

**PUBLIC ENTERTAINMENTS
(PROHIBITION ON SMOKING AND CIGARETTES
ADVERTISEMENT)
RULES, 1973**

(G.N. 127 of 1973)

LIST OF AMENDMENTS

<i>G.N.S. No.</i>	<i>Rules amended</i>	<i>Effective date of amendment</i>
Act 160	3, 4 (3), 5 (3), 7	29-8-1975

In exercise of the powers conferred by section 12 of the Public Entertainments Ordinance, 1958 [23/1958], the Minister hereby makes the following rules:

PART I
PRELIMINARY

Citation commencement and application.

1. (1) These rules may be cited as the Public Entertainments (Prohibition on Smoking and Cigarettes Advertisement) Rules, 1973, and shall come into force on such date as the Minister may, by notification in the *Gazette*^{*}, appoint.

(2) The Minister may appoint different dates for the coming into force of different

^{*} In force 1st June, 1973 (except Part III) in relation to Districts of Kota Kinabalu, Sandakan, Tawau, Labuan and Lahad Datu – see G.N. 126/ 1973

provisions of these Rules and different dates may be so appointed for different parts of the State.

Interpretation.

2. In these Rules, unless the context otherwise requires –

“advertisement” includes any notice, circular, pamphlet, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, or sound and whether for aural or visual reception or both;

“appropriate authority” means the local authority of the area within which any theatre or place of public entertainment is situated;

“manager” includes an assistant manager, any person holding an appointment analogous to that of manager or assistant manager or any person who is responsible for the management of the theatre or place of public amusement or is in charge or control thereof; and

“smoking”, with its grammatical variations, means inhaling and expelling the smoke of cigarettes, cigars or tobacco in any form whatsoever or of other substance.

PART II
PROHIBITION ON SMOKING

Prohibition on smoking in theatre.

3. Any person who smokes in any theatre at any time during which it is open to the public shall be guilty of an offence and may be arrested without warrant by any police officer or officer of the appropriate authority and shall be liable on conviction to a fine not exceeding two hundred ringgit.

Notices prohibiting smoking to be displayed.

4. (1) The manager of any theatre shall cause to be displayed suitable and sufficient notices of an adequate size or sizes in conspicuous position therein, stating that smoking is prohibited and the penalty provided therefor under these Rules.

(2) Such manager may, in addition to such notices, adopt any means, method or device as he may think fit for bringing such prohibition and penalty to the attention of the audience, spectators and other persons concerned, as the case may be.

(3) The manager of any theatre who contravenes any of the provisions of paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred ringgit.

Duties of managers, etc., of theatre.

5. (1) The manager or any ticket collector or usher of any theatre or such employee as the manager may authorise in that behalf may order any person who smokes in any theatre to cease smoking forthwith, indicating the penalty provided therefor, and if such person refuses, neglects or fails to comply with such order, he may require such person to leave forthwith the theatre.

(2) If such person refuses to leave forthwith the theatre, any of the person mentioned in paragraph (1) may seek the assistance of any police officer or officer of the appropriate authority and such police officer or officer of the appropriate authority may thereupon deal with such person in the manner provided under rule 3.

(3) Any person who hinders, obstructs, threatens, abuses, molests or assaults any person mentioned in paragraph (1) in the performance or execution of anything which he is empowered to do under or by virtue of this rule shall be guilty of an offence and may be arrested without warrant by any police officer or officer of the appropriate authority and shall be liable on conviction to a fine not exceeding five hundred ringgit.

(4) No person who has been ordered to leave a theatre under the provisions of this rule shall be entitled to a refund of any admission fee or money paid by him for the purchase of a ticket.

(5) Nothing in this rule shall be construed as preventing any person from being prosecuted for any act which constitutes an offence under rule 3.

Where smoking not prohibited.

6. Nothing in these Rules shall be construed as preventing any person from smoking at any cinematograph exhibition or theatrical performance held wholly in the open air or in any part of a building containing a theatre other than in the auditorium of such theatre.

PART III

PROHIBITION ON ADVERTISEMENT RELATING TO SMOKING

Prohibition on advertisement in theatre and place of public amusement.

7. Any person who publishes or causes to be published or takes part in the publication of any advertisement in any theatre or place of public amusement –

- (a) containing any express or implied inducement, suggestion or request to purchase or to smoke cigarettes, cigars or any other form of tobacco; or
- (b) relating to smoking in terms which are calculated, expressly or impliedly, to lead to, or to induce, urge, promote or encourage the use of cigarettes, cigars or any other form of tobacco for the purpose of smoking,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Defence.

8. In any proceedings for a contravention of rule 7, it shall be a defence for a person charged to prove that the advertisement to which the proceedings relate was published in such circumstances that he did not know and had no reason to believe that he was taking part in the publication thereof.

PART IV
GENERAL

Offences by bodies corporate or unincorporate.

9. Where an offence under these Rules has been committed by any company or association or body of persons, corporate or unincorporate, any person who at the time of commission of the offence was a director, manager, secretary or other similar officer thereof or was purporting to act in that capacity shall be guilty of that offence unless he satisfies the Court that the offence was committed without his knowledge or consent.

Presumption.

10. For the purposes of these Rules, a person shall be deemed to smoke if he is found lighting a cigarette, cigar or tobacco in any form whatsoever or such other substance or if he is found in possession of the same which is lighted.

Exemption.

11. The Minister may, subject to such conditions as he may think fit, exempt any theatre or place of public amusement from all any of the provisions of these Rules, either permanently or for such period or periods as he may determine.