

मुंबई विद्यापीठ



No. Aff./ICC/ (2023-24)/ 5 / of 2023

परिपत्रकः

विषयः शैक्षणिक संस्था व नजिकच्या परिसरामध्ये इलेक्ट्रॉनिक्स सिगारेट्स आणि तत्सम उपकरणांच्या/पदार्थांच्या वापरावर बंदी संदर्भात कार्यवाही करणेबाबत.

The Prohibition of Electronic Cigarettes Act, 2019

- संदर्भः १) शिक्षण सहसंचालक, उच्च शिक्षण, महाराष्ट्र राज्य, पुणे यांचे पत्र क्र. उशिसं/मवि-१ / The Prohibition of Electronic Cigarettes / २०२३ दिनांक १८/०५/२०२३.
- २) सचिव, स्वास्थ्य एवं परिवार कल्याण विभाग, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार यांचे पत्र क्र. D. O. No. P. १६०१/२३ / २०१९-TC दि. १०.२.२०२३.
- ३) THE GAZETTE OF INDIA, MINISTRY OF LAW & JUSTICE- THE PROHIBITION OF ELECTRONIC CIGARETTES (PRODUCTION, MANUFACTURE, IMPORT, EXPORT TRANSPORT, SALE, DISTRIBUTION, STORAGE AND ADVERTISEMENT) ACT 2019.


उपरोक्त संदर्भिय विषयान्वये मुंबई विद्यापीठाशी संलग्नीत सर्व शासकिय, अशासकिय, अनुदानित, विनाअनुदानित महाविद्यालयांचे प्राचार्य, संस्थांचे संचालक यांना कळविण्यात येते की, उपरोक्त विषयान्वये आपणास कळविण्यात येते की, भारत सरकारने इलेक्ट्रॉनिक्स सिगारेट्स आणि त्याबाबतच्या इतर बाबींवर (उत्पादन करणे, आयात-निर्यात, वाहतूक, विक्री, वितरण साठवणूक तसेच जाहिरात) The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale distribution, Storage and Advertisement) Act, 2019 अन्वये बंदी घातली आहे. तसेच गुन्हेगारी प्रक्रिया संहिता १९७३ तसेच उपरोक्त अधिनियमातील तरतुदीनुसार सदर कायद्याच्या अंमलबजावणीसाठी अधिकृत अधिकाऱ्यांना जबाबदार ठरविण्यात आले आहे.

उपरोक्त पार्श्वभूमीवर Electronic Cigarettes बाबत The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale distribution, Storage and Advertisement) Act 2019 या कायद्याच्या प्रभावाखाली अंमलबजावणीसाठी आवश्यक त्या उपाययोजना आपल्या स्तरावरून तात्काळ करण्यात याव्यात उदा. उपरोक्त उपकरणे महाविद्यालय तसेच नजिकच्या परिसरात विक्री तसेच उपयोग केला जाणार नाही याबाबत दक्षता घेण्यासाठी विशेष तपासणी मोहिम राबविणे.

विषयवस्तु प्रकरणे संदर्भ क्र २ व ३ ची प्रत सोबत जोडली आहे. सदर पत्रातील सूचनांचे कार्यवाही करण्यात यावी.

उपरोक्त बाबतीत मुंबई विद्यापीठाशी संलग्नीत सर्व शासकिय, अशासकिय, अनुदानित, विनाअनुदानित, कायम विनाअनुदानित पदव्युत्तर पदवी, पदवी, पदविका महाविद्यालयांचा विनंती करण्यात येते की, संदर्भाधीन परिपत्रकातील सूचनांचे पालन करण्यात यावे.

मुंबई-४०० ०३२
२० मे, २०२३


प्रभारी कुलसचिव

मुंबई विद्यापीठाशी संलग्नीत सर्व शासकिय, अशासकिय, अनुदानित, विनाअनुदानित महाविद्यालयांचे प्राचार्य, संस्थाचे संचालक तसेच मुंबई विद्यापीठाच्या विविध विभागांचे विभागप्रमुख आणि संचालक.



महाराष्ट्र शासन
शिक्षण संचालनालय, (उच्च शिक्षण),
महाराष्ट्र राज्य, मध्यवर्ती इमारत, पुणे-४११ ००१.

Web : www.dhepune.gov.in

E-Mail : mavi.dhepune@gov.in

फोन नं. 020/26122119, 26051512, 26130627, 26124639

फॅक्स नं. 020/26111153.

क्र.: उशिसं/मवि-१/ The prohibition of electronic cigarettes/२०२३/

दिनांक: ४.२०२३

३४५ १८ MAY 2023

परिपत्रक

विषय: शैक्षणिक संस्था व नजिकच्या परिसरामध्ये इलेक्ट्रॉनिक सिगारेट्स आणि तत्सम उपकरणांच्या/पदार्थांच्या वापरावर बंदी संदर्भात कार्यवाही करणेबाबत..

The Prohibition of Electronic Cigarettes Act 2019

- वाचा- १. शासनपत्र क्र.: तक्रार- २०२३/संदर्भ क्र. १९७/प्र.क्र.२५/विशि-५ दि. १३.४.२०२३
२. सचिव, स्वास्थ्य एवं परिवार कल्याण विभाग, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार यांचे पत्र क्र.: D.O.No. P.१६०१२/२३/२०१९-TC दि. १०.२.२०२३
३. THE GAZETTE OF INDIA, MINISTRY OF LAW & JUSTICE - THE PROHIBITION OF ELECTRONIC CIGARETTES (PRODUCTION, MANUFACTURE, IMPORT, EXPORT, TRANSPORT, SALE, DISTRIBUTION, STORAGE AND ADVERTISEMENT) ACT 2019

उपरोक्त विषयानुषंगाने कळविण्यात येते की, वाचा क्र. २ नूसार - भारत सरकारने इलेक्ट्रॉनिक सिगारेट्स आणि त्याबाबतच्या इतर बाबींवर (उत्पादन करणे, आयात-निर्यात, वाहतूक, विक्री, वितरण, साठवणूक तसेच जाहिरात) The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale Distribution, Storage and Advertisement) Act 2019 अन्वये बंदी घातली आहे. तसेच गुन्हेगारी प्रक्रिया संहिता १९७३ तसेच उपरोक्त अधिनियमातील तरतूदीनुसार सदर कायद्याच्या अंमलबजावणीसाठी अधिकृत अधिका-यांना जबाबदार ठरविण्यात आले आहे.

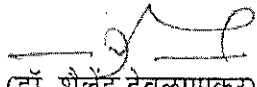
वेळोवेळी भारत सरकारच्या स्वास्थ्य एवं परिवार कल्याण मंत्रालयाकडून राज्य तमचे केंद्रशासीत प्रदेशांना सदर कायद्याच्या परिणामकारक अंमलबजावणीबाबत सूचना देण्यात आल्या आहेत. तथापी त्यानंतरही उपरोक्त उपकरणे ऑनलाईन स्टोअर्स तसेच स्थानिक व्यापा-यांकडे उपलब्ध असल्याचे दिसून आले आहे. सदर उपकरणे शैक्षणिक संस्थांच्या नजिकच्या परिसरामध्ये विकली जात असल्याने ही गंभीर चिंतेची बाब आहे. कारण त्यामुळे विद्यार्थ्यांदशेतील मुले सहजपणे या व्यसनांच्या जाळ्यात ओढली जात आहेत. सदर प्रतिबंधित उपकरणांची सहज उपलब्धता विचारात घेता The Prohibition of Electronic Cigarettes Act 2019 च्या प्रभावी अंमलबजावणीसाठी जाणीवपुर्वक व सातत्याने प्रयत्न करण्याची आवश्यकता आहे.

उपरोक्त पार्श्वभूमीवर Electronic Cigarettes बाबत The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale Distribution, Storage and Advertisement) Act 2019 या कायद्याच्या प्रभावी अंमलबजावणीसाठी आवश्यक त्या

उपाययोजना आपल्या स्तरावरून तात्काळ करण्यात याव्यात उदा. - उपरोक्त उपकरणे महाविद्यालये तसेच नजिकच्या प्रिसरात विक्री तसेच उपयोग केला जाणार नाही याबाबत दक्षता घेण्यासाठी विशेष तपासणी मोहिम राबविणे.

विषयांकित प्रकरणी वाचा क्र. २ व ३ ची प्रत सोबत जोडली आहे. सदर पत्रातील सूचनांप्रमाणे कार्यवाही करण्यात यावी.

कुलसचिव, सर्व अकृषी विद्यापीठे/अभिमत विद्यापीठे/स्वयंअर्थसहायित विद्यापीठे- महाराष्ट्र राज्य. तसेच प्राचार्य, सर्व शासकीय/अशासकीय, अनुदानित/विनाअनुदानित/ कायम विना अनुदानित/ मॉडेल डिग्री महाविद्यालये- महाराष्ट्र राज्य यांनी केलेल्या कार्यवाहीचा अहवाल संबंधित विभागीय सहसंचालक, उच्च शिक्षण कार्यालयांस सादर करावा. सर्व विभागीय सहसंचालक, उच्च शिक्षण यांनी विद्यापीठ व महाविद्यालयांचा एकत्रित अहवाल संचालनालयास सादर करावा. (विद्यापीठे तसेच महाविद्यालयांनी कार्यवाहीचा अहवाल परस्पर संचालनालयास अथवा शासनास ई-मेल द्वारे सादर करू नये.)


(डॉ. शैलेंद्र देवळणकर)
शिक्षण संचालक(उच्च शिक्षण)
महाराष्ट्र राज्य, पुणे -१.

प्रति,

१. सर्व विभागीय सहसंचालक, उच्च शिक्षण, महाराष्ट्र राज्य.
२. कुलसचिव, सर्व अकृषी विद्यापीठे/अभिमत विद्यापीठे/स्वयंअर्थसहायित विद्यापीठे - महाराष्ट्र राज्य.
३. प्राचार्य, सर्व शासकीय/ अशासकीय, अनुदानित/विना अनुदानित/कायम विना अनुदानित/मॉडेल डिग्री महाविद्यालये- महाराष्ट्र राज्य.

प्रत -

मा. शरद कोकाटे- कक्ष अधिकारी, उच्च व तंत्र शिक्षण विभाग, मंत्रालय, मुंबई-३२ यांना वाचा क्र. १ च्या अनुषंगाने माहितीस्तव सादर.

आ.प्र. 724/19 10123
22/02/23

भारत 2023 INDIA

राजेश भूषण, आईएस
सचिव
RAJESH BHUSHAN, IAS
SECRETARY



भारत सरकार
स्वास्थ्य एवं परिवार कल्याण विभाग
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
Government of India
Department of Health and Family Welfare
Ministry of Health and Family Welfare

D.O. No. P.16012/23/2019-TC
10th February, 2023

21-02-14
मुद्रा अभिलेख कार्यालय
मंत्रालय, नई-दर
दिनांक 21 FEB 2023

Dear Colleague, 25712985

The Government of India has prohibited electronic cigarettes and like devices vide Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019. As per the provisions of the Act, "Authorized Officers" have been made responsible for implementation of the provisions of the Act in accordance with the Code of Criminal Procedure, 1973. [copy of the Act is enclosed for reference]

2. From time to time, this Ministry has been requesting the States and Union Territories for effective enforcement of the statutory provisions of the Act. It has been brought to our notice that these devices are still available through online stores and local vendors, which is a matter of grave concern. Instances of such devices being sold at convenient/stationary stores near educational institutions have also been reported, which is resulting in easy access by young children to such products. The increasing availability of such prohibited products calls for serious attention and action to ensure effective enforcement of the Prohibition of Electronic Cigarettes Act 2019.

3. I therefore request you to review the compliance status of the provisions of The Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019 and issue necessary instructions for effective implementation of the provisions of the Act. Special drives through random checking at school and college levels may be carried out to ensure that such products are not sold & used.

I look forward to your support in ensuring effective implementation of the said Act.

Warm Regards

Yours sincerely,

प्र.स. (सा.आ.) / प्र.स. (शा.सं.) / प्र.स. (उ. व. सं. सं.) (Rajesh Bhushan)

Encls. : A/a

To : Chief Secretaries of all States/UTs.

Room No. 156, A Wing, Netaji Bhawan, New Delhi 110 011
Tele : (011) 23061863 23063221 Fax : 011-23061252 E-mail : secvhw@nic.in

उ.प्र. (प्र.स.)


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्रतिबन्धक से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 66] नई दिल्ली, बुधवार, दिसम्बर 05, 2019/ अग्रहायण 14, 1941 (साक)
No. 66] NEW DELHI, THURSDAY, DECEMBER 05, 2019/AGRAHAYANA 14, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th December, 2019/Agrahayana 14, 1941 (Saka)

The following Act of Parliament received the assent of the President on the 5th December, 2019, and is hereby published for general information:—

**THE PROHIBITION OF ELECTRONIC CIGARETTES (PRODUCTION,
MANUFACTURE, IMPORT, EXPORT, TRANSPORT, SALE,
DISTRIBUTION, STORAGE AND ADVERTISEMENT)
ACT, 2019**

No. 42 of 2019.

[5th December, 2019.]

An Act to prohibit the production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes in the interest of public health to protect the people from harm and for matters connected therewith or incidental thereto.

It is enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019.

Sh. 1 title and
and advertisement

(2) It shall be deemed to have come into force on the 18th day of September, 2019.

Declaration as to expediency of control by Union
 Definitions

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

3. In this Act, unless the context otherwise requires,—

(a) "advertisement" means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website or social media and includes through any notice, circular, label, wrapper, invoice or other document or device;

(b) "authorised officer" means—

(i) any police officer not below the rank of sub-inspector; or

(ii) any other officer, not below the rank of sub-inspector, authorised by the Central Government or the State Government by notification;

(c) "distribution" includes distribution by way of samples, whether free or otherwise and the expression "distribute" shall be construed accordingly;

(d) "electronic cigarette" means an electronic device that heats a substance, with or without nicotine and flavours, to create an aerosol for inhalation and includes all forms of Electronic Nicotine Delivery Systems, Heat Not Burn Products, e-Hookah and the like devices, by whatever name called and whatever shape, size or form it may have, but does not include any product licensed under the Drugs and Cosmetics Act, 1940.

Explanation.—For the purposes of this clause, the expression "substance" includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the form of gas or vapour;

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

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

(g) "manufacture" means a process for making or assembling electronic cigarettes and any part thereof, which includes any sub-process, incidental or ancillary to the manufacture of electronic cigarettes and any part thereof;

(h) "notification" means a notification published in the Official Gazette;

(i) "person" includes—

(i) any individual or group of individuals;

(ii) a firm (whether registered or not);

(iii) a Hindu Undivided Family;

(iv) a trust;

(v) a limited liability partnership;

(vi) a co-operative society;

(vii) any corporation or company or body of individuals; and

(viii) every artificial juridical person not falling within any of the preceding sub-clauses;

(j) "place" includes any house, room, enclosure, space, conveyance or the area in like nature;

(k) "production" with its grammatical variations and cognate expressions, includes the making or assembling of electronic cigarettes and any part thereof;

(l) "sale" with its grammatical variations and cognate expressions, means any transfer of property in goods (including online transfer) 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.

4. On and from the date of commencement of this Act, no person shall, directly or indirectly,—

(i) produce or manufacture or import or export or transport or sell or distribute electronic cigarettes, whether as a complete product or any part thereof; and

(ii) advertise electronic cigarettes or take part in any advertisement that directly or indirectly promotes the use of electronic cigarettes.

Prohibition on production, manufacturing, import, export, transport, sale, distribution, advertisement of electronic cigarettes.

5. On and from the date of commencement of this Act, no person, being the owner or occupier or having the control or use of any place shall, knowingly permit it to be used for storage of any stock of electronic cigarettes:

Prohibition on storage of electronic cigarettes.

Provided that any existing stock of electronic cigarettes as on the date of the commencement of this Act kept for sale, distribution, transport, export or advertisement shall be disposed of in the manner hereinafter specified—

(a) the owner or occupier of the place with respect to the existing stock of electronic cigarettes shall, *suo motu*, prepare a list of such stock of electronic cigarettes in his possession and without unnecessary delay submit the stock as specified in the list to the nearest office of the authorised officer; and

(b) the authorised officer to whom any stock of electronic cigarettes is forwarded under clause (a) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to the law for the time being in force.

6. (1) An authorised officer, if he has reason to believe that any provision of this Act has been, or is being contravened, may enter and search any place where—

Power to enter, search and seize without warrant

(a) any trade or commerce in electronic cigarettes is carried on or electronic cigarettes are produced, supplied, distributed, stored or transported; or

(b) any advertisement of the electronic cigarettes has been or is being made.

(2) After completion of the search referred to in sub-section (1), the authorised officer shall seize any record or property found as a result of the search in the said place, which are intended to be used, or reasonably suspected to have been used, in connection with any matter referred to in sub-section (1) and if he thinks proper, take into custody and produce, along with the record or property so seized, before the Court of Judicial Magistrate of the first class, any such person whom he has reason to believe to have committed any offence punishable under this Act.

(3) Where it is not practicable to seize the record or property, the officer authorised under sub-section (1), may make an order in writing to attach such property, stocks or records maintained by the producer, manufacturer, importer, exporter, transporter, seller, distributor, advertiser or stockist about which a complaint has been made or credible information has been received or a reasonable suspicion exists of their having been connected with any offence in contravention of the provisions of this Act and such order shall be binding on the person connected with the said offence.

(4) All searches, seizures and attachment under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

Punishment for contravention of section 4

7. Whoever contravenes the provisions of section 4, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and with fine which may extend to five lakh rupees.

Punishment for contravention of section 5

8. Whoever contravenes the provisions of section 5, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

Jurisdiction and trial of offences

9. (1) Any person committing an offence under section 4 or section 5 shall be triable for such offence in any place in which he is liable to be tried under any law for the time being in force.

(2) All offences under this Act shall be tried by the Court of Judicial Magistrate of the first class in accordance with the procedure provided for trials in the Code of Criminal Procedure, 1973.

Power to dispose of stock seized

10. After completion of the proceedings before the Court and if it is proved that the stock seized by the authorised officer under the provisions of this Act are stocks of electronic cigarettes, such stocks shall be disposed of in accordance with the provisions contained in Chapter XXXIV of the Code of Criminal Procedure, 1973.

Offences by companies

11. (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 provided in this Act, 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 an 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 also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

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

(b) "director" means a whole-time director in the company and in relation to a firm, means a partner in the firm.

Cognizance of offences

12. No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by an authorised officer under this Act.

Offences to be cognizable

13. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under section 4 shall be cognizable.

Act to have overriding effect.

14. Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

2 of 1974

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15. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force prohibiting production, manufacture, import, export, transport, sale, distribution, storage and advertisement of electronic cigarettes.

Application of other laws not barred

16. 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.

Protection of action taken in good faith

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by an order published in the Official Gazette, make such provision not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power to remove difficulties

Provided that no order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Ord 14 of 2019

18. (1) The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Ordinance, 2019 is hereby repealed.

Repeal and savings

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.