

CONTROL OF TOBACCO AND RELATED PRODUCTS ORDINANCE, 2019

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II
ENFORCEMENT OFFICERS

3. Enforcement officers
4. Powers of enforcement officers

PART III
SMOKE-FREE PREMISES AND VEHICLES

5. Premises open to public
6. Places of work
7. Meaning of enclosed and substantially enclosed premises
8. Vehicles
9. Additional smoke-free places
10. No-smoking signs in premises and vehicles

PART IV
SALE OF TOBACCO OR RELATED PRODUCTS

11. Sale of tobacco or related products
12. Sale or supply of tobacco to children
13. Prohibition on self service
14. Prohibition on public displays
15. Prohibition on sales of tobacco or related products in certain places
16. Prohibition on toy or candy cigarettes

PART V
ADVERTISING, SPONSORSHIP AND PROMOTION

17. Prohibition against advertising, promotion and sponsorship

PART VI
PACKAGING, LABELLING AND PRODUCT REQUIREMENTS

18. Conformity with packaging, labelling and product requirements
19. Requirements for tamper-proof packaging and labelling

PART VII
SEIZURE AND FORFEITURE

20. Seizure of tobacco or related products

**PART VIII
OFFENCES**

21. Offences relating to smoking in smoke-free places
22. Offences relating to no-smoking signs
23. Offence of failing to prevent smoking in smoke-free place
24. Offences relating to children
25. Offences relating to sale, display or importation
26. Offences relating to advertising, promotion or sponsorship
27. Offences relating to packaging, labelling or product requirements
28. Obstruction of officers
29. General provisions regarding offences

**PART IX
FIXED PENALTIES**

30. Fixed penalty notice
31. Contents of penalty notice
32. Effects of penalty notice and payment
33. Proceedings for offence
34. Withdrawal of penalty notice

**PART X
MISCELLANEOUS**

35. Regulations
36. Repeal of legislation



ST HELENA

A BILL

FOR

AN ORDINANCE

to make new provision for the control of tobacco, tobacco products, nicotine, nicotine products and herbal products for smoking; to make provision for the registration of dealers in tobacco and related products and regulate the sale of tobacco and related products; to prohibit smoking in certain premises and vehicles; to regulate the display, packaging and sale of tobacco and related products; to control the advertising and promotion of tobacco and related products; and for connected and incidental purposes.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

PART I PRELIMINARY

Short title and commencement

1. (1) This Ordinance may be cited as the Control of Tobacco and Related Products Ordinance, 2019, and comes into force on a date the Governor in Council appoints by notice in the *Gazette*.

(2) A notice under subsection (1) may appoint different dates for different provisions or for different purposes of the same provision, and may contain incidental or transitional provisions that appear to the Governor in Council necessary or expedient.

Interpretation

2. (1) In this Ordinance—
“**advertisement**” in relation to a tobacco or related product, means a commercial communication through any media or means that is intended to have, or is likely to have, the direct, indirect or incidental effect of—
(a) creating an awareness of a tobacco or related product, brand, manufacturer or seller;

or

(b) promoting the purchase or use of a tobacco or related product or brand, and “**advertise**” and other related expressions must be construed accordingly;

“**child**” means an individual who is under the age of 18 years;

“**electronic cigarette**” means a product that can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges);

“**enforcement officer**” means an enforcement officer referred to in section 3;

“**herbal product for smoking**” means a product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process;

“**importer**” means a person who receives or arranges for the receipt of tobacco or related products from another country for sale or supply in St Helena;

“**manufacturer**” means a person who manufactures, fabricates, produces, processes, packages or labels tobacco or related products;

“**package**” means a covering, wrapper, container, carton or other enclosure that contains a tobacco or related product including labels and other written or graphic information on or in it;

“**promotion**” in relation to a tobacco or related product, includes advertisement and a commercial act or practice that is intended to or is likely to encourage or recommend a tobacco or related product or the use of a tobacco or related product, directly or indirectly;

“**related product**” in relation to a tobacco product, means any nicotine, nicotine products and herbal products for smoking, and includes an electronic cigarette or a refill container;

“**smoke-free**” in relation to any premises or vehicle, means that no person is allowed to smoke while at such premises or in such vehicle;

“**smoke-free place**” means any premises, place or vehicle which is smoke-free by virtue of any provision of this Ordinance;

“**smoking**” refers to smoking tobacco or related product or anything which contains tobacco or a related product, or smoking any other substance, and includes being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit or heated substance in a form in which it could be smoked, and “**smoke**” and other related expressions must be construed accordingly;

“**supply**” means to sell, give, exchange, convey, consign, deliver, furnish, or transfer possession of a tobacco or related product, or arrange or offer to do so, whether for a fee or other consideration or without charge;

“**tobacco**” means any product containing tobacco and intended for oral or nasal use and smoking mixtures intended as a substitute for tobacco;

“**tobacco product**” means a product entirely or partly made from the leaf tobacco as raw material, which is manufactured to be used for smoking, sucking, chewing or snuffing; and

“**work**” includes work done for compensation and voluntary work.

PART II

ENFORCEMENT OFFICERS

Enforcement officers

3. (1) The Governor may appoint such number of enforcement officers as the Governor deems necessary or desirable for the administration and enforcement of this

Ordinance.

(2) Every police officer and customs officer is an enforcement officer for the purposes of this Ordinance.

Powers of enforcement officers

4. (1) An enforcement officer may—
- (a) exercise, in relation to the enforcement of this Ordinance, any power which can be exercised by a police officer (under the Police and Criminal Evidence Ordinance, 2003, or otherwise) in relation to the enforcement of any law which creates criminal offences;
 - (b) at any reasonable time enter any premises in which the enforcement officer knows or reasonably believes that a tobacco or related product is manufactured, stored, sold, transported, received, distributed or supplied, and conduct inspections or investigations;
 - (c) at any reasonable time stop, search and detain an aircraft, ship, vehicle or other means of transport or storage in which the enforcement officer knows or reasonably believes bulk packaging of tobacco or related products are or were contained or conveyed;
 - (d) examine, open and take samples of any tobacco or related product or component of the product, and its packaging, from any premises, conveyance or storage, to have it tested;
 - (e) examine, open, and cause to be tested any equipment, tool, material, package or anything the enforcement officer reasonably believes is used or is capable of being used for the manufacture, packaging and labelling, storage, distribution, advertising or promotion of a tobacco or related product;
 - (f) seize and detain, or order the storage without removal or alteration of, any tobacco or related product or other item the enforcement officer reasonably believes does not comply with this Ordinance;
 - (g) examine and make copies of or from any books, documents, notes, files, including electronic files, or other records that the enforcement officer reasonably believes might contain information relevant to determining compliance with this Ordinance;
 - (h) interview any person the enforcement officer believes may have information relevant to making a compliance determination; and
 - (i) where the enforcement officer is a customs officer, seize any tobacco or related product being imported that does not comply with the packaging, labelling or other product requirements as prescribed under this Ordinance;
 - (j) seize any tobacco or related product in the possession of any person apparently under the age of 18 years whom the officer finds smoking.

PART III SMOKE-FREE PREMISES AND VEHICLES

Premises open to public

5. (1) All premises which are open to the public must be smoke-free.

(2) Subject to subsection (3), the smoke-free requirement under subsection (1) applies only in those areas which are enclosed or substantially enclosed as defined in section 7.

(3) In the case of government buildings, the smoke-free requirement applies to any

areas that adjoin the building and are used or occupied by it, even if such areas are not enclosed or substantially enclosed.

(4) For purposes of this section, premises are “**open to the public**” if the public, or a section of the public, has access to these premises, whether by invitation or not, and whether on payment or not.

(5) If only part of the premises is open to the public, the smoke-free requirement applies only to that extent and the limits of these areas must be clearly marked as required by section 10.

Places of work

6. (1) All premises which are used as a place of work (including voluntary work) must at all times be smoke-free if—

- (a) the premises are used by more than one person (even if the persons who work there do so at different times, or only intermittently); or
- (b) members of the public might attend for the purpose of seeking or receiving goods or services from any person working there.

(2) If only part of the premises is used as a place of work, the smoke-free requirement applies only to that extent.

(3) The smoke-free requirement applies only in those areas which are enclosed or substantially enclosed as defined in section 7.

(4) A private dwelling which is also used as a place of work is exempt from the smoke-free requirement if, but only if, the work done there is limited to work in one or more of the following forms:

- (a) providing personal care for a person living in the dwelling;
- (b) assisting with the domestic work of the household in the dwelling;
- (c) maintaining the structure or fabric of the dwelling;
- (d) installing, maintaining or removing any service provided to the dwelling for the benefit of persons living in it.

(5) For purposes of this section—

- (a) “**place of work**” means a place used by persons during their employment or work and includes vehicles, common areas, and any other area which is generally used during the course of employment or work; and
- (b) “**private dwelling**” includes any self-contained residential accommodation for permanent, temporary or holiday use and any garage, outhouse or other structure for the exclusive use of persons living in the dwelling.

Meaning of enclosed and substantially enclosed premises

7. (1) For the purposes of sections 5 and 6, premises are—

- (a) enclosed if they have a ceiling or roof and, except for doors, windows and passageways, are wholly enclosed either permanently or temporarily;
- (b) substantially enclosed if they have a ceiling or roof, but the opening (or an aggregate area of openings) in the walls is less than half of the area of walls.

(2) In determining the area of opening (or aggregate area of openings) under subsection (1)(b), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

(3) In this section—

- (a) “**roof**” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including a canvas awning, whether or not the roof is connected to the walls; and
- (b) “**walls**” include other structures that serve the purpose of walls and constitute the perimeter of the premises.

Vehicles

8. (1) A person may not smoke in any vehicle which is occupied by a passenger other than the driver, regardless of whether or not the other person in the vehicle is a smoker.

(2) A vehicle must be smoke-free if it is used—

- (a) by members of the public or a section of the public (whether or not for reward or hire); or
- (b) in the course of paid or voluntary work by more than one person (even if those persons use the vehicle at different times or only intermittently).

(3) A vehicle is not used in the course of paid or voluntary work for purposes of subsection (2)(b) if it is used primarily for the private purposes of a person who owns the vehicle, or has a right to use it, and such use is not restricted to a particular journey.

Additional smoke-free places

9. (1) The Governor in Council may by order designate as smoke-free any place or description of place or vehicle, which is not otherwise smoke-free under this Ordinance if, in the opinion of the Governor in Council, there is a significant risk that, without that designation, persons present there would be exposed to significant quantities of smoke.

(2) A place or vehicle designated as smoke-free under subsection (1) need not be enclosed or substantially enclosed.

(3) An order under this section may provide that the smoke-free requirement applies to such place or a description of place or vehicle only—

- (a) in specified circumstances;
- (b) at specified times;
- (c) if specified conditions are satisfied;
- (d) in specified areas.

No-smoking signs in premises and vehicles

10. A person who occupies or is concerned with the management of smoke-free premises or any person with the management responsibilities for a smoke-free vehicle must ensure that no-smoking signs complying with prescribed requirements are displayed in those premises or in that vehicle, as the case may be.

PART IV
SALE OF TOBACCO AND RELATED PRODUCTS

Sale of tobacco or related products

11. (1) A person may not sell or offer for sale any tobacco or related products unless that person is registered as a dealer in tobacco and related products under this Ordinance.

(2) An applicant for a certificate of registration as a dealer in tobacco and related products must apply for registration in the prescribed form and pay the prescribed fee.

Sale or supply of tobacco or related product to children

12. (1) A person may not—

- (a)* sell a tobacco or related product to a child, whether or not for the child's own use;
- (b)* supply a tobacco or related product to a child; or
- (c)* hire or use a child to sell any tobacco or related product.

(2) A person registered to deal in tobacco or related products must, in an attempt to verify that the prospective purchaser of a tobacco or related product is over the age of 18 years, require that purchaser to produce documentary identification that contains proof of his or her identity and age.

Prohibition on self service

13. A person may not sell or offer for sale a tobacco or related product—

- (a)* in such a way that a consumer may handle the product without the assistance of a sales clerk or other employee or agent of the seller prior to purchase;
- (b)* through any self-service means, including automatic vending machines, mail or internet; or
- (c)* any other means of sale where the age of the purchaser of a tobacco or related product cannot be verified at the point of sale.

Prohibition on public displays

14. (1) A person may not display a tobacco or related product or its packaging in such a way that the tobacco or related product is visible to the public.

(2) The prohibition under subsection (1) does not apply to individuals incidentally or accidentally displaying a tobacco or related product during carrying or use.

(3) This section also applies to cigarette dispensers provided by a manufacturer, and these devices may not be used for the purposes of advertisement or the promotion of a tobacco or related product and must meet the prescribed requirements.

(4) A person may not display any material related to the pricing of a tobacco or related product and a price list for such product may be made available to a customer on request only and must be printed in standard font on plain white A4 sized paper.

Prohibition on sales of tobacco or related product in certain places

- 15.** A person may not sell or offer for sale a tobacco or related product in—
- (a) facilities where health care services are provided;
 - (b) sports, athletic or recreational facilities;
 - (c) government buildings;
 - (d) educational facilities; or
 - (e) any other place as may be prescribed.

Prohibition on toy or candy cigarettes

- 16.** A person may not—
- (a) import or manufacture; or
 - (b) sell or supply, display for sale or distribute,
- sweets, snacks, toys or other non-tobacco items or objects in the form of tobacco or related products, or which imitate tobacco or related products.

PART V ADVERTISING, SPONSORSHIP AND PROMOTION

Prohibition against advertising, promotion and sponsorship

17. (1) A person may not initiate, produce, publish, engage or participate in advertising, promotion or sponsorship of tobacco or related products or of tobacco or related product company brands.

(2) A person may not offer a free tobacco or related product and may not offer or provide a direct or indirect consideration for the purchase or use of a tobacco or related product, including a bonus, premium, cash rebate or right to participate in a game, lottery or contest.

(3) Any form of tobacco or related product sponsorship, advertising and promotion, where the name of a sponsoring entity is publicised, is prohibited.

(4) A person may not sell, display for sale, supply, or advertise any non-tobacco product or service that contains either on the product, or in an advertisement of the product or service, a depiction of a tobacco or related product or a tobacco or related product company brand.

(5) For the purposes of subsection (4), a “**non-tobacco product**” includes a building, facility, premises, or business.

PART VI PACKAGING, LABELLING AND PRODUCT REQUIREMENTS

Conformity with packaging, labelling and product requirements

18. (1) A person may not import, manufacture, acquire, offer for sale, sell, or supply a tobacco or related product that is not packaged and labelled in a manner, and otherwise complies with the requirements with respect to the product, as prescribed in the Standardised Packaging of Tobacco Products Regulations 2015 (UK SI 2015/829) and of the Tobacco and

Related Products Regulations 2016 (UK SI 2016/507), set out in the Schedule *(or as amended from time to time?)*

(2) A person may not sell any tobacco or related product other than as part of a complete and intact package that meets the packaging and labelling as well as minimum unit or weight requirements.

Requirements for tamper-proof packaging and labelling

19. Every manufacturer, importer, exporter, distributor and retailer must exercise all reasonable and necessary precautions to prevent tampering with the packaging and labelling information while the product is under his or its control or supervision.

PART VII SEIZURE AND FORFEITURE

Seizure of tobacco or related products

20. (1) If an enforcement officer, in exercising the power under section 4(f), seizes and detains any tobacco or related product or other item, the enforcement officer must provide the person in possession of the tobacco or related product or other item with a written record of the tobacco or related product or other item seized and detained, and the grounds for the seizure or detention and inform the person of his or her rights under subsection (3).

(2) An enforcement officer who seizes any tobacco or related product under section 4(j) must give the person from whom it is seized a receipt containing—

- (a) the name of the enforcement officer;
- (b) a description of the item or items seized; and
- (c) a notice of the person's rights under subsection (3).

(3) A person from whom any tobacco or related product or other item is seized may, within 21 days of the date of seizure, make an application to the Magistrates' Court for the tobacco or related product or other item to be returned to the person and the court must, after enquiring into the matter—

- (a) if satisfied that the tobacco or related product or other item meets the legal requirements, or that the person from whom it was seized under section 4(j) was over the age of 18 years on the date of the seizure, order that the tobacco or related product or item be returned to that person; or
- (b) in any other case, order that the tobacco be destroyed.

(4) If no application is made under subsection (3) within the period of 21 days, the Director of Police may, subject to subsection (6), cause the tobacco or related product or other item to be destroyed.

(5) If it is determined that a seized and detained tobacco or related product or other item meets the legal requirements, it must be returned to the premises from which, or the person from whom, it was seized within 30 working days of the date of seizure.

(6) If a seized tobacco or related product or other item does not meet the legal requirements, it may be confiscated and kept as evidence in legal proceedings.

(7) In any action for non-compliance with this Ordinance, the court may order confiscation and forfeiture of—

- (a) an item that contains any tobacco or related product advertising and promotion;
- (b) a tobacco or related product packaged or labelled in a manner that does not conform with this Ordinance;
- (c) all tobacco or related products owned by or under the control of the person found to have committed a violation of Part IV, V or VI;
- (d) equipment, machinery, raw materials, components, packaging and labelling materials, and other items used to manufacture tobacco or related products;
- (e) all tobacco or related products or components that fail to conform with the product requirements under this Ordinance;
- (f) all tobacco or related products for which all applicable taxes and duties have not been paid or which have not legally entered St Helena; and
- (g) all non-tobacco products that contravene section 16.

PART VIII OFFENCES

Offences relating to smoking in smoke-free place

21. (1) A person who smokes in a smoke-free place commits an offence.
Maximum penalty: A fine of £200.

(2) It is a defence for a person charged with an offence under subsection (1) to show that the person did not know, and could not reasonably have been expected to know, that it was a smoke-free place.

(3) A person who smokes in a vehicle in contravention of section 8(1) commits an offence.
Maximum penalty: A fine of £200.

Offences relating to no-smoking signs

22. (1) A person who fails to comply with the duty in section 10 to display no-smoking signs commits an offence.
Maximum penalty: A fine of £800

(2) It is a defence for a person charged with an offence under subsection (1) to show that—

- (a) the person did not know, and could not reasonably have been expected to know, that the premises were, or the place or vehicle was, smoke-free;
- (b) the person did not know, and could not reasonably have been expected to know, that no-smoking signs complying with the requirements of this Ordinance were not being displayed in accordance with the requirements of this Ordinance; or
- (c) on any other grounds it was reasonable for the person not to comply with the duty.

Offence of failing to prevent smoking in smoke-free place

23. (1) A person who controls or is concerned in the management of any smoke-free place (and, in the case of a smoke-free vehicle, also the driver) must cause any person smoking in that place or vehicle to stop smoking.

(2) A person who fails to comply with the duty in subsection (1) commits an offence.
Maximum penalty: A fine of £800.

(3) It is a defence for a person ('P') charged with an offence under subsection (2) to show that—

- (a)** P took reasonable steps to cause the person in question to stop smoking;
- (b)** P did not know, and could not reasonably have been expected to know, that the person in question was smoking; or
- (c)** on any other grounds it was reasonable for P not to comply with the duty.

Offences relating to children

24. (1) A person who sells or supplies a tobacco or related product to a child or who uses a child to sell a tobacco or related product in contravention of section 12, commits an offence.

Maximum penalty: A fine of ...

(2) A person supervising a child or who has responsibility for the welfare of a child who causes or permits that child to smoke or have in his or her possession any tobacco or related product, commits an offence.

Maximum penalty: A fine of £...

(3) A court may, on conviction of a person for an offence under subsection (1) or (2), make an order that the relevant child attend and comply with a programme or treatment for the cessation of smoking as the court deems appropriate.

(4) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences relating to sale, display or importation

25. (1) A person who sells, offers for sale or displays any tobacco or related product in contravention of section 11, 13, 14 or 15 commits an offence.

Maximum penalty: A fine of ...

(2) A person who contravenes the provisions of section 16 commits an offence.

Maximum penalty: A fine of ...

Offences relating to advertising, promotion or sponsorship

26. A person who contravenes the provision of section 17 commits an offence.

Maximum penalty: A fine of ...

Offences relating to packaging, labelling or product requirements

27. A person who fails to comply with the provision of sections 18 or 19 with respect to packaging, labelling or product requirements, commits an offence.
Maximum penalty: A fine of ...

Obstruction of officers

28. (1) A person who intentionally obstructs an enforcement officer acting in the performance of the officer's functions under this Ordinance commits an offence.
Maximum penalty: A fine of £500.

(2) A person who without reasonable cause fails to give to an enforcement officer acting in the performance of the officer's functions under this Ordinance, any facilities, assistance or information which the enforcement officer reasonably requires of the person for the performance of those functions, commits an offence.
Maximum penalty: A fine of £500.

(3) A person who, in purported compliance with any requirement of an enforcement officer makes a statement which is false or misleading in a material particular and either knows that it is false or misleading or is reckless as to whether it is false or misleading, commits an offence.
Maximum penalty: A fine of £500.

General provisions regarding offences

29. (1) For a continuing violation, each day the violation continues constitutes a separate offence.

(2) Where a person derives any monetary or financial benefit directly or indirectly from an act or omission that constitutes a violation under this Ordinance or other applicable law, including any imposing duties and taxes, all proceeds gained from this benefit will be forfeited in addition to any other penalty imposed.

(3) Where an offence under this Ordinance is committed by a body corporate and it is proved to have been committed with the consent or connivance of or to be attributable to negligence on the part of a director, manager, secretary or other officer of the body corporate, that person as well as that body commits the offence and is liable to be proceeded against and penalised accordingly.

(4) If a person who is registered as a dealer under section 11 is convicted of an offence under this Ordinance, the court may, in addition to any other penalty, order that the registration be cancelled and also any fees paid for such registration be forfeited and that the person be disqualified from the day of conviction from being so registered for a period not exceeding 3 years.

(5) If a person who is registered as a dealer under section 11 is convicted of an offence under this Ordinance on more than 3 occasions within a 24 month period, the registration of that person automatically lapses.

Fixed penalty notice

30. (1) An enforcement officer who has reason to believe that a person has committed an offence under this Ordinance or the regulations may give the person a penalty notice in respect of the offence.

(2) A penalty notice is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty in accordance with this Part.

Contents of penalty notice

- 31.** A penalty notice must be in the form prescribed by regulation and must state—
- (a)* the alleged offence (giving such particulars of the circumstances alleged to constitute it as are necessary to provide reasonable information about it);
 - (b)* the amount of the penalty and the period for payment of it (which must not be less than 30 days from the date of the notice);
 - (c)* the consequences of not paying the penalty before the end of the period mentioned in the notice;
 - (d)* the person to whom and the address at which payment may be made;
 - (e)* the person to whom and the address at which any representations relating to the notice may be made; and
 - (f)* that the person to whom it is given has a right to be tried for the alleged offence and explain how that right may be exercised.

Effect of fixed penalty notice and payment

32. (1) Proceedings for the offence in respect of which a penalty notice was given may not be brought before the end of the period for payment of the penalty.

(2) Subsection (1) does not apply if the person to whom the notice was given has returned the penalty notice to the enforcement officer indicating that the offence is denied.

(3) If the penalty is paid in accordance with the penalty notice before the end of the period mentioned in the notice, no proceedings for the offence may be brought.

(4) If proceedings have been brought following the return of the penalty notice under subsection (2), but then the penalty is paid in accordance with the penalty notice before the end of the period mentioned in the notice, those proceedings may not be continued.

Proceedings for offence

33. If the person to whom a penalty notice has been given fails to pay the penalty by the due date, proceedings may be taken against the person as if the penalty notice had not been issued.

Withdrawal of penalty notice

- 34. (1)** If an enforcement officer considers that a penalty notice should not have been

given, the notice may be withdrawn.

(2) If a penalty notice is withdrawn any amount which has been paid by way of a penalty pursuant to the penalty notice must be repaid.

PART X MISCELLANEOUS

Regulations

35. The Governor in Council may make regulations necessary or convenient for the purposes of this Ordinance, and without limiting that power, the regulations may specifically—

- (a) prescribe places that are exempt from the smoke-free requirement, specifying criteria for these smoke-free places, including a requirement for these places to be clearly marked and have arrangements in place to prevent smoke entering other areas, and may specify that these exemptions apply at specified times or in specified circumstances;
- (b) prescribe the requirements for no-smoking signs to be posted at smoke-free premises or in smoke-free vehicles;
- (c) prescribe the requirements and process for registration as a dealer in tobacco or related products and procedures for appeal and offences relating to registration;
- (d) regulate or prohibit the importation or sale of specified tobacco or related products listed in the regulations;
- (e) prescribe graphical images that are required to be displayed in health warnings on packages;
- (f) prescribe the amount of the fixed penalty for purposes of section 31;
- (g) prescribe the forms to be used and fees to be paid under the Ordinance; and
- (h) any other matter which must or may be prescribed under the Ordinance.

Repeal of legislation

36. The Tobacco Control Ordinance, 2011, is repealed.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

The purpose of this Ordinance is to review the provisions relating to tobacco control. The Ordinance also covers products other than tobacco products and includes electronic cigarettes and herbal products for smoking. The Ordinance revises the provisions with respect to smoke-free premises and vehicles and introduces a new registration process for dealers in tobacco or related products. The Ordinance also regulates advertisement, promotion and sponsorship with respect to tobacco or related products and brands and also prescribes the packaging, labelling and other requirements for such products to comply with the requirements as prescribed under the English laws. The Ordinance also makes provision for seizure and forfeiture of tobacco and related products that do not comply with the Ordinance. A new penalty notice process is also introduced offering an offender the opportunity to discharge any liability to conviction for the offence by paying a penalty.