

Recent Enactment

The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019

1. The Act came into force on 18th September, 2019.
2. Electronic Cigarette is defined in section 3(d) as 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 (23 of 1940).
3. Production, manufacturing, import, export, transport, sale, distribution, advertisement of Electronic Cigarettes or taking part in the advertisement that directly or indirectly promotes the use of Electronic Cigarettes, is an offence under section 4.
4. As per section 7, it is punishable with imprisonment up to one year or with fine up to Rs. 1,00,000/- or both. For second or subsequent offence, the imprisonment is up to 3 years with fine up to Rs. 5,00,000/-
5. As per section 5, the owner or occupier or a person having the control or use of any place is prohibited from knowingly permitting it to be used for storage of any stock of Electronic Cigarettes.
6. Any stock existing as on 18th September 2019 shall be submitted to the nearest office of the authorized officer. The authorized officer shall dispose the same according to the law.
7. Section 3(b) defines the term “Authorized Officer” as (i) any officer not below the rank of Sub-Inspector or (ii) Any other officer not below the rank of Sub-Inspector, authorized by the Central or State Government, by notification.
8. Section 6, empowers an authorized officer to enter and search any place where the activities of production etc. or advertisement as mentioned in section 4 is being carried. He shall produce records and properties seized by him before the Court of Judicial Magistrate First Class along with the accused. If it is not practicable to seize the record or the property, the authorized officer can make an order of attachment of the same. The provisions of the Criminal Procedure Code are applicable to all searches, seizures and attachments under this section.
9. As per section 9, Judicial Magistrate First Class has jurisdiction to try offences under this Act, as per the procedure provided for trials prescribed under the Code of Criminal Procedure.
10. As per section 10, the seized stock shall be disposed of as per the provisions of chapter XXXIV of the Code of Criminal Procedure upon completion of the proceedings before the Court.
11. Section 11, the person incharge of and was responsible to the company for the conduct of the business of the company, as well as the company are liable to be punished, when the offence is committed by a company.
12. Section 12, mandates that cognizance of the offences under this Act can be taken only upon a complaint in writing made by an authorized officer.
13. As per section 13, the offence punishable under section 4 is cognizable.
14. As per Section 14, provisions of this Act have overriding effect.
15. As per section 15, the provisions are in addition to and not in derogation of the provisions of any other similar law.