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REGULATORY LAW

NEW RULES ON SMOKING AND LABELLING OF TOBACCO PRODUCTS

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Law no. 109/2015 was published on 26 August 2015. This new law introduces the first amendment to Law no. 37/2007 of 14 August and it strengthens the rules to protect citizens from involuntary exposure to tobacco smoke. Furthermore, it enacts into Portuguese law Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products. The Directive also establishes the library of illustrated warnings to be used on tobacco products.

When it comes to protection from exposure to environmental tobacco smoke, the new law introduces a ban on smoking in all establishments serving food and drinks and in amusement parks, casinos, bingo halls, amusement arcades and other places used for shows of a non-artistic nature.

In order to safeguard investments that have already been made, a transitional period has been put into place for the entry into force of this total ban on smoking in the establishments mentioned above. This transitional period will allow establishments which, at the date of publication of the law, have smoking areas and apply for authorisation to maintain full or partial permission to smoke. For this authorisation to be given, the establishments in question must meet the previously established ventilation requirements, and the authorisation will be valid until 31 December 2020.

Despite the changes described above, in these establishment and others such as hotels, shopping centres and airports, smoking areas may be set aside as long as they meet certain requirements relating to signage, isolation and air extraction. They must also be areas that do not offer any services including serving food or drinks. In other words, they must be strictly and only for smoking.

The ban on smoking now also applies to the use of electronic cigarettes with nicotine. Furthermore, this product, which up to now had not been addressed in Portuguese legislation, is covered by a chapter in the new law. The chapter regulates all e-cigarette issues including composition, labelling and marketing.

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As part of the implementation of Directive 2014/40/EU mentioned above, combined health warnings consisting of a picture and text addressing the effects of smoking on health are introduced. The new Portuguese law also introduces a ban on packaging and aromas that may make these products more attractive to consumers.

As a result, combined health warnings must be placed on all packets of tobacco products for smoking and their visibility is ensured by setting minimum dimensions or areas for all health warnings, in line with the type of product and format of the packet.

For this purpose, the law that has now been published includes an annex with 42 colour photographs that must be included on tobacco products and cover 65 % of both the external front and back surface of the unit packet and any outside packaging.

A transitional period for the entry into force of the new labelling requirements has also been introduced. This transitional period allows the sale of tobacco products labelled under the old rules until 20 May 2017, as long as the production or importation into Portugal of these products occurs before 20 May 2016.

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