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Number 27 of 1978.

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**TOBACCO PRODUCTS (CONTROL OF ADVERTISING, SPONSORSHIP AND SALES PROMOTION) ACT, 1978.**

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AN ACT TO PROVIDE FOR THE CONTROL AND REGULATION (INCLUDING THE PROHIBITION) OF ADVERTISING OF TOBACCO PRODUCTS AND OF OTHER MEANS OF PROMOTING THE SALE OF SUCH PRODUCTS (INCLUDING SPONSORSHIP), AND TO PROVIDE FOR OTHER CONNECTED MATTERS.

[6th December, 1978]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**Definitions.**

**1.**—In this Act—

"advertisement", in relation to a tobacco product, includes every form of recommendation of the product to the public, including, in particular—

- ( a ) the statement of the name of the product or of any brand, trade description or designation by reference to which the product is sold, where such a statement may reasonably be regarded as a recommendation of the product to the public, and
- ( b ) the statement of any properties of the product on a label, container, wrapper or package used for the product or in a leaflet, circular, pamphlet or brochure issued to the public or given to a purchaser of the product,

and cognate words shall be construed accordingly;

"the Minister" means the Minister for Health;

"sponsorship" means the giving, or the causing to be given, of financial or other assistance to or for a person or for or in relation to an event or activity, in consideration of the use, display, advertising or association with, or by the person or at or in connection with the event or activity (or with the name or tide of he event or activity), of a tobacco product (or of the name of a brand of tobacco product);

"tobacco product" has the same meaning as in the Finance (Excise Duty on Tobacco Products) Act, 1977.

**Control of advertising of tobacco products and of sponsorship.**

**2.**—(1) The Minister may make regulations for the control and regulation of—

- ( a ) advertising of tobacco products,
- ( b ) sponsorship,
- ( c ) any other activities which are intended or are likely to promote the sales of tobacco products.

(2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may provide for all or any of the following—

- ( a ) the prohibition of particular kinds of advertising of tobacco products,
- ( b ) the prohibition of particular kinds of sponsorship,
- ( c ) the control of the form, content and frequency of advertisements of tobacco products,

- (*d*) the restriction of expenditure on advertising of tobacco products and on sponsorship,
- (*e*) a requirement that an advertisement for a tobacco product (or a particular kind of such an advertisement) shall include a notice or statement (in such form as shall be specified in the regulations) indicating the risk to the health of persons associated with the use of the product,
- (*f*) a requirement that a package, container or wrapper in which a tobacco product (or a particular tobacco product) is packed or offered for sale shall bear a notice or statement (in such form as shall be specified in the regulations) indicating the risk to the health of persons associated with the use of the product,
- (*g*) a requirement that any person engaged in the importation, manufacture, sale, promotion or distribution of tobacco products shall furnish to the Minister such information as the Minister considers necessary for the purposes of this Act,
- (*h*) the prohibition of any offers to sell tobacco products of a particular brand at prices lower than those otherwise obtaining for that brand by making available to persons a coupon or similar document or otherwise,
- (*i*) the prohibition of the sale of tobacco products at prices which are so much lower than those at which tobacco products of a similar type or character are at the material time being sold that the sale at the lower prices constitutes in the opinion of the Minister a sales promotion device,
- (*j*) the prohibition of the use, in relation to the sale or purchase of tobacco products, of vouchers, trading stamps, coupons, premia, tokens or gifts,
- (*k*) the enforcement, of regulations under this section by officers of the Minister and by officers of a health board established under the Health Act, 1970.

(3) Every regulation under this section shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which the House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done under the regulation.

#### Offences.

**3.—(1)** A person who contravenes a regulation under section 2 of this Act shall be guilty of an offence and shall be liable, on conviction on indictment, to a fine not exceeding £10,000 and, in the case of a continuing offence, to a further fine not exceeding £1,000 for each day on which the offence is continued.

(2) A Justice of the District Court shall have jurisdiction to try summarily any offence under subsection (1) of this section if—

- (*a*) the Justice is of opinion that the facts proved or alleged against the defendant so charged constitute a minor offence fit to be tried summarily,
- (*b*) the Director of Public Prosecutions consents, and
- (*c*) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and on conviction under this subsection, the defendant shall be liable to a fine not exceeding £500 and, in the case of a continuing offence, to a further fine not exceeding £25 for each day on which the offence is continued.

(3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under subsection (1) of this section as if the reference in subsection (2) (*a*) of section 13 to the penalties provided for in subsection (3) of section 13 were a reference to the penalty provided for

by subsection (2) of this section in relation to that offence when tried summarily.

(4) Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any person, who when the offence is committed is a director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly.

**Expenses.**

**4.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

**Short title.**

**5.**—This Act may be cited as the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act, 1978.

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ACTS REFERRED TO

Criminal Procedure Act, 1967	1967, No. 12
Finance (Excise Duty on Tobacco Products) Act, 1977	1977, No. 32
Health Act, 1970	1970, No. 1

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