

Government of India
Ministry of Health & Family Welfare
Tobacco Control Division

Subject: Vetting of notification relating to the Amendment in the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Rules, 2004-reg

The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) has been enacted to discourage the consumption of cigarettes and other tobacco products and protect youth and masses from adverse harmful effects of tobacco use with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution of India.

2. Section 5 of COTPA prohibits direct and indirect advertisements and promotion of use and consumption of cigarettes and other tobacco products. The Government considering the influence of films on young impressionable mind and upsurge in the depiction of tobacco use and tobacco product placements in Indian Films, notified the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution), Rules, 2004, (as amended), to regulate depiction of tobacco use in Films and TV Programmes shown in cinema hall or theatre and broadcasted in television. The 2004 Rules have been in force from 2nd October 2012. [F/A colly]

3. As per the COTPA Rules 2004, all films and television programs, displaying tobacco products or their use, shall:

- display anti-tobacco health spots, of minimum thirty seconds duration each at the beginning and middle of the films and television programme;
- display an audio-visual disclaimer on the ill effects of tobacco use, of minimum twenty seconds duration at the beginning and middle of the film or the television programme;
- display of anti-tobacco health warning as a prominent static message at the bottom of the screen during the period of display of the tobacco products or their use in the film and television programme.

4. The COTPA Rules 2004, further prohibits display of brands of tobacco products, tobacco product placement and display of tobacco products or their use in promotional materials:

5. Hon'ble Supreme Court of India in the matter of Health for Million Vs. Union of India & Ors (SLP No. 413-414/2013) vide order dated 22.07.2013, directed the Central Government and the Governments of all the States to rigorously implement the provisions of the 2003 Act and the 2004 Rules as amended from time to time.

6 . The abovesaid COTPA Rules 2004 are fairly well implemented by Cinema Hall or Theatre Owners and by Cable or Network Television Broadcasters. However, the COTPA Rules 2004 do not extend and thus not implemented in Online Curated Contents or Over the Top(OTT) platforms, which are visual content, made available over the internet or computer networks, such as Netflix, Amazon Prime, Sonliv, Zee5, Voot, Alt Balazi, Hulu, Hotstar etc.

7 . In this background an inter-ministerial/department meeting (consisting of Ministry of Health, Ministry of I&B, MeitY and CBFC), was convened on 14.02.2023, to deliberate on the regulation of depiction of tobacco use in OTT platform. The meeting concluded with the action

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point that amendments to the existing COTPA 2004 Rules by inserting definition on online curated contents and providing for display of anti-tobacco health spots, static message, and disclaimers where tobacco products and its use is depicted shall be notified. [F/B]

8 . In view of the above the draft amendments to COTP 2004 Rules was submitted for approval of Hon'ble HFM and for sending the approved drat notification to the legislative department for vetting. The draft notification was approved by Hon'ble HFM on ...[F/C]

9. Accordingly, a draft notification with the approval of Hon'ble HFM is placed below for legal vetting by the Legislative Department, Ministry of Law and Justice. Once, the same is vetted, as well as Hindi version, the approval of Hon'ble Minister of Health & Family Welfare will be obtained before the notification in the Gazette of India.[F/D]

Pulkesh Kumar

(Dr. Pulkesh Kumar)
Deputy Secretary to the Govt. of India
17th April, 2023

Joint Secretary & Legislative Counsel, Legislative Department, Ministry of Law & Justice, 'A' Wing, 4th Floor, Shastri Bhawan, New Delhi-110001

Department of Health & Family Welfare, ID No. P.16012/08/2017-TC dated 17-04-2023

विधि और न्याय मन्त्रालय
विधायी तथा श्रेयक अनुभाग
17 APR 2023
अनु. डा. सं. 565

विधि और न्याय मन्त्रालय
Ministry of Law & Justice
विधायी विभाग/Legislative Deptt.
विधायी-1अनुभाग/Legislative-I Section
एस.आर.ओ.डा.सं.....दिनांक.....
SRO Dy. No.....Date.....

18/4/23

680/23

Sh. Udaya Kumara,
JSAC

From me

संयुक्त सचिव एवं विधायी परामर्शी (उ.क.)
Joint Secretary & Legislative Counsel (UK)
डा. सं./Dy. No. 279
दिनांक/Date 18/4/23

Udaya Kumara
18/4/2023

Ministry of Law and Justice
Legislative Department


FTS No. 680/23 dated the 18.04. 2023

Ministry of Health and Family Welfare (the administrative Ministry) has forwarded a copy of the draft amendment rules, namely, the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules, 2023 to this Department for vetting. The administrative Ministry proposes to make the said amendment rules in exercise of the powers conferred by section 31 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

2. The said draft amendment rules have been examined and it is noticed, *inter alia*, that-

- (i) the provisions of sub-rule (2) of rule 1 which provides for the commencement of the proposed amendment rules are not in order, thus it has been modified;
- (ii) in the proposed rule 11 of the draft amendment rules, the administrative Ministry has not stated as to who has to comply with the norms while displaying online curated contents, though in the proposed sub-rule (5) of the said rules the publisher has to comply with the proposed norms. Therefore, in sub-rule (1) also, it is necessary to state as to who has to comply with the norms for online curated contents to ensure clarity. Further, the proposed proviso to sub-rule (1) of rule 11 appears to be in the nature of a substantive provision rather than a proviso, thus modified as a substantive sub-rule.

3. In view of the above, the administrative Ministry is requested to prepare a clean copy of the draft amendment rules to the extent amendment in pencil and forward the same to this Department for final vetting and also clarify the observations in para 2 above, and also depute an officer who is well conversant with the facts of the draft amendment rules to discuss with the undersigned on mutually convenient date and time to enable this Department to scrutinise the draft amendment rules.


(Udaya Kumara)

Joint Secretary and Legislative Counsel
19th April, 2023
Tel: 23389163

Ministry of Health and Family Welfare.

विधि और न्याय मन्त्रालय
Ministry of Law & Justice
विधायी विभाग./Legislative Deptt.
विधायी-1 अनुभाग./Legislative-I Section
एस.आर.ओ.यू.ओ.सं.....दिनांक.....
SRO UO No.....Date.....

680/23 19/4/23

संयुक्त सचिव 54 भारतीय परामर्शा(उ.क.)
Joint Secretary & Legislative Counsel (UK)
डा. सं./Dy. No. 230
दिनांक/Date 19/4/23

3900734
20/4/23
SRO UO No. 680/23
Date 18/04/23
Ministry of Health & Family Welfare

DS (PK)

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Ref notes of Legislative Department (FTS No. 680/23);

Pursuant to the discussions with Joint Secretary & Legislative Counsel, Legislative Department on 28th April, 2023, the revised draft Rules (thereby incorporating the changes suggested) is submitted for perusal and legal vetting please.

FIX
Revised

Pulke

(Dr. Pulkesh Kumar)
Deputy Secretary to the Govt. of India
28th April, 2023

Shri Udaya Kumara, Joint Secretary & Legislative Counsel, Legislative Department,
Ministry of Law & Justice, 'A' Wing, 4th Floor, Shastri Bhawan, New Delhi-110001

Department of Health & Family Welfare, ID No. P.16012/08/2017-TC dated
28.04.2023

विधि और न्याय मन्त्रालय
Ministry of Law & Justice
विधायी विभाग/Legislative Deptt.
विधायी-1अनुभाग/Legislative-I Section
एच.आर.ओ.का.सं.....दिनांक.....
SRO Dy. No.....Date.....

767/23 1.5.23

- 5/N -

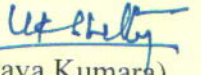
Ministry of Law and Justice
Legislative Department

767/23
FTS No. 680/23 dated the 18.04. 2023

Ministry of Health and Family Welfare (the administrative Ministry) has forwarded a copy of the draft amendment rules, namely, the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules, 2023 to this Department for vetting. The administrative Ministry proposes to make the said amendment rules in exercise of the powers conferred by section 31 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

2. It may be recalled that this Department, *vide* its note at p. 3, dated the 19th April, 2023, had examined the said draft amendment rules and requested the administrative Ministry to prepare a clean copy of the revised draft amendment rules to the extent amendment in pencil and forward the same to this Department for final vetting and also clarify the observations in para 2 of the said note, and also depute an officer who is well conversant with the facts of the draft amendment rules to discuss with the undersigned on mutually convenient date and time to enable this Department to scrutinise the draft amendment rules.

3. Accordingly, the administrative Ministry has clarified the observations of this Department, *vide* its note at p. 4N, dated the 28th April, 2023 and also deputed its officers for discussion and also forwarded a clean copy of the revised draft amendment rules for final vetting. The said draft amendment rules have been further examined, discussed with them accordingly and scrutinised. The draft amendment rules, as amended in pencil, are formally in order.


(Udaya Kumara)

Joint Secretary and Legislative Counsel
28th April, 2023
Tel: 23389163

Ministry of Health and Family Welfare.

विधि और न्याय मन्त्रालय
Ministry of Law & Justice
विधायी विभाग/Legislative Deptt.
विधायी-1अनुभाग/Legislative-I Section
एस.आर.ओ.यू.ओ.सं.....दिनांक.....
SRO UO No.....Date.....

767/23 1.5.23

संयुक्त सचिव एवं विधायी परामर्शी (उ.क.)
Joint Secretary & Legislative Counsel (UK)
डा. सं./Dy. No. 760
दिनांक/Date 28/4/23


भारत सरकार
विधि और न्याय मंत्रालय
(विधायी विभाग)
राजभाषा खंड
अनुवाद--1 अनुभाग

कमरा सं.733, 'ए' विंग,
शास्त्री भवन, डा.राजेन्द्र प्रसाद मार्ग,
नई दिल्ली-110001

संलग्न अधिसूचना के हिन्दी पाठ की अनुवाद/विधीक्षा कर दी गई है। संबंधित मंत्रालय/विभाग कृपया यह सुनिश्चित कर लें कि अनुवादित/विधीक्षित हिंदी पाठ उनकी अपेक्षाओं के अनुरूप है।

हिन्दी पाठ तैयार करने के लिए सामग्री भेजते समय कृपया निम्नलिखित बातों पर अवश्य ध्यान दें।

1. अपना टेलीफोन नंबर, ई-मेल और कार्यालय का पता अवश्य लिखें।
2. तत्काल प्रकृति की फाइलें 12 पूर्वा 0 बजे तक व सुसंगत कागजात सदैव पताका लगाकर भेजें।
3. हिन्दी पाठ तैयार करने के लिए भेजी गई सामग्री के अंग्रेजी पाठ की विधि और न्याय मंत्रालय के विधायी विभाग से सम्यक रूप से विधीक्षा करवा लेने के पश्चात् उक्त अंग्रेजी पाठ की एक अतिरिक्त स्वच्छ टंकित प्रति यथाविधीक्षित अंग्रेजी पाठ और तत्संबंधी की गई नोटिंग के साथ संपूर्ण फाइल भेजें।
4. उस मूल अधिसूचना/आदेश/नियम/विनियम की जिसका संशोधन किया जा रहा है और उनमें किए गए पश्चातवर्ती संशोधनों की यदि कोई अंग्रेजी और हिन्दी प्रति संदर्भ हेतु अवश्य भेजें।
5. यदि संशोधनकारी अधिसूचना/आदेश/शुद्धिपत्र/नियम/विनियम आदि तकनीकी/वैज्ञानिक प्रकृति के हैं तो उनका हिन्दी पाठ अपने स्तर पर कराकर विधीक्षार्थ उपलब्ध कराएं।
6. संबंधित मंत्रालय/विभाग पैरा 2, 3, 4 एवं 5 में वर्णित सामग्री का अनुपालन सुनिश्चित करें जिसके अभाव में अनुवाद/विधीक्षा करना संभव नहीं होगा और फाइल वापस कर दी जाएगी।


04/05/23
(अमित कुमार)

अधीक्षक

दूरभाष: 23388231

स्वास्थ्य और परिवार कल्याण मंत्रालय

राजभाषा खंड डा0सं0262 /2023-अनुवाद -1, तारीख 04 / 05/2023 क.नं.733 7वां तल, शास्त्री भवन-1

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कृपया पिछले नोट्स के सन्दर्भ में

ड्राफ्ट सिगरेट और अन्य तंबाकू उत्पाद (विज्ञापन का निषेध और व्यापार और वाणिज्य, उत्पादन, आपूर्ति और वितरण का विनियमन) संशोधन नियमावली, 2023 का हिंदी अनुवाद इस मंत्रालय ने करवाया है। कृपया इसकी वेटिंग करने का उपकार करें। ड्राफ्ट अधिनियम का इंग्लिश अनुवाद श्री उदया कुमारा, JA&LA ने approve कर दिया है।

श्रीकला .एस
२५/५
अनुभाग अधिकारी

OL Wing, Legislative Department, Ministry of Law & Justice, 'A' Wing, Shastri Bhawan,
New Delhi-110001

Department of Health & Family Welfare, ID No. P.16012/08/2017-TC dated
02.05.2023

रा. वि. वि. वि.
अनुवाद वि. वि. वि.
क्र. सं. ६२/२०२३
तारीख ०३-०५-२०२३

Draft
Hindi
Version

Ref notes pre-pages please;

A1 & A2

to be signed by AS(TC)

H/x to

be signed by DS(TC)

for Mayer - print printing Press

The notifications (English and Hindi versions) on Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules, 2023 have been approved by Hon'ble HFM and now needs to be published in the extraordinary gazette. Accordingly, the approved copies of the notification are enclosed below for signature of AS(TC). Thereafter, the same will be uploaded on e-gazette portal with the support of US(Hospitals).

Pooja Gupta
29/5/23

Diksha B
29/5/23

SO(TC)
DS(TC)

Pooja
29/5

AS(TC)

29/5

Ref notes above:

The Amendment Rules, 2023 have been published in extraordinary e-gazette. The same has been uploaded on ntep.mohfw.gov.in. Now it has to be linked on mohfw, therefore Metadala format has to be sent to eHealth for the same. Submitted for approval of AS(TC) pls.

Pooja
31/5/23
SO(TC)
DS(TC)

Diksha B
31/5/23

Pooja
31/5/23

AS(TC)

31/5

Ref notes pre-pages please;

File is submitted for approval of AS(CTC) for uploading/ linking the Health spots,

message and disclaimers under ~~newly~~ recently amended rules of 2004 [OTTRules of 2023]. As of now the contents have been uploaded in Hindi & English languages on NCP portal.

2. Submitted for approval of Metadala-format for linking the same on MOHFW website.

~~Pooja~~
~~28/6/23~~

~~SO(CTC)~~

~~DS(CTC)~~

~~AS(CTC)~~

~~Nishal.B~~
~~28/6/23~~

~~Pooja~~
~~28/6/23~~

~~28/6~~