

Draft Act amending the Act on the Restriction of the Use of Tobacco and Related Products

Article 1

In Article 1 of the Act on the Restriction of the Use of Tobacco and Related Products (OJ RS, Nos 9/17 and 29/17), the words 'Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products (OJ L 360, 17.12.2014, p. 22)' is replaced by the words 'Commission Delegated Directive (EU) 2022/2100 of 29 June 2022 amending Directive 2014/40/EU of the European Parliament and of the Council as regards the withdrawal of certain exemptions in respect of heated tobacco products (OJ L 283, 3.11.2022, p. 46)'.

Article 2

In Article 3, point 12 is amended to read as follows:

'12. An electronic cigarette is a product that can be used to deliver nicotine-containing or non-nicotine-containing vapour through a mouthpiece or any component of that product, including a cartridge, a tank, and a device without a cartridge or a tank. Electronic cigarettes may be either disposable after use or refillable using a refill container and tank, or they can be refilled with a single-use cartridge.'

Point 17 is deleted.

A new point 19.a is added after point 19, which reads as follows:

'19.a. A novel nicotine product is a product that does not belong to any of the following categories of products that contain nicotine but do not contain tobacco: electronic cigarettes, refill containers and registered nicotine replacement therapy products.'

A new point 22.a is added after point 22, which reads as follows:

'22.a. A heated tobacco product is a novel tobacco product that is heated to produce an emission containing nicotine and other chemicals, which is then inhaled by user(s) and that, depending on its characteristics, is a smokeless tobacco product or a tobacco product for smoking.'

Point 23 is amended to read as follows:

'23. A refill container is a receptacle that contains a nicotine or non-nicotine liquid or any other cartridge, which can be used to refill an electronic cigarette.'

Point 25 is amended to read as follows:

'25. Related products are electronic cigarettes, including refill containers, herbal products for smoking, novel tobacco products and novel nicotine products. Related products include accessories or devices for their use, without which the related products cannot be used.'

Point 40 is amended to read as follows:

'40. Roll-your-own tobacco is tobacco which can be used for making cigarettes by consumers or retail outlets.'

Point 50 is amended to read as follows:

'50. A herbal product for smoking is a product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process.'

Article 3

In Article 11, the paragraph 1 is amended to read as follows:

'(1) The placing on the market of cigarettes, roll-your-own tobacco and heated tobacco products with a characterising flavour shall be prohibited.'

Article 4

In Article 12, the paragraph 2 is amended to read as follows:

'(2) The placing on the market of cigarettes, roll-your-own tobacco and heated tobacco products containing flavouring substances in any of the components, such as filters, paper, wrappings and capsules, or having technical characteristics which make it possible to alter the smell or taste of the tobacco product or smoke intensity shall be prohibited. Filters, papers and capsules shall not contain tobacco or nicotine.'

Article 5

In Article 13, a new paragraph 7 is added after paragraph 6 which reads:

'(7) Images of unit packets and any outside packaging of tobacco products targeted at consumers shall comply with the heading "2. Labelling and packaging" of Chapter II of this Act.'

Article 6

In the Article 14(1), the introductory sentence is amended to read as follows:

'(1) Each unit packet and outside packaging of tobacco products for smoking, including heated tobacco products in the case of tobacco products for smoking, shall bear the following general warning:'

In the paragraph 2, the introductory sentence is amended to read as follows:

'(2) Each unit packet and outside packaging of tobacco products for smoking, including heated tobacco products in the case of tobacco products for smoking, shall bear the following information message:'

In the paragraph 3, the first sentence is amended to read as follows: 'In the case of unit packets containing cigarettes, unit packets with heated tobacco products in the case of tobacco products for smoking and square-shaped unit packets with roll-your-own tobacco, the general warning shall be displayed at the bottom of one side surface of the unit packet, while the information message shall be displayed at the bottom of the other side surface.'

Article 7

In the Article 15(1), the first sentence of the introductory sentence is amended to read as follows: 'Each unit packet and outside packaging of tobacco products for smoking, including heated tobacco products in the case of tobacco products for smoking, shall bear combined health warnings.'

Article 8

In Article 22, paragraph 9 is amended to read as follows:

'(9) The economic entity involved in the trade in tobacco products shall not modify or delete the recorded data.'

Article 9

In the Article 25(2), in the first sentence, after the word 'paragraph', the comma and the words 'when NLZOH considers this necessary due to changed conditions'.

After paragraph 2, a new paragraph 3 is inserted, which reads as follows:

'(3) NLZOH shall charge manufacturers and importers fees for receiving, storing, handling and analysing the data submitted pursuant to this Article.'

The existing paragraph 3, which becomes the paragraph 4, is amended to read:

'(4) The Minister shall determine the form and method of notification and the amount of the fees referred to in this Article.'

Article 10

In the Article 26(3):

- point 1 is amended to read as follows:

'1. a nicotine or non-nicotine liquid or cartridge shall be placed on the market in dedicated refill containers with a volume not exceeding 10 ml. In disposable electronic cigarettes or in single use cartridges the volume of a cartridge or a tank does not exceed 2 ml;'

- point 3 is amended to read as follows:

'3. a nicotine or non-nicotine liquid or cartridge shall not contain the additives referred to in the Article 12(1) of this Act;'

- point 4 is amended to read as follows:

'4. only pure ingredients shall be used in the production of a nicotine or non-nicotine liquid or cartridge. In the liquid or cartridge, substances, except for the ingredients referred to in point 2 of the paragraph 2 of this article, shall be present only in trace amounts, if such trace amounts are unavoidable from a technical point of view during production;'

- at the end of point 7, the dot is replaced by a semicolon and a new point 8 is added, which reads as follows:

'8. A nicotine or non-nicotine liquid or any other cartridge used in electronic cigarettes or refill containers shall not contain any flavourings other than the taste or smell of tobacco or menthol.'

In paragraph 5, point 2 is amended to read as follows:

'2. regardless of the preceding point, they do not contain elements or characteristics referred to in Article 17 of this Act, except in the first indent of the paragraph 1 regarding information on nicotine content and information relating to the taste or smell of tobacco or menthol, and in the case of nicotine content, they state the following health warning that meets the requirements of the Article 16(2) and (3) of this Act:

"This product contains nicotine which is a highly addictive substance. It is not recommended for use by non-smokers."'

In paragraph 8, a new, third sentence is added after the second sentence, which reads as follows: 'The NLZOH and the Health Inspectorate of the Republic of Slovenia shall, upon request, make all information received in accordance with this article available to the European Commission and other EU Member States, ensuring that trade secrets and other confidential information are treated confidentially.'

Article 11

After the Article 28(2) the following new paragraph 3 is added, which reads as follows:

'(3) NLZOH shall charge manufacturers and importers fees for receiving, storing, handling, analysing and publishing the data submitted pursuant to this Article.'

The existing paragraph 3, which becomes the paragraph 4, is amended to read:

'(4) The Minister shall lay down more detailed conditions for reporting on the ingredients of herbal products for smoking and the amount of fees referred to in this Article.'

Article 12

The title of Chapter V is amended to read as follows:

'V. ADVERTISING, PROMOTION, SPONSORSHIP, SALE AND IMPORT'

Article 13

In Article 30:

— the title of the article is amended to read as follows:

'(prohibition of sale and acquisition)';

— after the paragraph 6, a new, paragraphs 7 and 8 are added, which read as follows:

'(7) An individual may not sell or place on the market tobacco, tobacco products or related products.

(8) The consumer may not acquire tobacco, tobacco products or related products in contravention of this article.'

Article 14

After the current Article 30 a new Article 30.a is added which reads as follows:

'Article 30.a

(Import ban)

(1) The import of products referred to in the Article 11(1), Article 12(1), (2) and (3), and Article 24 of this Act shall be prohibited.

(2) An individual may not import tobacco, tobacco products or related products, with the exception of products that are exempted from paying import duties in shipments or personal luggage of the passenger in accordance with the regulation governing the system of customs exemptions in the EU.'

Article 15

The title of Chapter VII is amended to read as follows:

'VII. SMOKING BAN'.

Article 16

In Article 39(3), at the end of the third indent, the semicolon is replaced by a period, and the fourth indent is deleted.

The paragraph 4 is deleted.

The paragraph 5 becomes the paragraph 4.

Article 17

Article 40 is deleted.

Article 18

The wording of Article 41 is amended to read as follows:

'(1) Supervision over the implementation of this Act shall be carried out by the Health Inspectorate of the Republic of Slovenia, the Labour Inspectorate of the Republic of Slovenia, the Market Inspectorate of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia and the police and city warden services.

(2) The Health Inspectorate of the Republic of Slovenia supervises:

1. emissions of tar, nicotine and carbon monoxide from cigarettes referred to in Article 7 of this Act;
2. the prohibition on the placing on the market of tobacco products with a characterising flavour referred to in Article 11 of this Act;
3. the prohibition on the placing on the market of tobacco products containing additives referred to in Article 12 of this Act;
4. reporting and informing producers and importers about the ingredients and emissions of tobacco products and related products in accordance with Article 9, Article 10, Article 25, Article 26(1), (2) and (6), and Article 28 of this Act;
5. obligations to be fulfilled by producers, importers and distributors of electronic cigarettes referred to in the Article 26(9), (10) and (11) of this Act and the conditions to be met by electronic cigarettes referred to in the Article 26(3) of this Act;
6. the prohibition of smoking or the use of tobacco, tobacco products and related products, other than chewing tobacco and nasal tobacco, in public spaces referred to in Article 39 of this Act;
7. individuals who do not comply with the prohibition of smoking or the use of tobacco, tobacco products and related products, other than chewing tobacco and nasal tobacco, in public spaces referred to in Article 39 of this Act.

(3) The Health Inspectorate of the Republic of Slovenia, on the basis of its own findings or the findings of NLZOH that tobacco, tobacco products and related products are produced, sold or placed on the market in contravention of Articles 7, 8, 11, 12 and 26 of this Act, by a decision prohibits the production and sale of these products and orders their removal from production and sale.

(4) The Health Inspectorate of the Republic of Slovenia, based on the findings of the NLZOH, that for a certain brand and type of tobacco, tobacco products and related products, their producers and importers do not fulfil the obligation to report or inform about the products referred to in Articles 9, 10, 25, 26 and 28 of this Act, by a decision prohibits the sale of these products and orders their removal from sale.

(5) At the request of the Health Inspectorate of the Republic of Slovenia or the Financial Administration of the Republic of Slovenia, NLZOH may carry out laboratory testing of tobacco, tobacco products and related products. Legal and natural persons who place tobacco, tobacco products and related products on the market must make a sample of such product available to the competent inspector (hereinafter referred to as "inspector") free of charge. If, through laboratory

testing, it is established that the sample taken during the control procedure does not comply with the provisions of this Act, the costs of the laboratory testing shall be borne by the legal or natural person from whom the sample was taken.

(6) The Labour Inspectorate of the Republic of Slovenia supervises:

1. the prohibition of smoking or the use of tobacco, tobacco products and related products, other than chewing tobacco and nasal tobacco, in workplaces referred to in Article 39 of this Act;
2. individuals who do not comply with the prohibition of smoking or the use of tobacco, tobacco products and related products, other than chewing tobacco and nasal tobacco, in workplaces referred to in Article 39 of this Act.

(7) The Market Inspectorate of the Republic of Slovenia supervises business entities, namely:

1. the conditions to be met by tobacco and tobacco products referred to in Articles 13 to 20 of this Act;
2. the prohibition on the placing on the market of tobacco for oral use referred to in Article 24 of this Act;
3. the conditions to be met by electronic cigarettes and refill containers referred to in the Article 26(4) and (5) of this Act;
4. the conditions to be met by herbal products for smoking referred to in Article 27 of this Act;
5. the prohibition of sponsorship and advertising of tobacco, tobacco products and related products referred to in Article 29 of this Act;
6. the prohibition of sales referred to in Articles 30 and 31 of this Act;
7. the sale of tobacco, tobacco products and related products without the authorisation referred to in Article 32 of this Act and the visibility of the authorisation in the business premises referred to in the Article 34(3) of this Act.

(8) The Financial Administration of the Republic of Slovenia supervises:

- conditions laid down in Articles 22 and 23 of this Act to be met by tobacco and tobacco products;
- the conditions to be met by electronic cigarettes and refill containers referred to in the Article 26(3) of this Act when imported from third countries, with the support provided by the Health Inspectorate of the Republic of Slovenia;
- individuals who sell, place on the market or acquire tobacco, tobacco or related products in contravention of Article 30(7) and (8) of this Act;
- the import ban referred to in Article 30.a of this Act;
- sale of tobacco, tobacco products and related products without authorisation referred to in Article 32 of this Act.

(9) If the Market Inspectorate of the Republic of Slovenia determines that tobacco and tobacco products are produced, sold or placed on the market in contravention of Articles 13 to 20 of this Act or are sold without the authorisation referred to in Article 32 of this Act, it shall issue a decision prohibiting their production, sale or placing on the market and order their removal from production or sale.

(10) If the Financial Administration of the Republic of Slovenia determines that tobacco, tobacco products and tobacco related products are sold without the authorisation referred to in Article 32 of this Act, it shall issue a decision prohibiting their sale and order their removal from production or sale.

(11) The Health Inspectorate of the Republic of Slovenia shall, on the basis of the notification referred to in the Article 26(12) of this Act, adopt appropriate temporary measures for the protection of human health, which include a ban on the sale of a particular product or a withdrawal of a particular product from the market.

(12) If the competent inspection body determines that tobacco or related products are produced, sold or placed on the market in contravention of Articles 26 and 27 of this Act or without the authorisation referred to in Article 32 of this Act, it shall issue a decision prohibiting the sale, placing on the market or production of these products and order their removal from production or sale.

(13) If the Market Inspectorate of the Republic of Slovenia determines that tobacco, tobacco products or tobacco related products are being sponsored or advertised in contravention of Article 29 of this Act, such sponsorship or advertising shall be prohibited by decision. In order to enforce the decision, it orders the immediate removal of advertising material at the expense of the business entity.

(14) The competent inspector may cooperate with a person under the age of 18 in carrying out supervision of the prohibition on the sale of tobacco, tobacco products and tobacco related products to persons under 18 years of age referred to in the Article 30(1) of this Act. For the participation of minors, the prior written consent of their parents or guardians shall be obtained.

(15) The police and city warden services control the prohibition of smoking in all vehicles in the presence of persons under the age of 18, as referred to in the Article 39(1) of this Act.'

Article 19

In Article 42, the paragraph 1 is amended to read as follows:

'(1) A legal entity shall be fined between EUR 4 000 and EUR 33 000 for an offence:

1. if it produces, sells or places on the market cigarettes that contain higher contents of tar, nicotine and carbon monoxide, as specified in Article 7 of this Act;
2. if it sells or places on the market tobacco products for which the obligation to report on the ingredients and emissions of these products has not been fulfilled (Articles 9 and 10);
3. if it produces, places on the market or sells tobacco products with a characteristic flavour (Article 11) or with additives referred to in Article 12(1) and (3) of this Act, or if it produces, sells or places on the market tobacco products that contain aromatic substances in any of their components (Article 12(2));
4. if it places on the market or sells tobacco products and smokeless tobacco products that do not meet the conditions regarding labelling, packaging, general warnings, informative messages and combined health warnings (Articles 13, 14, 15 and 16);
5. if it places on the market or sells tobacco products whose labelling or outside packaging contravenes the provisions of Article 17 of this Act;
6. if it places on the market or sells cigarette packets and outside packaging of cigarettes whose appearance and content contravene the provisions of Article 18 of this Act;
7. if it places on the market or sells unit packets of roll-your-own tobacco and outside packaging of roll-your-own tobacco whose appearance and content contravene the provisions of Article 19 of this Act;
8. if it places on the market or sells cigarettes, the appearance of which contravenes the provisions of Article 20 of this Act;
9. if it does not make the unique identifier readily available (Article 22(4));
10. if it does not record the entry of all unit packets and intermediate movements and the final amount of unit packets from its possession in such a way as to enable the clear and unambiguous identification and tracking of all unit packets (Article 22(5));

11. if it does not keep records of all completed transactions (Article 22(6));
12. if it does not provide the economic entities involved in the trade in tobacco products, from the producer to the last economic entity, before the first sale at the point of sale, including importers, warehouses and transport companies, the equipment for recording tobacco products, or if the equipment provided does not enable electronic reading and unambiguous identification and tracking of all unit packets (Article 22(7));
13. if it changes or deletes the recorded data (Article 22(9));
14. if it places on the market or sells tobacco products without an identification mark or a security feature, if the identification mark is incomplete or if the security feature does not meet the required technical standards (Article 22(1), (2) and (3), and Article 23);
15. if it places on the market or sells tobacco for oral use (Article 24);
16. if it sells or places on the market novel tobacco products in contravention of Article 25 of this Act;
17. if it produces, sells or places on the market electronic cigarettes in contravention of the Article 26(3), (4), (5) and (10) of this Act;
18. if it produces, sells or places on the market electronic cigarettes in contravention of the Article 26(1), (2), (6) and (11) of this Act;
19. if it places on the market or sells a herbal product for smoking in contravention of the Article 27 of this Act;
20. if it does not report the ingredients of herbal products for smoking in accordance with the Article 28 of this Act;
21. if it donates or sponsors an event, activity or individual and directly or indirectly advertises and promotes tobacco products and related products (Article 29);
22. if it displays or uses tobacco, tobacco products and tobacco related products on television and in the context of public appearances (Article 29(7));
23. if it sells tobacco, tobacco products or tobacco related products to persons under the age of 18, or if it does not post the prohibition of sale in a visible place, or if it sells tobacco, tobacco products or tobacco related products to a person under the age of 18 (Article 30(1) and (2));
24. if it sells or places on the market tobacco, tobacco products or tobacco related products in contravention of the Article 30(3) of this Act;
25. if it sells or places on the market tobacco, tobacco products or tobacco related products outside the producer's original packaging (Article 30(4));
26. if it places on the market or makes cross-border distance sales of tobacco, tobacco products or tobacco related products via the Internet, telecommunications or other evolving technology (Article 30(5));
27. if produces, places on the market or makes cross-border distance sales of sweets, snacks, toys or other items in the form of tobacco products or tobacco related products intended for persons under the age of 18 (Article 30(6));
28. if it imports products referred to in the Article 11(1), Article 12(1), (2) and (3), and Article 24 of this Act (Article 30.a(1));
29. if it does not visibly display the authorisation for the sale of tobacco, tobacco products and tobacco related products in the business premises (Article 34(3));

30. if it does not ensure compliance with the prohibition on smoking or the use of tobacco, tobacco products and tobacco related products, except for chewing tobacco and nasal tobacco, in closed public and work spaces and in spaces that are not considered closed spaces under this Act, if they are part of the functional land belonging to the facilities in which upbringing or education activities are carried out (Article 39).'

The paragraphs 4, 5 and 6 are amended to read as follows:

'(4) For the offences referred to in points 1, 3, 15, 17, 19, 25 and 28 of the paragraph 1 of this Article, in addition to the main sanction, the confiscation of tobacco, tobacco products or tobacco related products that are the subject of the offence and the confiscation of items with which the offence has been committed shall be imposed. A collateral sanction shall also be imposed if tobacco, tobacco products or tobacco related products are not the property of the offender or are not in the possession of the legal entity. The confiscation of the item may be waived if the offender proves the legal origin of the tobacco, tobacco products or tobacco related products, or if the imposition of a collateral sanction of the confiscation of the items of the offence would be clearly disproportionate to the gravity of the act and the consequences of the offence.

(5) A fine of EUR 50 000 shall be imposed on a legal entity, a sole trader or an individual carrying out an activity independently that sells tobacco, tobacco products or tobacco related products without authorisation (Article 32).

(6) A fine of EUR 5 000 shall be imposed on a responsible person of a legal entity, a responsible person of a sole trader or an individual carrying out an activity independently that sells tobacco, tobacco products or tobacco related products without authorisation (Article 32).

Article 20

In Article 43, the paragraph 1 is amended to read as follows:

'(1) An individual person shall be fined between EUR 125 and EUR 5 000 for an offence:

— if it acquires tobacco, tobacco products or tobacco related products in contravention of Article 30 of this Act (Article 30(8));

— if it imports products in contravention of Article 30.a(1) or (2) of this Act;

— if it smokes or uses tobacco, tobacco products or tobacco related products in public or work places where this is prohibited (Article 39).

After the paragraph 2, new, paragraphs 3 and 4 are added, which read:

'(3) An individual person shall be fined between EUR 3 000 and EUR 5 000 for an offence:

— if, for the purpose of advertising, it offers tobacco, tobacco products and tobacco related products free of charge in a public place or in public premises in contravention of the Article 29(3) of this Act;

— if it sells or places on the market tobacco, tobacco products or tobacco related products in contravention of the Article 30(7) of this Act.

(4) For offences referred to in the first and second indents of the first paragraph of this article and for offences referred to in the first and second indents of the preceding paragraph, in addition to the main sanction, the confiscation of tobacco, tobacco products or tobacco related products that are the subject of the offence and the confiscation of items with which the offence has been committed shall be imposed. A collateral sanction shall also be imposed if tobacco, tobacco products or tobacco related products are not the property of the offender or are not in his possession. The confiscation of

the item may be waived if the offender proves the legal origin of the tobacco, tobacco products or tobacco related products, or if the imposition of a collateral sanction of the confiscation of the items of the offence would be clearly disproportionate to the gravity of the act and the consequences of the offence.’.

Article 21

After Article 43, a new Article 43.a is inserted, which reads as follows:

‘Article 43.a

(Imposing a fine in an expedited misdemeanour procedure)

For offences referred to in this Act, a fine may be imposed under an expedited procedure in an amount that is higher than the minimum prescribed fine determined by this Act.

TRANSITIONAL AND FINAL PROVISIONS

Article 22

(Harmonising of actions)

Electronic cigarettes and refill containers with flavourings may be placed on the market for a maximum of 12 months after the entry into force of this Act.

Article 23

(By-laws)

(1) The Minister shall issue regulations referred to in the amended Article 25(4) of the Act and the amended Article 28(4) of the Act within three months from the entry into force of this Act.

(2) The minister shall bring the provision referred to in Article 26(14) of the Act in line with the new point 8 of the paragraph 3 and the amended point 2 of the paragraph 5 of Article 26 of the Act within three months from the entry into force of this Act.

Article 24

(Expiry and extension of use)

(1) The provisions of point 17 of Article 3, Chapter VII, fourth indent of paragraph 3, and paragraph 4 of Article 39, Article 40, points 8 and 9 of paragraph 2, points 3 and 4 of paragraph 6, and paragraph 14 of Article 41, point 30 of paragraph 1 of Article 42, and third indent of paragraph 1 of Article 43 of the Act on the Restriction of the Use of Tobacco and Related Products (OJ RS, Nos 9/17 and 29/17) shall apply to smoking rooms until 23 October 2028.

(2) As of the date of entry into force of this Act, the Rules on the conditions to be met by a smoking room (OJ RS, No 52/17), which can be used until 23 October 2028, shall cease to apply.

Article 25

(Entry into force and application)

(1) This Act shall enter into force on the fifteenth day after its publication in the Official Journal of the Republic of Slovenia and shall apply from the thirtieth day after its entry into force.

(2) The Act on the Restriction of the Use of Tobacco and Related Products (OJ RS, Nos 9/17 and 29/17) shall apply until the entry into force of this Act.