

# (An Authentic English Text of Bangla)

## Act No. XI of 2005

### An Act to provide provisions for controlling production, use, sale and purchase of smoking and tobacco products and advertisements thereof.

WHEREAS smoking and the use of tobacco products is harmful to the public health;

WHEREAS Bangladesh signed the Framework convention on Tobacco Control (FCTC) in the 56<sup>th</sup> convention of World Health Organization for discouraging the smoking and using of tobacco product on 16 June, 2003 and initiated it on 10 May, 2004; and

WHEREAS it is expedient and necessary to control smoking and production, use, sale, purchase and advertisements of tobacco product for the purpose of implementing the provisions of the convention in Bangladesh;

It is hereby enacted as follows:—

**1. Short title and commencement.**— (1) This Act may be called the Smoking and Using of Tobacco Products (Control) Act, 2005.

(2) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint:

Provided that different dates may be specified in order to enforce the different provisions of this Act.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject of context,—

- (a) "**authorized officer**" means Upazila Nirbahi Officer or Upazila Health Officer or any officer of Health Directorate equivalent or senior to his rank and includes any officer or officers authorized in this behalf under different laws for the purposes or discharging the concern duties;
- (b) "**tobacco**" means Nicotima Tobaccum or any plants of Nicotima Bustica or any other plants thereof or its leaf or produce;
- (c) "**tobacco product**" means any thing made from tobacco which can be inhaled through smoking, and also includes Biri, Cigarette, Cheroot, Cigar and mixture used by pipe;
- (d) "**smoking**" means inhaling or exhaling the smoke of tobacco, and also includes keeping or controlling any flamed tobacco products;
- (e) "**smoking zone**" means any public place or any area specified for smoking in the public vehicles;
- (f) "**public place**" means educational institutions, Government, Semi-Government and officers of autonomous body, libraries, elevators, hospitals, clinics, court

buildings, airport buildings, sea-port buildings, river-port buildings, railway station buildings, bus terminal buildings, ferry, cinema hall, covered showing place, theatre hall, shopping buildings, public toilet, children park maintained under the supervision by the Government or public, and such other places as may be determined by the Government, by notification in the Official Gazette;

(g) **"public vehicles"** means motor car, bus, railways, ship, launch, all kinds of mechanical public transport, aero places and such other vehicles as may be determined or declared by the Government, by notification in the Official Gazette;

(h) **"rules"** means rules made under this Act;

(i) **"person"** includes company, co-operatives or organization or body of persons, whether incorporated or not;

(j) **"person"** includes company, co-operatives or organization or body of persons, whether incorporated or not;

3. **Application of other laws.**— The provisions of this Act, if there is nothing contradictory, shall be deemed to be addition to and not in derogation of other laws prevailing for the time being including the Railways Act, 1890 (Act IX of 1890), the Juvenile Smoking Act; 1919 (Ben. Act II of 1919), the Dhaka Metropolitan Police Ordinance, 1976 (Ord. No. III of 1976), the Chittagong Metropolitan Police Ordinance, 1978 (Ord. No. XLV III of 1978), The Khulna Metropolitan Police Ordinance, 1985 (Ord. No. LIII of 1985) and the Rajshahi Metropolitan Police Act, 1992 (Act No. 23 of 1992) shall be deemed to be addition to any laws enforced for the time being and shall not be prejudice to them.

4. **Smoking, prohibited in public places and in the public vehicles.**—(1) Subject to the provisions of section 7, no person shall smoke in public places and in the public vehicles.

(2) Any person contravening the provision of sub-section (1) shall be punished with a fine not exceeding taka fifty.

5. **Prohibition of advertisement of tobacco product.** —(1) No person shall—

(a) display advertisement on tobacco products in cinema hall or government and non-government radio and television channel, and shall not make any exhibition of photographs audible or made audible;

(b) sell or make sold any film or video tape or such other things containing advertisement of tobacco products;

(c) print or publish or make published any advertisement in any books, magazines, handbills, bill-board, newspaper or printed papers published in Bangladesh; and

(d) distribute or supply to public any leaflet, handbill or documents containing the name of brand of tobacco product, colour, logo, trade mark, sign, symbol or advertisement.

**Explanation.**— In this section advertisement means circulation by written, printed or verbal words through electronic media, e-mail, internet, telecast, or any other media.

(2) Nothing of clause (d) of sub-section ( 1 ) shall apply to such shopkeeper or trader who sells tobacco products.

(3) No person shall, for the purpose of inspiring or inducing to sell tobacco product or offer to give away any sample of tobacco product to the public without any price.

(4) No person shall, for the purpose of inspiring to use tobacco product, give or receive bestow, reward, stipend or scholarship or shall enter into any contract or agreement with other person to arrange any tournament.

(5) If any person contravenes the provisions of this section, he shall be punished with simple imprisonment which may extend to three months or with a fine which may extend to one thousand taka or with both.

**6. Installation of Automatic Vending Machine.**—(1) No person shall install or allow to install or place or allow to place any automatic vending machine in the passage, public place or in the public vehicles in order to sell tobacco product.

(2) If any person contravenes the provisions of sub-section (1), he shall be liable to fine which may extend to one thousand taka.

**Explanation.**— In this section automatic vending machine means such automatic machine by which tobacco or tobacco products are distributed normally or with the help of buyer by using coin, metal or any other thing.

**7. Arrangement of smoking zone.**—(1) The owner, caretaker or controller or manager of public places and any owner, caretaker, controller or manager of the public vehicles may mark off or specify the place for smoking.

(2) The area, description, equipments and the system of security of smoking zone of any public places or of public vehicles may be determined by the rule.

**8. Exhibition of vigilance notice.**—(1) The owner, caretaker or controller or manager of public places and the owner, caretaker, or controller or manager of public vehicles shall arrange to display a notice in Bangla and English as "**Be abstain from smoking, it is a punishable offence**" in one or more points outside the place, marked or specified as smoking zone under section 7, and in the concerned vehicles.

**9. Power of authorized officer.**—( 1 ) The authorized officer within his jurisdiction entering into any public place and the public vehicle, for the purpose of carrying out the provisions of this Act, may inspect that place.

(2) The authorized officer may remove the person, who contravenes the provision of this Act, from the public place or public vehicle.

(3) If any person, contravening the provision of this Act, sells or offers to sell tobacco product, the authorized officer may use, transfer, destroy or seize the tobacco product in

such manner as may be prescribed by rule.

(4) If any proceedings are taken under sub-section (3), the authorized officer shall inform the Government in writing within 7 days from the date in which proceedings were taken.

**10. Health Warnings, etc. on packets.**—( 1 ) Each enterprise producing tobacco product shall print on the packed or package in capital letters clearly visible and in large size (not less than 30% of total area) any of the following warning, namely :—

- (a) smoking causes death;
- (b) stroke occurs for smoking;
- (c) smoking is the cause of heart disease;
- (d) smoking is the cause of lung cancer;
- (e) smoking creates problems to breathing; or
- (f) smoking is harmful to health.

(2) No person shall buy or sell the packet or package of tobacco product which has not followed the provision of sub-section (1).

(3) If any person contravenes the provisions of sub-section (1) or (2), he shall be punished with a simple imprisonment which may extend to three months or with a fine which may extend to one thousand taka or with both.

**11. Giving information of ingredients in the case of importing Tobacco Product.**—(1) The concerned importer shall, at the time of importing tobacco product, furnish a report to the Government in which the amount of each element used in the importable ingredients be stated.

(2) If any person without submitting the report under sub-section (1), imports tobacco product, such product shall be forfeited at any time.

**12. Loans for cultivation of alternative crops in lieu of tobacco product.**—(1) The Government shall, for the purpose of discouraging the tobacco cultivator to cultivate tobacco product, and encouraging to cultivate alternative cash crops, grant loans on easy terms, such opportunity shall continue for a period of next five (5) years after the commencement of this Act.

(2) The Government shall make necessary guidelines to promote for comprehensive discouragement in producing and using tobacco products and for discouragement to set up industries of tobacco products.

**13. Public Servant.**— The authorized officer while acting under this Act, shall be deemed to be a public servant within the meaning of section 21 of the penal Code (XLV of 1860).

**14. Cognizance of Offence and Bailable.**—(1 ) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be —

(a) cognizable and bailable;

(b) triable by the Magistrate of any class.

(2) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing by the authorized officer.

**15. Offence committed by company.**— If the person committing offence under this Act is a company, the owner, director, manager, secretary or any other officer or agent of the company shall be deemed to have committed the offence, unless he can prove that such offence was committed without his knowledge or he has tried his level best to prevent such offence.

**Explanation.**— In this section—

(a) "**company**" includes any statutory corporation, trading organization, partnership business, association or organization also;

(b) "**director**", in the case of trading institution, includes any partner or any member of the board of directors.

**16. Power to make rules.**— The Government may, by notification in the official Gazette, make rules for the purpose of this Act.

**17. Main Text and English Text.**—The main Text of this Act shall be in Bangla and shall have an authentic English Text:

Provided that, in the case of any contradiction between the Bangla Text and English Text, the Bengah text shall prevail.

**18. Repeal and Savings.** (1) On The commencement of this Act—

(a) The East Bengal Prohibition of Smoking in Show Houses Act, 1952 (E B. Act XIII of 1952); and

(b) Tamakjat Shamogri Bipanan (Niontran) Aain, 1988 (Act, No. 45 of 1988) shall be repealed.

(2) Notwithstanding such repeal, any suit or proceeding laid under the repealed Acts shall continue as if this Act had not been enacted.

**Dr. Md. Omar Faruque Khan**  
Secretary.