N200 and not more than N1000; or to imprisonment for a term of not less than one (1) month but not more than Two (2) years.

A person found guilty of smoking in prohibited public places could also suffer both a fine and a term of imprisonment as stated in the preceding above paragraph.

Any person who advertises, sells or offer for sale any tobacco product without the prescribed tobacco warning prominently inscribed on the tobacco product is liable, on conviction, to a fine of not less than Five Thousand Naira (N5,000).

Where the offending advertiser or seller of tobacco products without the statutory warning signs inscribed on the tobacco product is a corporate body, the penalty for contravention, on conviction, is a fine of not less than Five Thousand Naira (N5,000) or imprisonment for a term not exceeding Three (3) years; or to both the fine and the term of imprisonment to be borne by the key or controlling officials of the corporate body who were aware, connived or consented to the tobacco warning statutory contravention(s).

TOBACCO SMOKING (CONTROL) BILL, 2013

Numerous Tobacco Smoking Control Bills have remained un-passed into Law by the National Assembly. One of such Bills is the Tobacco Smoking (Control) Bill 2013, which seeks to provide regulations on the production, importation, exportation, advertisement, promotion, sponsorship, distribution, sale of tobacco products, and the designation of areas where tobacco products may or may not be smoked; and on other matters related to tobacco smoking.

Subject to the final deliberation and the assent to one of the versions or a harmonised version of the Tobacco Smoking (Control) Bill, it is anticipated that further legislation on the labelling of tobacco products, health warnings on tobacco products, outdoor public smoking of tobacco products, the retail selling of tobacco products to persons under the age of 18 years old, advertising and sponsorship of tobacco led events, licensing of the stakeholders in the tobacco industry, enforcement of these regulations, etc. will be captured in this awaited Federal Law.

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