

**MINISTRY OF HEALTH AND FAMILY WELFARE**  
**(Department of Health)**  
**NOTIFICATION**  
**New Delhi, the 25<sup>th</sup> February, 2004**

**S.O. 238(E).** ---In exercise of the power conferred by Sub-section (3) of Section 1 of the cigarettes and other Tobacco products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), the Central Government hereby appoints 1<sup>st</sup> day of May, 2004 as the date on which the provisions of section 1,2,3,4,5,6(a), 12(1)(b), 12(2), 13(1)(b) 13(2), 14,16,19,21,22,23,24,25,26,27,28,29,30 and 31 of the said Act shall come into force

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**New Delhi, the 25<sup>th</sup> February, 2004**

**G.S.R. 137.** --- In Exercise of the power conferred by section 31 of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), the Central Government hereby makes the following rules, namely: -

1. **Short title and commencement.** ---(1) These rules may be called the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, production, Supply and Distribution) Rules, 2004  
  
(2) They shall come into force on the 1<sup>st</sup> day of May, 2004
2. **Definitions.** --- In these rules, unless the context otherwise requires,--
  - "Act" means the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of trade and Commerce, production, Supply and Distribution Act, 2003
  - "section" means a section of the Act
  - "open space" mentioned in Section 3(1) of the Act shall not include any places visited by the public such as open auditorium, stadium, railway station, bus stop and such other places; and
  - words and expressions used herein and not defined in these rules but defined in the Act, shall have the meaning, respectively, assigned to them in the Act
3. **Prohibition of smoking in a public place.** ---(1) The owner or the manager or in charge of the affairs of a public place shall cause to be displayed prominently a board, of a minimum size of sixty centimeter by thirty centimetre in the Indian languages(s) as applicable, at least one at the entrance of the public place and one at conspicuous place(s) inside, containing the warning "No Smoking Area-Smoking here is an offence  
  
(2) The owner or the manager or in charge of the affair of a hotel having thirty rooms or restaurants having seating capacity of thirty persons or more and the manager of the airport shall ensure that, ---
  - The smoking and non-smoking areas are physically segregated;
  - The smoking area shall be located in such manner that the public is not required to pass through it in order to reach the non-smoking area; and
  - Each area shall contain boards indicating thereon "Smoking Area/Non-Smoking area".

4. **Prohibition of advertisement of cigarette and other tobacco products.---**(1)

The size of the board used for advertisement for cigarettes and any other tobacco products displayed at the entrance or inside a warehouse or a shop where cigarettes and any other such tobacco products are offered for distribution or sale shall not exceed ninety centimetre by sixty centimetre and number of such boards shall not exceed two.

(2) Each such board shall contain in the Indian language as applicable, one of the following warning occupying twenty-five percent, of top area of the board, namely: -

- Tobacco Causes Cancer, or
- Tobacco Kills
- The board referred to in sub-rule (2) shall contain only the brand name or picture of the tobacco products and no other promotional message and picture
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5. **Prohibition of sale to minors. ---**(1) The owner or the manager or the Incharge of the affairs of a place where cigarettes and other tobacco products are sold shall display a board of minimum size of sixty centimetre by thirty centimetre at conspicuous place(s) containing the warning "Sales of tobacco products to a person under the age of eighteen years is a punishable offence", in Indian language(s) applicable.

(2) The onus of proof that the buyer of the tobacco products is not a minor lies with the seller of the tobacco products. The seller, in case of doubt, may request tobacco purchaser to provide appropriate evidence of having reached eighteen years of age.

Please particularly read section 3(l) and 3(n) under definitions for public places and smoking. Section 4 provides for ban of smoking in public places, giving exemption to hotels and restaurants, section 12 says that police officers of the rank of sub inspectors and above and equivalent officers of food and drug administration authorized by Central or State governments may inspect the premises for any violations. Section 21 describes the punishments for smoking in public places including non-smoking areas in hotels and restaurants and same is also contained in section 28. Section 26 deals with offences by companies which will include managements of hotels and restaurants. It talks about due diligence to be exercised by the management. This would mean the proper demarcation of smoking and non-smoking sections as prescribed under the Rules notified on 25<sup>th</sup> February, 2004, placing of sign boards as required warning the persons who are smoking in non-smoking areas and prohibiting them from smoking. If the company, which means hotel or restaurant, is found to be free of guilt then the inspecting officer may only challan the smoker. The smoker is in any case liable to be challaned for smoking in notified non-smoking area whether the company is at fault or not.