

**THE CIGARETTES AND OTHER TOBACCO PRODUCTS
(PROHIBITION OF ADVERTISEMENT AND REGULATION OF
TRADE AND COMMERCE, PRODUCTION, SUPPLY AND
DISTRIBUTION) ACT, 2003**

SUMMARY

The Cigarettes and Other Tobacco Products Act, 2003 was enacted to protect the citizens of India from the harmful effects of tobacco use. The act prohibits the advertisement and promotion of tobacco products, bans smoking in public places, and mandates the display of health warnings on tobacco products. The act also regulates the trade and commerce, production, supply, and distribution of tobacco products, including licensing requirements for tobacco sellers and manufacturers. Violations of the act can result in fines and imprisonment.

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Section 1: Short Title, Extent And Commencement

(1) This Act may be called the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Simplified Act

(1) The official name of this law is the "Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003."

(2) This law is applicable across the entire country of India.

(3) The law will become active on a date decided by the Central Government of India. This date will be announced in a publication known as the Official Gazette. Note that the government may set different activation dates for different parts of the law.

Explanation using Example

Imagine a local shopkeeper in Delhi who sells cigarettes and other tobacco products. After the enactment of the Cigarettes and Other Tobacco Products Act (COTPA) in 2003, the shopkeeper must comply with the new regulations. This Act, which applies across India, prohibits any tobacco product advertisements and imposes strict rules on the trade, commerce, production, supply, and distribution of tobacco products.

In practical terms, the shopkeeper can no longer display tobacco advertisements in his shop and must ensure that all the tobacco products are sold with the statutory warnings as prescribed by the Act. Additionally, if the government decides to enforce a specific provision of the Act on a particular date, the shopkeeper must adhere to that provision from the date specified in the government notification.

Section 2: Declaration As To Expediency Of Control By The Union

It is hereby declared that it is expedient in the public interest that the Union should take under its control the tobacco industry.

Simplified Act

The government has decided that it's important for everyone's well-being to regulate the tobacco industry.

Section 3: Definitions

In this Act, unless the context otherwise requires, -

(a) advertisement includes any visible representation by way of notice, circular, label, wrapper or other document and also includes any announcement made orally or by any means of producing or transmitting light, sound, smoke or gas;

(b) cigarette includes, -

any roll of tobacco wrapped in paper or in any other substance not containing tobacco,

any roll of tobacco wrapped in any substance containing tobacco, which, by reason of its appearance, the type of tobacco used in the filter, or its packaging and labelling is likely to be offered to, or purchased by, consumers as a cigarette, but does not include beedi, cheroot and cigar;

(c) distribution includes distribution by way of samples, whether free or otherwise;

(d) export, with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) foreign language means a language which is neither an Indian language nor the English language;

(f) import, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(g) Indian language means a language specified in the Eighth Schedule to the Constitution, and includes any dialect of such language;

(h) label means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

(i) package includes a wrapper, box, carton, tin or other container;

(j) prescribed means prescribed by rules made under this Act;

(k) production, with its grammatical variations and cognate expressions, includes the making of cigarettes, cigars, cheroots, beedis, cigarette tobacco, pipe tobacco, hookah tobacco, chewing tobacco, pan masala or any chewing material having tobacco as one of its ingredients (by whatever name called) or snuff and shall include -

packing, labelling or re-labelling, of containers;

re-packing from bulk packages to retail packages; and

the adoption of any other method to render the tobacco product marketable;

(l) public place means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, railway waiting room, amusement centres, restaurants, public offices, court buildings, educational institutions, libraries, public conveyances and the like which are visited by general public but does not include any open space;

(m) sale, with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another, whether for cash or on credit, or by way of exchange, and whether wholesale or retail, and includes an agreement for sale, and offer for sale and exposure for sale;

(n) smoking, means smoking of tobacco in any form whether in the form of cigarette, cigar, beedis or otherwise with the aid of a pipe, wrapper or any other instruments;

(o) specified warning means such warnings against the use of cigarettes or other tobacco products to be printed, painted or inscribed on packages of cigarettes or other tobacco products in such form and manner as may be prescribed by rules made under this Act;

(p) tobacco products means the products specified in the Schedule.

STATE AMENDMENT

Maharashtra

Amendment of section 3 of Act 34 of 2003

In section 3 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), after clause (e), the following clause shall be inserted, namely:

(ee) hookah bar means an establishment where people gather to smoke tobacco from a community hookah or narghile which is provided individually; Vide Maharashtra Act 60 of 2018, s. 2.

Gujarat

Amendment of section 3 of Act 34 of 2003

In the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), in section 3, after clause (e), the following clause shall be inserted, namely:

(ee) hookah bar means an establishment where people gather to smoke tobacco from a communal hookah or narghile which is provided individually; . Vide Gujarat Act 27 of 2017, s. 2.

Rajasthan

Amendment of section 3, Central Act No 34 of 2003

In section 3 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (Central Act No. 34 of 2003), hereinafter referred to as the principal Act, after the existing clause (e) and before the existing clause (f), the following clause shall be inserted, namely:

"(ee) "hookah bar" means an establishment where people gather to smoke tobacco from a communal hookah or narghile which is provided individually;". Vide Rajasthan Act 1 of 2020, s. 2.

Simplified Act

This law explains certain terms used throughout the document:

Advertisement: Any form of communication that promotes tobacco products, including images, audio, or even smoke signals.

Cigarette: This refers to any tobacco roll, whether wrapped in paper or another substance, but not including traditional Indian tobacco products like beedi, cheroot, and cigar.

Distribution: Handing out tobacco products, even as free samples.

Export: Sending goods out of India.

Foreign language: Any language that is not recognized as an Indian language or English.

Import: Bringing goods into India from another country.

Indian language: Languages officially recognized in the Indian Constitution, including their dialects.

Label: Any written or graphic information on a tobacco product's packaging.

Package: The container or wrapping of tobacco products.

Prescribed: Defined by the rules of this law.

Production: The process of making tobacco products, including packaging and preparing them for sale.

Public place: Any indoor or enclosed area where the public can go, like offices, hospitals, and restaurants, but not open outdoor spaces.

Sale: The act of giving goods to someone else for money, trade, or any other form of exchange.

Smoking: Using tobacco in any form, such as cigarettes, cigars, or pipes.

Specified warning: Health warnings that must be displayed on tobacco product packaging as required by this law.

Tobacco products: Any products listed in the Schedule of this law.

Some Indian states have made specific changes to this law:

Maharashtra: Added a definition for "hookah bar," which is a place where people smoke tobacco from a shared hookah.

Gujarat: Similar to Maharashtra, defined "hookah bar" in the same way.

Rajasthan: Also added a definition for "hookah bar," mirroring the definitions in Maharashtra and Gujarat.

Explanation using Example

Imagine a new café opens in Maharashtra and it wants to promote its services. The owner plans to distribute flyers that include images of people enjoying flavored hookahs. However, according to the definition of 'advertisement' in the Act, this would be prohibited as it includes any form of visible representation that promotes tobacco products. Furthermore, the Maharashtra State Amendment specifically defines a 'hookah bar' and the Act's regulations would apply to this café. The owner must ensure that the café complies with the Act, which includes not advertising hookahs and adhering to any other relevant restrictions imposed by the Act.

Section 4: Prohibition Of Smoking In A Public Place

No person shall smoke in any public place: Provided that in a hotel having thirty rooms or a restaurant having seating capacity of thirty persons or more and in the airports, a separate provision for smoking area or space may be made.

STATE AMENDMENT

Gujarat

Insertion of new section 4A in Act 34 of 2003. In the principal Act, after section 4, the following section shall be inserted, namely:

Prohibition of hookah bar

4A. Notwithstanding anything contained in this Act, no person shall, either on his own or on behalf of any other person, open or run any hookah bar in any place including the eating house.

Explanation: The term "eating house" shall have the same meaning as assigned to it by clause (5A) of section 2 of the Gujarat Police Act, 1951 (Bom. XXII of 1951).

Vide Gujarat Act 27 of 2017, s. 3.

Maharashtra

Insertion of new section 4A in Act 34 of 2003

After section 4 of the principal Act, the following section shall be inserted, namely:

Prohibition of hookah bar

4A. Notwithstanding anything contained in this Act, no person shall, either on his own or on behalf of any other person, open or run any hookah bar in any place including the eating house.

Explanation: The term "eating house" shall have the same meaning as assigned to it in clause (5A) of section 2 of the Maharashtra Police Act (XXII of 1951).

Vide Maharashtra Act 60 of 2018, s. 3.

Rajasthan

Insertion of new section 4A, Central Act No 34 of 2003

After the existing section 4 and before the existing section 5 of the principal Act, the following shall be inserted, namely:

"4A Prohibition of hookah bar - Notwithstanding anything contained in this Act, no person shall, either on his own or on behalf of any other person, open or run any hookah bar in any place including the eating house.

Explanation: The term "eating house" means any place where food or refreshment of any kind is provided for visitors or sold for consumption therein."

Vide Rajasthan Act 1 of 2020, s. 3.

Simplified Act

It is illegal for anyone to smoke in public areas. However, hotels with at least thirty rooms, restaurants that can seat thirty or more people, and airports can have a designated smoking area.

Changes made by specific Indian states:

Gujarat:

A new rule has been added to the law saying that no one is allowed to open or operate a hookah bar anywhere, including places where food is served. The meaning of "eating house" here is the same as in the Gujarat Police Act of 1951.

Maharashtra:

Similar to Gujarat, a new rule has been added to the law in Maharashtra, prohibiting anyone from opening or operating a hookah bar in any location, including places where food is served. The term "eating house" is defined in the Maharashtra Police Act of 1951.

Rajasthan:

In Rajasthan as well, a new section has been introduced to the law, banning the opening or operation of hookah bars in any place where food or refreshments are provided, which is termed as an "eating house."

Explanation using Example

Imagine John is the owner of a small hotel with twenty-five rooms and a restaurant with a seating capacity of twenty-five people. According to Section 4 of The Cigarettes and Other Tobacco Products Act, 2003, John is not permitted to have a separate smoking area in his hotel or restaurant because both do not meet the minimum criteria of thirty rooms and thirty seats, respectively. Therefore, guests at John's hotel and restaurant are prohibited from smoking in any public area within his establishment.

In another scenario, let's consider Priya who is planning to open a new café in Gujarat. She has heard about the new trend of hookah bars and is considering including one within her café. However, as per the State Amendment by Gujarat, Section 4A prohibits the opening or running of any hookah bar in any place, including eating houses. Therefore, Priya must abandon her plans for a hookah bar if she wants to comply with the state law.

Section 5: Prohibition Of Advertisement Of Cigarettes And Other Tobacco Products

(1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit, shall:

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product; or

(b) sell or cause to sell, or permit or authorise to sell a film or video tape containing advertisement of cigarettes or any other tobacco product; or

(c) distribute, cause to distribute, or permit or authorise to distribute to the public any leaflet, hand - bill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or

(d) erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner whatsoever in any place any advertisement of cigarettes or any other tobacco product :

Provided that this sub - section shall not apply in relation to:

(a) an advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product;

(b) advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

(3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of:

(a) cigarettes or any other tobacco product; or

(b) any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.

Simplified Act

(1) If you make, supply, or sell cigarettes or tobacco products, you're not allowed to advertise them. Also, if you own a platform (like TV, radio, or online), you can't show ads for these products. Plus, no one is allowed to be in ads that encourage or hint at using tobacco products.

(2) You can't do any of the following for money or any other kind of benefit:

(a) Put up ads for tobacco products, or let someone else do it.

(b) Sell or help sell movies or videos that have tobacco ads in them.

- (c) Hand out or let someone hand out flyers or papers that advertise tobacco.
- (d) Put up tobacco ads on buildings, signs, or vehicles, or show them in any public place.

However, this rule doesn't apply to:

- (a) Ads on the tobacco product packaging itself.
- (b) Ads inside or at the entrance of a store or warehouse where tobacco is sold.
- (3) You're not allowed to promote or agree to promote tobacco products or their brand names. This includes not accepting sponsorships, prizes, or scholarships in exchange for promoting tobacco.

Explanation using Example

Imagine a local convenience store that sells various tobacco products. The store owner places a large poster in the window advertising a popular brand of cigarettes, highlighting their new flavor. This act of displaying the cigarette advertisement is a direct violation of Section 5(2)(a) of The Cigarettes and Other Tobacco Products Act, 2003, which prohibits the display of advertisements for tobacco products.

Additionally, if the store owner had agreed to place the poster in the window in exchange for a discount on the next order of cigarettes from the supplier, this would also be a breach of Section 5(3), as the owner is promoting tobacco products in exchange for a pecuniary benefit.

Section 6: Prohibition On Sale Of Cigarette Or Other Tobacco Products To A Person Below The Age Of Eighteen Years And In Particular Area

No person shall sell, offer for sale, or permit sale of, cigarette or any other tobacco product -

- (a) to any person who is under eighteen years of age, and
- (b) in an area within a radius of one hundred yards of any educational institution.

Simplified Act

It's illegal for anyone to sell cigarettes or tobacco products:

(a) to anyone younger than 18 years old, and

(b) close to schools, specifically within 100 yards (91.44 meters) of them.

Explanation using Example

Imagine a small grocery store located near a high school. The store sells various items including tobacco products. According to Section 6 of The Cigarettes and Other Tobacco Products Act, 2003:

The store owner must not sell cigarettes or any tobacco products to anyone who is under the age of eighteen. So if a group of high school students, who are obviously younger than eighteen, come into the store and attempt to buy cigarettes, the store owner must refuse to sell them the tobacco products.

Additionally, if the store is situated within one hundred yards of the high school, the owner is prohibited from selling tobacco products to anyone, regardless of their age, due to the proximity to the educational institution. The store owner must either stop selling tobacco products altogether or move the store beyond the specified radius to comply with the law.

Section 7: Restrictions On Trade And Commerce In, And Production, Supply And Distribution Of Cigarettes And Other Tobacco Products

(1) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him bears thereon, or on its label such specified warning including a pictorial warning as may be prescribed.

(2) No person shall carry on trade or commerce in cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products sold, supplied or distributed by him bears thereon, or on its label, the specified warning.

(3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning.

(4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration.

(5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof : Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.

Simplified Act

(1) Nobody is allowed to make, give out, or sell cigarettes or other tobacco products unless the packaging has a health warning and a picture that shows the dangers of tobacco, as required by the law.

(2) If you're in the business of selling or trading cigarettes or tobacco products, you have to make sure that every package has a health warning on it.

(3) If you bring cigarettes or tobacco products into India to sell or give away, you must ensure that every package has the required health warning on it.

(4) This health warning must be printed on at least one of the biggest sides of the tobacco product's package.

(5) Anyone who makes, gives out, or sells cigarettes or other tobacco products must include information on the package about how much nicotine and tar each product contains, as well as the highest amount allowed by law. The actual levels of nicotine and tar cannot be higher than what the law allows.

Explanation using Example

Imagine a local manufacturer, "Healthy Smoke Pvt. Ltd.," produces a new brand of cigarettes called "FreshAir." According to Section 7(1) of the Cigarettes and Other Tobacco Products Act, 2003, before they can distribute their cigarettes, they must ensure that each package has a health warning and a pictorial representation of the health risks associated with smoking, as specified by the government.

Furthermore, a retailer, "QuickMart," who sells tobacco products, must comply with Section 7(2) by ensuring that every package of "FreshAir" cigarettes they sell contains the specified health warning on its label to legally conduct trade.

Additionally, if "Healthy Smoke Pvt. Ltd." decides to import a popular foreign brand of cigars, under Section 7(3), they must ensure that the cigar packages have the required health warning label in accordance with Indian regulations before they can be sold in India.

According to Section 7(4), the warning message must be prominently displayed on one of the largest panels of the cigarette package to ensure visibility to consumers.

Lastly, per Section 7(5), "Healthy Smoke Pvt. Ltd." must also include information on the nicotine and tar content of each cigarette on the package, ensuring it does not exceed prescribed limits, to inform consumers and comply with regulations.

Section 8: Manner In Which Specified Warning Shall Be Made

(1) The specified warning on a package of cigarettes or any other tobacco products shall be:

(a) legible and prominent;

(b) conspicuous as to size and colour;

(c) in such style or type of lettering as to be boldly and clearly presented in distinct contrast to any other type, lettering or graphic material used on the package or its label and shall be printed, painted or inscribed on the package in a colour which contrasts conspicuously with the background of the package or its labels.

(2) The manner in which a specified warning shall be printed, painted or inscribed on a package of cigarettes or any other tobacco products shall be such as may be specified in the rules made under this Act.

(3) Every package containing cigarettes or any other tobacco products shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is, before the package is opened, visible to the consumer.

Simplified Act

(1) Health warnings on cigarette packages or other tobacco products must be:

(a) Easy to read and noticeable;

(b) Stand out in size and color;

(c) Written in a font style that is bold and clear, very different from any other text or images on the package, and in a color that stands out against the package's background.

(2) The specific details about how to print or put the warning on the package will be determined by rules set out in this law.

(3) Cigarette packages and other tobacco product packages must be designed so that the warning can be seen by the consumer before the package is opened.

Explanation using Example

Imagine a tobacco company called "ClearSky Tobacco" is designing a new packaging for their cigarette brand "FreshBreeze Lights." According to Section 8 of The Cigarettes and Other Tobacco Products Act, 2003, they must ensure the following:

The health warning on the cigarette package should be clear and noticeable, meaning it should not be hidden or obscured by other designs.

The size and color of the warning should stand out on the package, ensuring it catches the attention of consumers.

The warning text must be in a bold and contrasting style, distinctly different from other text or visuals on the package, and it should be in a contrasting color to the package's background.

Moreover, the specific way the warning is presented (e.g., font size, color) will have to follow the detailed guidelines set by the rules under this Act.

Lastly, the packaging must be designed so that the warning is visible to the consumer before the package is opened.

ClearSky Tobacco must comply with these requirements or face legal consequences, including fines or penalties, for non-compliance with the Act.

Section 9: Language In Which The Specified Warning Shall Be Expressed

(1) Where the language used on a package containing cigarettes and any other tobacco products or on its label is -

(a) English, the specified warning shall be expressed in the English language;

(b) any Indian language or languages, the specified warning shall be expressed in such Indian language or languages;

(c) both English and one or more Indian languages, the specified warning shall be expressed in the English language as well as in such Indian language or languages;

(d) partly English and partly any Indian language or languages, the specified warning shall be expressed in the English language as well as in such Indian language or languages;

(e) any foreign language, the specified warning shall be expressed in the English language;

(f) partly any foreign language and partly English or any Indian language or languages, the specified warning shall be expressed in the English language as well as in such Indian language or languages.

(2) No package of cigarettes or any other tobacco products or its label shall contain any matter or statement which is inconsistent with, or detracts from, the specified warning.

Simplified Act

(1) If you're selling cigarettes or other tobacco products, the health warning on the package or label must be in the right language:

(a) If the package is in English, the warning must be in English.

(b) If it's in any Indian language(s), the warning must be in that language(s).

(c) If it's in both English and Indian language(s), the warning must be in both.

(d) If it's partly in English and partly in Indian language(s), the warning must be in both.

(e) If it's in a foreign language, the warning must be in English.

(f) If it's partly in a foreign language and partly in English or Indian language(s), the warning must be in both English and the Indian language(s).

(2) The package or label shouldn't have anything that goes against or weakens the health warning.

Explanation using Example

Imagine a tobacco company in India, "HealthLeaf Tobacco Ltd.," produces a brand of cigarettes called "FreshAir Lights." The company wants to distribute these cigarettes nationwide. According to Section 9 of The Cigarettes and Other Tobacco Products Act, 2003, they must ensure that the health warning on the cigarette packages is in compliance with the language requirements. Here's how they would apply the law:

If the package text is solely in English, the health warning must also be in English.

For packages with text in Hindi (an Indian language), the warning must be in Hindi.

If the package includes both English and Kannada text, the warning should be in both English and Kannada.

Should the package have a mix of English and multiple Indian languages, like English, Telugu, and Bengali, the warning must be in all these languages.

In case the package has text in French (a foreign language), the warning should be in English.

If the package text is partly in German (foreign) and partly in English and Tamil (Indian languages), the warning must be in English and Tamil.

Furthermore, "HealthLeaf Tobacco Ltd." must ensure that none of the statements on their "FreshAir Lights" packages contradict or undermine the health warnings.

Section 10: Size Of Letters And Figures

No specified warning or indication of nicotine and tar contents in cigarettes and any other tobacco products shall be deemed to be in accordance with the provisions of this Act if the height of each letter or figure, or both the used on

such warning and indication is less than the height as may be prescribed by rules made under this Act.

Simplified Act

Simplified Explanation: The law says that all warnings about the dangers of smoking, as well as information about the nicotine and tar content in cigarettes and other tobacco products, must be printed in a letter size that is at least as big as the minimum size set by the rules of this Act. If the letters or numbers are smaller than this minimum size, the warning or information is not considered to follow the law.

Explanation using Example

Imagine a tobacco company, "SmoothPuff Inc.", produces cigarette packs. According to Section 10 of The Cigarettes and Other Tobacco Products Act, 2003, they are required to display warnings about the health risks of smoking, including the nicotine and tar contents. To comply with this law, the company must ensure that the text and figures indicating this information are of a minimum size, as prescribed by the rules made under the Act. If the company prints this information in a font size smaller than the minimum requirement, they would be violating the law and could face legal consequences. For instance, if the rule states that the text must be at least 2mm in height, and SmoothPuff Inc. prints the warning with 1mm tall letters, they would not be in compliance with Section 10.

Section 11: Testing Laboratory For Nicotine And Tar Contents

For purposes of testing the nicotine and tar contents in cigarettes and any other tobacco products the Central Government shall by notification in the Official Gazette grant recognition to such testing laboratory as that Government may deem necessary.

Simplified Act

The Indian government can officially name specific labs to test the levels of nicotine and tar in cigarettes and other tobacco products. They will announce these recognized labs in an official public document.

Explanation using Example

Imagine a situation where a new brand of cigarettes has entered the market, claiming to have lower nicotine and tar levels than its competitors. Concerned about the accuracy of these claims, the Ministry of Health wants to ensure that the cigarettes meet the regulatory standards for nicotine and tar content. To do this, they need a reliable laboratory to test the products. Under Section 11 of The Cigarettes and Other Tobacco Products Act, the Central Government will officially recognize a testing laboratory by publishing a notification in the Official Gazette. Once the lab is recognized, it can legally test the nicotine and tar levels in the new cigarettes to confirm whether the brand's claims are true and if the product complies with the health regulations.

Section 12: Power Of Entry And Search

(1) Any police officer, not below the rank of a sub-inspector or any officer of State Food or Drug Administration or any other officer, holding the equivalent rank being not below the rank of Sub-Inspector of Police, authorised by the Central Government or by the State Government may, if he has any reason to suspect that any provision of this Act has been, or is being, contravened, enter and search in the manner prescribed, at any reasonable time, any factory, building, business premises or any other place, -

where any trade or commerce in cigarettes or any other tobacco products is carried on or cigarettes or any other tobacco products are produced, supplied or distributed; or

where any advertisement of the cigarettes or any other tobacco products has been or is being made.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to every search and seizure made under this Act.

STATE AMENDMENT

Gujarat

Amendment of Section 12 of Act 34 of 2003

In the principal Act, in section 12, in sub-section (1),

in clause (b), the words "or" shall be added at the end;

after clause (b), the following clause shall be added, namely:

(c) where any hookah bar is being run.

Vide Gujarat Act 27 of 2017, s. 4.

Maharashtra

Amendment of section 12 of Act 34 of 2003

In section 12 of the principal Act, in sub-section (1),

in clause (b), after the word "made" the word "or" shall be added;

after clause (b), the following clause shall be added, namely:

(c) where any hookah bar is being run.

Vide Maharashtra Act 60 of 2018, s. 4.

Rajasthan

Amendment of section 12, Central Act No 34 of 2003

In the existing sub-section (1) of section 12 of the principal Act,

in clause (b), for the existing punctuation mark "." appearing at the end, the expression "; or" shall be substituted;

after the clause (b), so amended, the following shall be added, namely:

"(c) where any hookah bar is being run."

Vide Rajasthan Act 1 of 2020, s. 4.

Simplified Act

(1) A police officer ranked at least a sub-inspector, or an officer from the State Food or Drug Administration, or another officer of equivalent rank, who has been given authority by either the Central or State Government, can enter and search a place if they suspect that the law in this Act is not being followed. This must be done in a lawful way and at a time that is considered reasonable. They can search places such as:

Premises where cigarettes or other tobacco products are traded, made, supplied, or distributed; or

Locations where advertisements for cigarettes or other tobacco products have been or are currently displayed.

(2) The rules for how searches and seizures are conducted will follow the Code of Criminal Procedure from 1973.

STATE AMENDMENT

Gujarat

The law has been changed in Gujarat so that in addition to the places mentioned above, officers can also search:

Hookah bars that are in operation.

Maharashtra

Similarly, in Maharashtra, the law now includes hookah bars as places that can be searched.

Rajasthan

Rajasthan has also updated the law to allow searches in operating hookah bars.

Explanation using Example

Imagine a situation where a local police officer, holding the rank of a sub-inspector, receives a tip that a particular shop in the market area is secretly selling flavored tobacco products to teenagers. The officer, suspecting a violation of The Cigarettes and Other Tobacco Products Act, decides to investigate.

The officer, utilizing the powers granted under Section 12 of the Act, enters the premises of the suspected shop. The search reveals hidden compartments under the counter where various tobacco products are stocked and sold clandestinely.

During the search, the officer also finds posters promoting tobacco products, which is a form of advertisement prohibited under the Act. Furthermore, the officer is in Gujarat and notices that the shop has a backroom where a hookah bar is being operated.

With the evidence gathered, the officer is able to take legal action against the shop owner for contravening the provisions of the Act, including trade and commerce in tobacco products, advertisement, and running a hookah bar without authorization.

Section 13: Power To Seize

(1) If any police officer, not below the rank of a sub - inspector or any officer of State Food or Drug Administration or any other officer, holding the equivalent rank being not below the rank of Sub - Inspector of Police, authorised by the Central Government or by the State Government, has any reason to believe that, -

in respect of any package of cigarettes or any other tobacco products, or

in respect of any advertisement of cigarettes or any other tobacco products, the provisions of this Act have been, or are being, contravened, he may seize such package or advertisement material in the manner prescribed.

(2) No package of cigarettes or any other tobacco products or advertisement material seized under clause (a) of sub - section (1) shall be retained by the officer who seized the package or advertisement material for a period exceeding ninety days from the date of the seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure was made, has been obtained for such retention.

STATE AMENDMENT

Gujarat

Insertion of new section 13A in Act 34 of 2003. In the principal Act, after section 13, the following section shall be inserted, namely :

Power to seize

13A If any police officer, not below the rank of a Sub - Inspector, authorized by the State Government, has reason to believe that the provisions of section 4A have been, or are being, contravened, he may seize any material or article used as a subject or means of hookah bar. . Vide Gujarat Act 27 of 2017, s. 5.

Maharashtra

Insertion of new section 13A in Act 34 of 2003

After section 13 of the principal Act, the following section shall be inserted, namely :

Power to seize

13A- If any police officer, not below the rank of Assistant Police Inspector, authorized by the State Government, has reason to believe that the provisions 4A have been, or are being, contravened, he may seize any material or article used as a subject or means of hookah bar. . Vide Maharashtra Act 60 of 2018, s. 5.

Rajasthan

Insertion of new section 13A, Central Act No 34 of 2003

After the existing section 13 and before the existing section 14 of the principal Act, the following shall be inserted, namely :

13A Power to seize

If any police officer, not below the rank of Sub - Inspector, authorized by the State Government, has reason to believe that the provisions of section 4A have been, or are being, contravened, he may seize any material or article used as a subject or means of hookah bar. ". Vide Rajasthan Act 1 of 2020, s. 5.

Simplified Act

Simplified Explanation of The Cigarettes and Other Tobacco Products Act, 2003 (Section 13)

Part 1: A police officer ranked as a sub-inspector or higher, or a similarly ranked officer from the State Food or Drug Administration, can:

Seize any cigarette or tobacco product packaging,

Seize any advertisement for cigarettes or tobacco products,

if they believe that the law has been broken.

Part 2: Any seized items must be returned or must get a judge's permission to be held longer than 90 days from the seizure date.

State-Specific Amendments:

Gujarat Amendment: A new section 13A was added, allowing police officers of sub-inspector rank or higher to seize anything used for a hookah bar if they believe it's being used against the law.

Maharashtra Amendment: Similar to Gujarat, with the difference that the police officer must be at least an Assistant Police Inspector.

Rajasthan Amendment: Also similar, allowing sub-inspectors and above to seize hookah bar-related materials if they're used in violation of the law.

Explanation using Example

Imagine a scenario where a sub-inspector of police in Gujarat is patrolling an area and notices a shop displaying cigarette packages that do not have the mandatory health warnings as required by law. The sub-inspector, being authorized by the State Government, believes that the shop is contravening the provisions of the Cigarettes and Other Tobacco Products Act, specifically regarding packaging and labeling. The sub-inspector may then seize the cigarette packages.

In another instance, the same officer might find a café in Maharashtra that is operating as a hookah bar. Since the Maharashtra state amendment allows for seizure in case of contravention of section 4A, which pertains to the prohibition of smoking in public places, the officer can seize any material or article used as a subject or means of the hookah bar if they believe it is being used to contravene the Act.

However, in both cases, the seized items cannot be held for more than ninety days without obtaining approval from the District Judge within whose jurisdiction the seizure took place.

Section 14: Confiscation Of Package

Any package of cigarettes or any other tobacco products or any advertisement material of cigarettes or any other tobacco products, in respect of which any provision of this Act has been or is being contravened, shall be liable to be confiscated:

Provided that, where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such package of cigarettes or any other tobacco products is found is not responsible for the contravention of the provisions of this Act, the Court may, instead of making an order for the confiscation of such package, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

Simplified Act

If any cigarette or tobacco product packaging, or any advertising materials for these products, breaks any rule in this law, those items can be taken away by the authorities.

However, if a court finds that the person who has the products isn't the one who broke the law, the court can decide not to take the items away. Instead, the court can choose a different penalty allowed by the law for the person who actually did break the rules.

Explanation using Example

Imagine a local shopkeeper who has been selling cigarettes with packaging that lacks the mandatory health warnings required by law. The authorities conduct a raid and find these non-compliant cigarette packages. According to Section 14 of The Cigarettes and Other Tobacco Products Act, 2003, these packages can be confiscated by the authorities because they violate the Act's provisions.

However, if the shopkeeper can prove that they were unaware of the supplier's failure to adhere to the packaging regulations and that they are not responsible for this violation, the court may choose not to confiscate the cigarettes. Instead, the court could pursue action against the supplier who provided the non-compliant tobacco products, as they would be considered the party at fault.

Section 15: Power To Give Option To Pay Costs In Lieu Of Confiscation

(1) Whenever any confiscation of any package of cigarettes or any other tobacco products is authorised by this Act, the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay, in lieu of confiscation, costs which shall be equal to the value of the goods confiscated.

(2) On payment of the costs ordered by the court, the seized packages shall be returned to the person from whom they were seized on condition that such person shall, before making any distribution, sale or supply of such packages of cigarettes or other tobacco products, get the specified warning and indication of nicotine and tar contents incorporated on each such package.

Simplified Act

(1) If the law says that a pack of cigarettes or other tobacco products can be taken away (confiscated), the judge can let the owner pay money instead. The

amount to be paid will be the same as the value of the items that would have been taken away. This option will come with certain rules that the judge will include in the decision.

(2) If the owner pays the amount the judge said, they can get the seized tobacco products back. But before they can sell, give out, or supply those products again, they must make sure that each pack has the required health warning and information about how much nicotine and tar it contains.

Explanation using Example

Imagine a local shopkeeper is found to be selling cigarette packages that do not have the required health warnings and content indications as mandated by law. The authorities seize these packages and initiate legal action. The court determines that the packages are to be confiscated under the Cigarettes and Other Tobacco Products Act.

The shopkeeper is then given an option by the court: either the packages will be confiscated, or the shopkeeper can pay a fine equivalent to the value of the seized cigarettes. Choosing the latter option, the shopkeeper pays the fine, and the packages are returned to him. However, the court orders that before the shopkeeper can sell or distribute these cigarettes again, he must ensure that each package is properly labeled with the health warnings and the nicotine and tar content information as required by law.

Section 16: Confiscation Not To Interfere With Other Punishments

No confiscation made, costs ordered to be paid under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Simplified Act

Simplified Explanation: Just because something has been taken away (confiscated) or someone has been ordered to pay costs under this law, it doesn't stop further punishments that the person might face. These punishments can be based on this law or any other laws they might have broken.

Explanation using Example

Imagine a shop owner is caught selling cigarettes to minors, which is against the law. The authorities confiscate the cigarettes as per the provisions of the Act. However, just because the cigarettes are confiscated and the owner is ordered to pay certain costs, this does not mean that the shop owner is free from further legal consequences. The owner may still face additional fines or penalties as prescribed under the Act or any other applicable laws for selling tobacco products to minors.

Section 17: Adjudication

Any confiscation of cigarettes or any other tobacco products may be adjudged or costs may be ordered to be paid, -

without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made, costs have been ordered to be paid,

subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding rupees five thousand, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

Simplified Act

If cigarettes or other tobacco products are taken away by the government (confiscated) or if someone is ordered to pay for certain costs, this can be decided by:

The main civil court that has the authority to hear cases first (principal civil court of original jurisdiction) in the area where the products were confiscated or costs were ordered. This court does not have a maximum limit on the value of the goods it can decide on.

Any other court that the Central Government says is okay, as long as the court can deal with cases involving money matters more than five thousand rupees. The Central Government will set a maximum limit for these courts and will let everyone know which courts are allowed to do this through an official announcement (notification in the Official Gazette).

Explanation using Example

Imagine a local shopkeeper in Mumbai has been found selling cigarettes without the mandatory health warnings on the packets. The authorities decide to confiscate the illegal cigarette stock. The shopkeeper can contest the confiscation or any costs ordered against him in the principal civil court of original jurisdiction in Mumbai, as this court has the power to adjudicate matters of confiscation without any monetary limit. Alternatively, if the Central Government has specified a lower court with the required pecuniary jurisdiction for such cases, the shopkeeper might also be able to approach that court, provided it has been authorized to handle such cases and the value does not exceed the specified limit.

Section 18: Giving Opportunity To The Owner Of Seized Packages

(1) No order adjudging confiscation or directing payment of costs shall be made unless the owner or person in possession of the package of cigarettes or any other tobacco products has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such package, and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice, against the confiscation mentioned therein, and, if he so desires, of being heard personally or through a representative in the matter:

Provided that, where no such notice is given within a period of ninety days from the date of the seizure of the package of cigarettes or of any other tobacco products, such package shall be returned, after the expiry of that period, to the owner or the person from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall, as far as may be, apply to every proceeding referred to in sub-section (1).

Simplified Act

(1) Before any legal decision is made to take away (confiscate) a package of cigarettes or other tobacco products, or to order someone to pay costs, the person who owns the package or has it in their possession must first be notified in writing. This notice will explain why the package might be confiscated and will give the person a fair chance to argue in writing why it shouldn't be taken away. They must be given enough time to make their case,

as set out in the notice. Additionally, if they want to, they can speak on the matter in person or have someone else represent them:

However, if this written notice isn't given within 90 days from when the package was originally taken by the authorities, then the package must be returned to the owner or the person it was taken from once those 90 days are up.

(2) Other than what's described in part (1), the rules and procedures from the Code of Civil Procedure of 1908 should be followed in these kinds of legal matters.

Explanation using Example

Imagine a shopkeeper who sells cigarettes and other tobacco products. One day, a government official seizes a package of cigarettes from the shopkeeper's store on the suspicion that they violate advertising regulations. According to Section 18(1) of The Cigarettes and Other Tobacco Products Act, the shopkeeper must be given written notice explaining why the package was seized and must be allowed a reasonable opportunity to contest the confiscation in writing. The shopkeeper should also be given the chance to be heard in person or through a representative.

For example, if the package was seized on January 1st, the shopkeeper should receive a notice by April 1st (within 90 days), or else the products must be returned to them. If the shopkeeper does not receive this notice in time, they are entitled to have the seized cigarettes returned to them after the 90-day period has passed.

Furthermore, if the situation escalates to a legal proceeding, Section 18(2) indicates that the process will generally follow the rules laid out in the Code of Civil Procedure, 1908, ensuring a fair legal framework for the shopkeeper's case.

Section 19: Appeal

(1) Any person, aggrieved by any decision of the court adjudging a confiscation, ordering the payment of costs, may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving to the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or reversing the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any fine in lieu of confiscation or confiscating of goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and, if he so desires, of being heard in person or through a representative in his defence.

(3) No further appeal shall lie against the order of the court of appeal.

Simplified Act

(1) If you're unhappy with a court's decision to take away your goods (confiscation) or make you pay legal costs, you can ask a higher court to review the decision.

(2) The higher court will listen to your side of the story and then decide what to do. It can agree with the original decision, change it, completely overturn it, or send the case back for a do-over with new instructions. If the court thinks it's necessary, it can also ask for more evidence to be presented:

But if the higher court is thinking about making you pay a bigger fine or taking away more valuable goods, you must be given a chance to argue your case and, if you wish, to speak for yourself or have someone else speak for you.

(3) After this higher court has made its decision, you can't take the case to another court; this is the final stop for your appeal.

Explanation using Example

Imagine a shopkeeper who sells tobacco products is found guilty of advertising cigarettes in violation of the Act and the local court orders the confiscation of his tobacco goods and imposes a fine. The shopkeeper believes the decision is unfair and decides to appeal.

The shopkeeper files an appeal to a higher court, and the appellate court schedules a hearing. During the hearing, the shopkeeper presents his case, arguing that the confiscation was too severe and the fine was excessive.

After considering the shopkeeper's arguments, the appellate court decides to reduce the fine but upholds the confiscation of goods. The shopkeeper is

dissatisfied but learns that no further appeal is possible, as the appellate court's decision is final according to Section 19(3) of the Act.

Section 20: Punishment For Failure To Give Specified Warning And Nicotine And Tar Contents

(1) Any person who produces or manufactures cigarettes or tobacco products, which do not contain, either on the package or on their label, the specified warning and the nicotine and tar contents, shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

(2) Any person who sells or distributes cigarettes or tobacco products which do not contain either on the package or on their label, the specified warning and the nicotine and tar contents shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to three thousand rupees.

Simplified Act

(1) If a person makes or sells cigarettes or other tobacco products without the required health warning and information about nicotine and tar levels on the packaging or label, they can be punished. For the first offense, they could face up to two years in jail, a fine up to 5,000 rupees, or both. If they break the law again, the punishment could be up to five years in jail and a fine up to 10,000 rupees.

(2) If a person sells or gives out cigarettes or tobacco products without the proper health warning and information about nicotine and tar levels on the packaging or label, they can also be punished. For the first time they're caught, they could be jailed for up to one year, fined up to 1,000 rupees, or both. If they keep breaking the law, they could face up to two years in jail and a fine up to 3,000 rupees for subsequent offenses.

Explanation using Example

Imagine a local cigarette manufacturer produces a new brand of cigarettes and distributes them in attractive packages. However, these packages lack the mandatory health warnings and do not display the nicotine and tar content levels. A health inspector discovers this violation and reports it, leading to the manufacturer's prosecution. As it is their first offense, they are convicted and fined ₹5,000, and the court also sentences them to a one-year imprisonment. If the manufacturer commits the same offense again, the penalties would increase to a possible five-year imprisonment and a ₹10,000 fine.

Section 21: Punishment For Smoking In Certain Places

(1) Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to two hundred rupees.

(2) An offence under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

STATE AMENDMENT

Gujarat

Insertion of new section 21A in Act 34 of 2003

In the principal Act, after section 21, the following section shall be inserted, namely :

Punishment for running hookah bar 21A

Whoever contravenes the provisions of section 4A shall be punishable with imprisonment which may extend to three years but which shall not be less than one year and with fine which may extend to fifty thousand rupees but which shall not be less than twenty thousand rupees.

Vide Gujarat Act 27 of 2017, s. 6.

Maharashtra

Insertion of new section 21A in Act 34 of 2003

After section 21 of the principal Act, the following section shall be inserted, namely :

Punishment for running hookah bar 21A

Whoever contravenes the provisions of section 4A, shall be punishable with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine which may extend to one lakh rupees but which shall not be less than fifty thousand rupees.

Vide Maharashtra Act 60 of 2018, s. 6.

Rajasthan

Insertion of new section 21A, Central Act No 34 of 2003

After the existing section 21 and before the existing section 22 of the principal Act, the following shall be inserted, namely :

"21A Punishment for running hookah bar

Whoever contravenes the provisions of section 4A, Shall be punishable with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine which may extend to one lakh rupees but which shall not be less than fifty thousand rupees."

Vide Rajasthan Act 1 of 2020, s. 6.

Simplified Act

Simple Explanation:

(1) If someone breaks the rules of section 4, they can be fined up to 200 rupees.

(2) This kind of offence can be settled between parties (compoundable) and is handled quickly in court (summarily), following the rules for quick trials in the Code of Criminal Procedure, 1973.

STATE AMENDMENT

Gujarat

A new section, 21A, has been added to the Act for Gujarat:

If someone breaks the rules of section 4A by running a hookah bar, they can face jail time between one to three years and a fine between 20,000 to 50,000 rupees.

(This change was made by Gujarat Act 27 of 2017, section 6.)

Maharashtra

A new section, 21A, has been added to the Act for Maharashtra:

If someone breaks the rules of section 4A by running a hookah bar, they can face jail time between one to three years and a fine between 50,000 to 1 lakh rupees.

(This change was made by Maharashtra Act 60 of 2018, section 6.)

Rajasthan

A new section, 21A, has been added to the Act for Rajasthan:

If someone breaks the rules of section 4A by running a hookah bar, they can face jail time between one to three years and a fine between 50,000 to 1 lakh rupees.

(This change was made by Rajasthan Act 1 of 2020, section 6.)

Explanation using Example

Imagine a shopkeeper in a market who is caught selling cigarettes without the mandatory health warnings as required by Section 4 of the Act. The authorities charge the shopkeeper for this violation. Under Section 21(1), the shopkeeper is liable to a fine of up to two hundred rupees. Since the offence is compoundable and can be tried summarily, the shopkeeper has the option to settle the matter by paying the fine without the need for a prolonged trial, as per Section 21(2).

Section 22: Punishment For Advertisement Of Cigarettes And Tobacco Products

Whoever contravenes the provision of section 5 shall, on conviction, be punishable -

in the case of first conviction, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both, and

in the case of second or subsequent conviction with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

Simplified Act

If someone breaks the rules in section 5 of this law, they can be punished after being found guilty:

For the first time they break the law, they could go to jail for up to two years, or they might have to pay a fine up to one thousand rupees, or they could face both jail time and a fine.

If they break the law again, they could go to jail for up to five years and have to pay a fine up to five thousand rupees.

Explanation using Example

Imagine a shopkeeper who puts up a large billboard outside his store advertising cigarettes, which is prohibited under Section 5 of the Act. The authorities catch him and he is brought before a court. Since this is his first offense, the court sentences him to a fine of Rs. 800 and no imprisonment. This is in line with the punishment prescribed in Section 22 for a first conviction, where the punishment can be a fine up to Rs. 1000, imprisonment up to two years, or both.

Section 23: Forfeiture Of Advertisement And Advertisement Material

Where any person has been convicted under this Act for the contravention of the provision of section 5, the advertisement and the advertisement material for cigarettes and other tobacco products may be forfeited to the Government and such advertisement and advertisement material shall be disposed of in such manner as may be prescribed by rules made under this Act.

Simplified Act

If someone is found guilty of breaking the law according to this Act, specifically the rules about advertising in section 5, then the government can take away any advertisements and materials used for promoting cigarettes and other tobacco products. The government will then get rid of these items in a way that is outlined by the rules created under this Act.

Explanation using Example

Imagine a store owner named Rahul who has been displaying large posters advertising cigarettes inside his shop. The posters showcase various cigarette brands along with their prices. However, under Section 5 of the Cigarettes and Other Tobacco Products Act, such advertisements are prohibited. The authorities catch wind of this and Rahul is subsequently convicted for violating the Act. As a result of his conviction, the law under Section 23 allows the government to seize the posters and any other promotional materials related to tobacco products from Rahul's shop. These materials are then forfeited to the government, which means Rahul cannot reclaim them. The government will later dispose of the seized items according to the rules established under the Act, ensuring they are not used further and thus preventing the promotion of tobacco products.

Section 24: Punishment For Sale Of Cigarettes Or Any Other Tobacco Products In Certain Places Or To Persons Below The Age Of Eighteen Years

(1) Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with fine which may extend to two hundred rupees.

(2) All offences under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

Simplified Act

(1) If a person does not follow the rules set out in section 6 of this law, they have committed a crime. They can be fined up to 200 rupees as a punishment.

(2) Crimes under this section can be settled (compounded) without going to trial. They can be handled quickly and simply, following the rules for quick legal processes found in the Code of Criminal Procedure, 1973 (2 of 1974).

Explanation using Example

Imagine a shopkeeper sells cigarettes to a minor, who is below the age of eighteen. This action violates Section 6 of The Cigarettes and Other Tobacco Products Act, which prohibits the sale of tobacco products to minors. As per

Section 24(1) of the same Act, the shopkeeper has committed an offence and is liable to be fined up to two hundred rupees.

If the shopkeeper is charged with this offence, according to Section 24(2), the offence is compoundable, meaning the shopkeeper has the option to settle the matter out of court, subject to legal procedures. Additionally, the trial for this offence would be conducted summarily, which is a quicker legal procedure as outlined in the Code of Criminal Procedure, 1973.

Section 25: Prevention, Detention And Place Of Trial Of Offences Under Sections 4 And 6

(1) Notwithstanding anything contained in any other law for the time being in force, the Central Government or the State Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act: Provided that the person so authorised may, if he has reasonable ground for believing that any person has committed an offence under section 4 or section 6, may detain such person unless the accused person furnishes his name and address, and otherwise satisfies the officer detaining him that he will duly answer any summons or other proceedings which may be taken against him.

(2) Any person detained under sub-section (1) shall forthwith be taken before Magistrate to be dealt with according to law.

(3) Any person committing an offence under section 4 or section 6 shall be liable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(4) Every notification issued under sub-sections (1) and (3) shall be published in the Official Gazette, and a copy thereof shall be exhibited for information to the public in some conspicuous place or places as the State Government may direct.

(5) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Simplified Act

(1) Even if other laws say something different, the Central or State Government can announce in an official publication that certain individuals are allowed to enforce this tobacco law. If the authorized person believes someone has broken the law regarding tobacco advertising or distribution, they can detain that person. The person can be released if they provide their name and address and convince the officer that they will show up to court or respond to legal actions.

(2) Someone who is detained for breaking the tobacco law must be brought to a judge immediately to be handled according to legal procedures.

(3) A person who breaks the tobacco advertising or distribution laws can be tried in any location where they are found or in any place the State Government specifies, in addition to any other place where they can legally be tried.

(4) Any announcement made by the government about authorizing individuals to enforce the law or specifying trial locations must be published in an official publication. Additionally, this announcement must be displayed publicly in an easily noticeable place as directed by the State Government.

(5) Anyone given the power to enforce this tobacco law is considered a public servant as defined by section 21 of the Indian Penal Code.

Explanation using Example

Imagine a situation where a local shopkeeper is selling cigarettes near a school, which is a violation of Section 4 of The Cigarettes and Other Tobacco Products Act, prohibiting the sale of tobacco products in certain places. The Central Government has authorised Mr. Sharma, a health inspector, to act under this Act.

While on duty, Mr. Sharma notices the shopkeeper selling cigarettes to minors. He approaches the shopkeeper and asks for his identification, explaining that he is committing an offence under the Act. The shopkeeper refuses to provide his details and does not cooperate. Invoking Section 25(1), Mr. Sharma detains the shopkeeper for not furnishing his name and address and for failing to assure that he will attend court proceedings if summoned.

Mr. Sharma then takes the shopkeeper to the nearest magistrate as per Section 25(2) to ensure that the shopkeeper is dealt with according to the law.

Furthermore, the offence committed by the shopkeeper can be tried in any jurisdiction where he may be found, or in a place specifically notified by the State Government, as per Section 25(3).

The authority given to Mr. Sharma and the places where trials can be held are published in the Official Gazette and exhibited publicly as per Section 25(4).

Lastly, in his role as the health inspector authorised under this Act, Mr. Sharma is considered a public servant as defined by Section 25(5), which affords him certain legal protections while carrying out his duties.

Section 26: Offences By Companies

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation - For the purposes of this section, -

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Simplified Act

(1) If a company breaks the law according to this Act, both the company and the people who were in charge of running the business at the time of the

offence are considered to have committed the crime. They can be taken to court and punished if found guilty. However, if the person in charge can show that they didn't know about the offence or that they tried everything possible to prevent it, then they won't be punished.

(2) Even if what's said in part (1) is true, if a crime was committed by a company with the approval, secret agreement, or because of the neglect of any top official like a director, manager, secretary, or other officer, then that particular person will be held responsible and can be punished.

Explanation - To understand this section:

(a) "company" includes any business entity like corporations, partnerships, or groups of people; and

(b) "director" means a partner in a partnership.

Explanation using Example

Imagine a scenario where a tobacco company, 'SmokeFree Ltd.', is found to be advertising its cigarette brand on a billboard near a school, which is a violation of the Cigarettes and Other Tobacco Products Act. As per Section 26:

(1) The CEO of 'Smoke Free Ltd.', who was responsible for the company's operations at the time the advertisement was put up, along with the company itself, would be held accountable for this illegal act. They would both be subject to legal proceedings and potential penalties.

However, if the CEO can demonstrate that he had no knowledge of the advertisement or that he took all necessary precautions to prevent such an illegal advertisement, he might not be punished.

(2) If it is later discovered that the Marketing Manager had explicitly approved the advertisement despite knowing it was illegal, this individual would also face legal action for their direct involvement in the offence.

Section 27: Offences To Be Bailable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.

STATE AMENDMENT

Gujarat

Insertion of new section 27A in Act 34 of 2003

In the principal Act, after section 27, the following section shall be inserted, namely:

Offence under section 4A to be cognizable^{27A}

An offence under section 4A shall be cognizable. Vide Gujarat Act 27 of 2017, s. 7.

Maharashtra

Insertion of new section 27A in Act 34 of 2003 - After section 27 of the principal Act, the following section shall be inserted, namely:

Offence under section 4A to be cognizable^{27A}

An offence under section 4A shall be cognizable. Vide Maharashtra Act 60 of 2018, s. 7

Rajasthan

Insertion of new section 27A, Central Act No 34 of 2003

After the existing section 27 and before the existing section 28 of the principal Act, the following shall be inserted, namely:

27A Offence under section 4A to be cognizable

An offence under section 4A shall be cognizable. Vide Rajasthan Act 1 of 2020, s. 7

Simplified Act

Even though the Code of Criminal Procedure from 1973 has certain rules, this particular law says that if someone breaks the rules of this Act, they can be released on bail.

STATE AMENDMENT

Gujarat

In Gujarat, they added a new rule, called section 27A, to this law. It says:

If someone breaks the rule in section 4A, the police can arrest them without a warrant. This change was made by Gujarat Act 27 of 2017.

Maharashtra

Maharashtra also added a new rule, section 27A, just like Gujarat:

If someone breaks the rule in section 4A, the police can arrest them without a warrant. This was added by Maharashtra Act 60 of 2018.

Rajasthan

Rajasthan has a similar addition, with a new section 27A:

Breaking the rule in section 4A means the police can arrest without a warrant, as stated by Rajasthan Act 1 of 2020.

Explanation using Example

Imagine a shopkeeper is caught selling cigarettes to minors, which is a violation of the Cigarettes and Other Tobacco Products Act. Under Section 27 of the Act, if the shopkeeper is charged, the offence is bailable, meaning they are entitled to be released on bail. However, if this incident occurs in Gujarat, Maharashtra, or Rajasthan, where a state amendment has been made, the offence is also cognizable. This means that the police have the authority to make an arrest without a warrant and start an investigation with or without the permission of a court.

Section 28: Composition Of Offences

(1) Any offence committed under section 4 or section 6 may either before or after the institution of the prosecution be compounded by such officer authorised by Central Government or State Government and for an amount which may not exceed two hundred rupees.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Simplified Act

(1) If someone breaks the law regarding the ban on tobacco advertising (section 4) or the rules about where tobacco products can be sold (section 6), they can

settle the matter without going to court. An officer who is given the power to do this by the Indian central or state government can accept a payment from the person who broke the law. This payment can't be more than 200 Indian Rupees.

(2) After the person who broke the law pays the settlement fee, if they are in jail, they will be released, and the legal case against them will be closed. They won't face any more legal action for this particular offence.

Explanation using Example

Imagine a small shopkeeper in a busy market is found selling cigarettes to a minor, which is a violation of section 6 of The Cigarettes and Other Tobacco Products Act, 2003. Instead of facing a full legal prosecution, the shopkeeper is approached by an officer authorized by the state government who offers to compound the offence. The shopkeeper agrees to pay a sum of ₹150 as a compounding fee. Once the fee is paid, the shopkeeper is no longer under threat of any legal action for this particular instance, and if he was detained, he is released, with the understanding that no further proceedings will be initiated for this specific offence.

Section 29: Protection Of Action Taken In Good Faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.

Simplified Act

You can't take the Central or State Governments, or their officers, to court for actions they genuinely believe are in line with this law.

Explanation using Example

Imagine a scenario where a government officer confiscates a large quantity of illegally advertised tobacco products from a shop. The shop owner, upset about the loss of goods, decides to sue the officer for damages. However, under Section 29 of The Cigarettes and Other Tobacco Products Act, the officer is protected from such legal action because the confiscation was an action taken

in good faith to enforce the law as per the Act. Therefore, the court would likely dismiss the suit against the officer.

Section 30: Power To Add Any Tobacco Products In The Schedule

The Central Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any other tobacco product in respect of which it is of opinion that advertisements are to be prohibited and its production, supply and distribution is required to be regulated under this Act, and thereupon the Schedule shall in its application to such products be deemed to be amended accordingly.

Simplified Act

The Central Government has the power to regulate more tobacco products beyond those currently listed. They must first announce their plan to do this by publishing a notice in the Official Gazette at least three months before making any changes. After this period, they can officially add new products to the list through another announcement. Once added, these products will be subject to the same advertising bans and regulations on production, supply, and distribution as the products already covered by the Act.

Explanation using Example

Imagine a company, "Herbal Smokes Inc.," introduces a new herbal cigarette that is gaining popularity. The government, upon review, determines that although the product is marketed as "herbal," it contains tobacco and nicotine, and thus should fall under the same regulations as other tobacco products. To address this, the Central Government decides to issue a notification in the Official Gazette, stating its intention to add "Herbal Cigarettes" to the list of tobacco products regulated under The Cigarettes and Other Tobacco Products Act, 2003. They provide a three-month notice period for public and industry feedback. After three months, they issue another notification officially adding "Herbal Cigarettes" to the Schedule of regulated products, thereby prohibiting advertisement and regulating its trade, production, supply, and distribution.

Section 31: Power Of Central Government To Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) specify the form and manner in which warning shall be given in respect of cigarettes or other tobacco products under clause (o) of section 3;

(b) specify the maximum permissible nicotine and tar contents in cigarettes or other tobacco products under the proviso to sub-section (5) of section 7;

(c) specify the manner in which the specified warning shall be inscribed on each package of cigarettes or other tobacco products or its label under sub-section (2) of section 8;

(d) specify the height of the letter or figure or both to be used in specified warning or to indicate the nicotine and tar contents in cigarettes or other tobacco products under section 10;

(e) provide for the manner in which entry into and search of any premises is to be conducted and the manner in which the seizure of any package of cigarettes or other tobacco products shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody any package of cigarettes or other tobacco products has been seized;

(f) provide for any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act and every notification made under section 30 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Simplified Act

Simplified Explanation:

- (1) The Indian government can create rules to enforce this law, announcing them in an official publication.
- (2) These rules can cover a range of topics, including:
 - (a) How to display health warnings on cigarette and tobacco products.
 - (b) The allowed amounts of nicotine and tar in these products.
 - (c) The way health warnings should be printed on packaging or labels.
 - (d) The size of the letters or numbers used in health warnings and nicotine/tar content labels.
 - (e) Procedures for officials to enter premises, search, seize tobacco products, and document these actions.
 - (f) Any other regulations that might be necessary.
- (3) Any new rules or official announcements must be presented to both houses of Parliament. They must be reviewed for a total of thirty days, which can span across one or multiple sessions. If both houses agree to change or cancel a rule during the following session, it will only continue in the new form or not at all. However, this does not affect anything that was already done under the rule or announcement before the changes.

Explanation using Example

Imagine a situation where a new brand of cigarettes is being launched in the market. The company manufacturing the cigarettes is required to comply with the regulations set by the Central Government under The Cigarettes and Other Tobacco Products Act, 2003. To ensure compliance, the government has issued a set of rules, which include:

The company must include health warnings on cigarette packages, specifying the form and manner of these warnings as per the rules made under clause (a).

They must also ensure that the nicotine and tar contents do not exceed the maximum permissible levels, which are detailed in the rules under clause (b).

Furthermore, the specific manner in which the health warnings are to be inscribed on each cigarette package or label is governed by the rules under clause (c).

The size of the letters or figures used in the health warnings and to indicate the nicotine and tar contents must adhere to the standards set in the rules under clause (d).

In case of suspected non-compliance, the rules provide procedures for entry, search, and seizure of the cigarette packages, as per clause (e).

The company must follow these rules to avoid legal consequences, including potential seizure of their products. Any updates or modifications to these rules must be presented before the Parliament as per subsection (3), ensuring legislative oversight and adherence to democratic principles.

Section 32: Act Not To Apply To Cigarettes Of Other Tobacco Products Which Are Exported

Nothing contained in this Act shall apply to any cigarette or other tobacco products or package of cigarettes or other tobacco products which is exported: Provided that nothing in this section shall be deemed to authorise the export of any package of cigarettes or other tobacco products, not containing the specified warning and indication of nicotine and tar contents to any country if the law in force in that country requires that the same or similar warning and nicotine and tar contents shall be specified on each package of cigarettes or other tobacco products.

Explanation - For the purpose of this section, any cigarette or other tobacco products or package of cigarettes or other tobacco products shall be deemed to be exported before the commencement of this Act, if the necessary steps for export have already been taken notwithstanding that the actual export has not taken place.

Simplified Act

Simplified Explanation of Section 32:

This law does not apply to tobacco products that are meant to be sent to other countries. However, if the country receiving the tobacco products requires health warnings and information about nicotine and tar levels on the packaging, then those exports must meet those requirements too.

Note: For this part of the law, tobacco products are considered ready for export even if they haven't physically left the country, as long as the process of sending them abroad has started.

Explanation using Example

Imagine a tobacco company based in India, "Smooth Smoke Pvt. Ltd.," which manufactures cigarettes. They produce a special line of cigarettes that are intended solely for export to various countries in Europe. According to Section 32 of The Cigarettes and Other Tobacco Products Act, 2003, the Indian regulations regarding tobacco advertising and packaging do not apply to these cigarettes since they are not sold domestically but are exported.

However, one of the European countries where "Smooth Smoke Pvt. Ltd." exports its products has strict laws requiring health warnings and the display of nicotine and tar contents on the packaging. In this case, even though the cigarettes are for export, the company must comply with that country's regulations and include the necessary warnings and content indications on the packages. If they fail to do so, they cannot legally export their cigarettes to that country, as per the proviso in Section 32.

Section 33: Repeal And Savings

(1) The Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975 (49 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the aforesaid Act, shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

Simplified Act

(1) The old law called the Cigarettes (Regulation of Production, Supply and Distribution) Act of 1975 is now officially cancelled.

(2) Even though the old law is cancelled, anything that was done under that old law is still valid as long as it doesn't conflict with the new law. It's like the old

actions are considered to have been done under the new law. These actions will stay valid until they are replaced by new actions under the new law.

Explanation using Example

Imagine that in 2002, a tobacco company received a license to produce cigarettes under the provisions of the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975. In 2003, when the Cigarettes and Other Tobacco Products Act (COTPA) came into force and repealed the 1975 Act, the company was concerned about the status of their license.

According to Section 33(2) of COTPA, 2003, the license issued in 2002 would remain valid, provided it wasn't inconsistent with the new Act's provisions. The tobacco company would be able to continue its operations as if their license was issued under the new Act, until they needed to renew it or until any new regulations under COTPA required them to alter their practices.