

2001

CHAPTER T-14.1

An Act to Control the Sale and Use of Tobacco and Tobacco-related Products and to make consequential amendments to certain other Acts

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(Assented to July 6, 2001)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Tobacco Control Act*.

Interpretation

2 In this Act:

- (a) **“department”** means the department over which the minister presides;
- (b) **“enclosed public place”** means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited;
- (c) **“furnish”** means to sell, lend, assign, give or send, with or without consideration, or to barter or deposit with another person for the performance of a service;
- (d) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) **“municipality”** means:
 - (i) a northern municipality as defined in *The Northern Municipalities Act*;
 - (ii) a rural municipality as defined in *The Rural Municipality Act, 1989*;
 - (iii) an urban municipality as defined in *The Urban Municipality Act, 1984*;
- (f) **“prescribed”** means prescribed in the regulations.
- (g) **“retailer”** means a person who is engaged in a business that includes the sale of tobacco or tobacco-related products to the public;
- (h) **“sell”** includes offer for sale and expose for sale;
- (i) **“tobacco”** means tobacco in any form in which it is used or consumed, and includes snuff and raw leaf tobacco, but does not include any food, drug or device that contains nicotine to which the *Food and Drugs Act* (Canada) applies;
- (j) **“tobacco enforcement officer”** means:
 - (i) a person designated as a tobacco enforcement officer pursuant to section 16;
 - (ii) a member of a police service as defined in *The Police Act, 1990*; or
 - (iii) a member of the Royal Canadian Mounted Police;

(k) “**tobacco-related product**” means a cigarette paper, a cigarette tube, a cigarette filter, a cigarette maker, a pipe or any other product used in association with tobacco that is prescribed;

(l) “**young person**” means a person under the age of 18 years.

Crown bound

3 This Act binds the Crown.

PART II

Transactions involving Tobacco or Tobacco-related Products

Furnishing tobacco to young persons prohibited

4(1) No person shall furnish tobacco or a tobacco-related product to a young person.

(2) No person shall furnish tobacco or a tobacco-related product to a person who appears to be a young person unless the person produces, as proof that he or she is 18 years of age or older:

(a) a photo identification card that forms part of a Saskatchewan driver’s licence;

(b) a Canadian passport;

(c) a certificate of Canadian citizenship that contains the person’s photograph;

(d) a Canadian Forces identification card;

(e) any other document that:

(i) is issued by the government of a province or territory of Canada, the Government of Canada or the government of a foreign country or state; and

(ii) contains the person’s photograph, date of birth and signature; or

(f) a prescribed document.

(3) No person shall furnish tobacco or a tobacco-related product to a person who produces a document mentioned in subsection (2) as proof that he or she is 18 years of age or older if it appears that the document has been altered.

(4) Nothing in this section prevents a legal custodian of a young person from furnishing tobacco or a tobacco-related product to the young person in a place other than a public place or a place to which the public ordinarily has access.

(5) Nothing in this section prevents a person from giving tobacco or a tobacco-related product to a young person if the gift is made solely for use in traditional Aboriginal spiritual or cultural practices or ceremonies.

Sale of cigarettes in small quantities prohibited

5 No person shall sell cigarettes unless the cigarettes are in a package that contains no fewer than 20 cigarettes.

Certain sales promotion practices prohibited

6(1) No person shall advertise or promote tobacco or tobacco-related products in any place or premises in which tobacco or tobacco-related products are sold if young persons are permitted access to the place or premises.

(2) No person shall advertise or promote tobacco or tobacco-related products by means of an advertisement or promotional material placed in the windows of any place or premises in which tobacco or tobacco-related products are sold if the advertisement or promotional material is placed so that it is visible from the outside of the place or premises.

(3) No retailer shall permit tobacco or tobacco-related products to be displayed in the retailer's business premises so that the tobacco or tobacco-related products are visible to the public if young persons are permitted access to those premises.

Unauthorized signs prohibited, display of supplied signs required

7(1) No person shall, at any place or premises in which tobacco or tobacco-related products are sold at retail, display any sign respecting the legal age to purchase tobacco or tobacco-related products in Saskatchewan or health warnings respecting tobacco unless the sign:

- (a) is a sign supplied or approved by the department; or
- (b) is otherwise authorized pursuant to the *Tobacco Act* (Canada).

(2) No retailer shall fail to display in the retailer's premises any sign supplied by the department respecting the legal age to purchase tobacco or tobacco-related products in Saskatchewan or health warnings respecting tobacco.

Sale in certain places prohibited

8 No person shall sell tobacco or tobacco-related products in any of the following places or premises:

- (a) a school or a registered independent school as defined in *The Education Act, 1995*;
- (b) a facility or place operated by a district health board or an affiliate as defined in *The Health Districts Act*;
- (c) a health facility as defined in *The Health Facilities Licensing Act*;
- (d) a special-care home as defined in *The Housing and Special-care Homes Act*;
- (e) a facility as defined in *The Mental Health Services Act*;
- (f) a community clinic within the meaning of clause 38.2(1)(a) of *The Health Districts Act*; or
- (g) a prescribed place.

Vending machines in certain places prohibited

9(1) In this section, “**proprietor**” means, with respect to a place or premises, the person who owns or occupies the place or premises.

(2) Subject to subsection (3):

(a) no proprietor shall permit a vending machine that dispenses tobacco or tobacco-related products to be located in the proprietor’s place or premises; and

(b) no person shall place, or cause to be placed, a vending machine that dispenses tobacco or tobacco-related products in any place or premises.

(3) A vending machine that dispenses tobacco or tobacco-related products may be located:

(a) in a place or premises to which the public is not permitted access; or

(b) in a place or premises to which the public is permitted access if:

(i) young persons are not permitted to enter the place or premises; and

(ii) the vending machine is located:

(A) not less than a prescribed distance from any entrance to the place or premises; and

(B) in a position that permits the proprietor or employees of the proprietor to monitor the use of the vending machine.

PART III**Protection against Environmental Tobacco Smoke****Interpretation of Part**

10(1) In this Part:

(a) “**bingo establishment**” means the portion of an enclosed place or premises for which a bingo licence has been issued by the Liquor and Gaming Authority;

(b) “**casino**” means:

(i) a casino as defined in *The Saskatchewan Gaming Corporation Act*; or

(ii) an enclosed place or premises for which a casino licence has been issued by the Liquor and Gaming Authority;

(c) “**designated non-smoking area**” means an area within a casino, restaurant, tavern, bingo establishment, bowling centre or billiard hall that is designated pursuant to clause 12(2)(a) as an area in which smoking and holding lighted tobacco are prohibited;

- (d) **“proprietor”**:
- (i) with respect to a place or premises, means a person who controls, governs or directs the activities carried on within the place or premises, and includes a person who is actually in charge of the place or premises at any particular time; and
 - (ii) with respect to a vehicle, means the registered owner of the vehicle or the operator in charge of the vehicle at any particular time;
- (e) **“restaurant”** means an enclosed place or premises for which a public eating establishment licence has been issued pursuant to *The Public Health Act, 1994*;
- (f) **“tavern”** means the portion of an enclosed place or premises for which a tavern permit has been issued pursuant to *The Alcohol and Gaming Regulation Act*.
- (2) Provisions of this Act or the regulations that mention places, premises or vehicles of the following types apply to them only during the periods in which the activity that characterizes the place, premises or vehicle is being carried on:
- (a) bingo establishments;
 - (b) casinos;
 - (c) taverns;
 - (d) any prescribed places, premises or vehicles.

Smoking in certain places prohibited

11(1) Subject to subsection (3), no person shall smoke or hold lighted tobacco in an enclosed public place to which young persons are ordinarily permitted access.

(2) Without limiting the generality of subsection (1), no person shall smoke or hold lighted tobacco in the following places or premises:

- (a) a building occupied by a school or a registered independent school as defined in *The Education Act, 1995*;
- (b) a building or portion of a building occupied by:
 - (i) the University of Regina, the University of Saskatchewan or any college federated or affiliated with either of them;
 - (ii) the Saskatchewan Institute of Applied Science and Technology;
 - (iii) the Saskatchewan Indian Institute of Technologies;
 - (iv) a regional college as defined in *The Regional Colleges Act*;
 - (v) a private vocational school as defined in *The Private Vocational Schools Regulation Act, 1995*; or
 - (vi) any other post-secondary educational institution;

- (c) a facility operated by, or an enclosed place or premises occupied by, a district health board or an affiliate as defined in *The Health Districts Act*;
 - (d) a health facility as defined in *The Health Facilities Licensing Act*;
 - (e) subject to subsection (3), a special-care home as defined in *The Housing and Special-care Homes Act*;
 - (f) subject to subsection (3), a personal care home, as defined in *The Personal Care Homes Act*, that offers care and accommodation to more than 10 persons;
 - (g) a facility as defined in *The Mental Health Services Act*;
 - (h) a community clinic within the meaning of clause 38.2(1)(a) of *The Health Districts Act*;
 - (i) subject to subsection (3), a facility as defined in *The Child Care Act*;
 - (j) a building or portion of a building occupied by:
 - (i) the Government of Saskatchewan or any of its Crown corporations, boards, commissions or other agencies;
 - (ii) the Government of Canada or any of its Crown corporations, boards, commissions or other agencies;
 - (iii) a municipality;
 - (k) a public library;
 - (l) any portion of an office building, retail store or other business or commercial establishment to which the public is ordinarily permitted access;
 - (m) a video arcade, an enclosed amusement centre or a theatre;
 - (n) a vehicle used for public transit or a commercial vehicle for hire that is used to transport members of the public;
 - (o) an outdoor bus shelter;
 - (p) a designated non-smoking area;
 - (q) a prescribed place, premises or vehicle.
- (3) Subsections (1) and (2) do not apply to:
- (a) a separate enclosed ventilated place within a special-care home mentioned in clause (2)(e) or a personal care home mentioned in clause (2)(f) that meets the prescribed requirements;
 - (b) a facility mentioned in clause (2)(i) that is a group family child care home or a licensed family child care home during the times in which no child care services are being provided in the facility;
 - (c) any portion of a place or premises mentioned in subsection 12(1) that is not included within a designated non-smoking area;

- (d) an enclosed public place while it is being used, with the consent of the proprietor, for traditional Aboriginal spiritual or cultural practices or ceremonies, if the use of tobacco or tobacco-related products is an integral part of the traditional Aboriginal spiritual or cultural practices or ceremonies being carried out in that enclosed public place; or
- (e) a prescribed place, premises or vehicle.

Designated non-smoking areas

12(1) This section applies with respect to places or premises operated as:

- (a) billiard halls;
- (b) bingo establishments;
- (c) bowling centres;
- (d) casinos;
- (e) restaurants; and
- (f) taverns.

(2) Every proprietor of a place or premises mentioned in subsection (1) shall:

- (a) ensure that:
 - (i) on and after January 1, 2002, an area that is not less than 30% of the public area of the place or premises is designated as an area in which smoking or holding lighted tobacco is prohibited;
 - (ii) on and after January 1, 2003, an area that is not less than 40% of the public area of the place or premises is designated as an area in which smoking or holding lighted tobacco is prohibited;
 - (iii) on and after January 1, 2004, an area that is not less than 60% of the public area of the place or premises is designated as an area in which smoking or holding lighted tobacco is prohibited; and
- (b) prohibit persons from smoking or holding lighted tobacco in the designated non-smoking areas.

Signs required

13 Every proprietor of a place or premises to which section 11 applies shall ensure that signs containing a statement respecting the prohibition against smoking or holding lighted tobacco are posted at the place or premises in accordance with the regulations.

Ashtrays, etc., prohibited

14(1) Subject to subsection (2), every proprietor of a place or premises to which section 11 applies shall ensure that ashtrays and similar products associated with the use of tobacco are not available for use in the place or premises, except as permitted by the regulations.

(2) In the case of a place or premises to which section 12 applies, subsection (1) applies only with respect to the designated non-smoking area within the place or premises.

Restrictive provision prevails

15 If there is a conflict between section 11, 12, 13 or 14 of this Act and a provision of any other Act, any regulation or any bylaw of a municipality, the provision that is more restrictive prevails.

PART IV

Administration and Enforcement**Appointment of tobacco enforcement officers**

16(1) The minister may:

- (a) designate persons to act as tobacco enforcement officers for the purposes of this Act; and
 - (b) in designating a person pursuant to clause (a), impose any restrictions on the powers of the person that the minister considers appropriate.
- (2) A tobacco enforcement officer designated pursuant to subsection (1) who enters a place or premises for the purposes of this Act must, on request, show evidence of his or her designation to the person in charge of the place or premises.

Powers of tobacco enforcement officers

17(1) In this section, “**record**” includes any information that is recorded or stored in any form by means of any device or medium.

- (2) For the purposes of administering and enforcing this Act and the regulations, a tobacco enforcement officer may:
- (a) subject to subsections (3) and (4), at any reasonable time, enter and inspect any place or premises where:
 - (i) tobacco or tobacco-related products are sold at retail or wholesale;
 - (ii) vending machines that dispense or are capable of dispensing tobacco or tobacco-related products are located;
 - (iii) the sale of tobacco or tobacco-related products is prohibited pursuant to this Act; or
 - (iv) smoking or holding lighted tobacco is prohibited pursuant to this Act;
 - (b) make any inspection, investigation or inquiry that the tobacco enforcement officer considers necessary;
 - (c) subject to subsections (3) and (4), at any reasonable time, enter any place or premises containing any records or property that are required to be kept pursuant to this Act or the regulations or that relate to the sale of tobacco or tobacco-related products, and inspect those records or that property;
 - (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems or other devices or systems that are ordinarily used in carrying on business at the place or premises;

- (e) make a copy of any records described in clause (c) or, if the tobacco enforcement officer is unable to make a satisfactory copy, after giving a receipt remove and retain the records for any period the tobacco enforcement officer considers reasonable;
- (f) investigate an allegation that a contravention of this Act or the regulations has occurred and question any person for the purpose of that investigation;
- (g) engage the services of young persons for the purpose of making test purchases to investigate whether a person is selling tobacco or tobacco-related products to young persons;
- (h) require any person in control or immediate charge of a vending machine that is capable of dispensing tobacco or tobacco-related products to open the machine for inspection;
- (i) seize any tobacco, tobacco-related product, vending machine that is capable of dispensing tobacco or tobacco-related products, the contents of a vending machine that is capable of dispensing tobacco or tobacco-related products or any other substance or thing that a tobacco enforcement officer believes, on reasonable grounds, constitutes evidence of a contravention of this Act or the regulations; and
- (j) with respect to a person who is in the premises of a retailer and to whom the tobacco enforcement officer believes tobacco or tobacco-related products may have been furnished:
 - (i) ask the person for proof of his or her age; and
 - (ii) make other inquiries of the person.

(3) Subject to subsection (4), a tobacco enforcement officer shall not enter a private dwelling without the consent of the occupier or a warrant obtained pursuant to *The Summary Offences Procedure Act, 1990*.

(4) During the hours in which child care services are being provided, a tobacco enforcement officer may enter a group family child care home or a licensed family child care home for the purposes of subclause (2)(a)(iv) without the consent of the occupier or a warrant obtained pursuant to *The Summary Offences Procedure Act, 1990*.

Obstruction, false statement, etc., prohibited

18(1) No person shall obstruct a tobacco enforcement officer who is acting pursuant to the authority of this Act or the regulations.

(2) No person shall knowingly make a false or misleading statement to a tobacco enforcement officer or produce a false document or thing to a tobacco enforcement officer.

Sign removal, alteration, etc., prohibited

19 No person shall remove, cover up, mutilate, deface or alter any sign required pursuant to this Act or the regulations to be displayed or posted.

PART V
Offences and Penalties

Offences pursuant to Part II

20(1) Every person who contravenes a provision of section 4, 5, 6, 7, 8 or 9 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$3,000;
- (b) for a second offence, to a fine of not more than \$5,000;
- (c) for a third offence, to a fine of not more than \$15,000; and
- (d) for a fourth or subsequent offence, to a fine of not more than \$50,000.

(2) It is not a defence to a prosecution for a contravention of section 4 for the person accused of furnishing tobacco or a tobacco-related product to a young person to show that the young person appeared to be 18 years of age or older.

Evidence of previous convictions

21 A certificate of a previous conviction purporting to be under the hand of the convicting judge, a local registrar of the Court of Queen's Bench or a clerk of the Provincial Court of Saskatchewan is admissible, in the absence of evidence to the contrary, as proof of the facts stated in the certificate without proof of signature or official character.

Convictions pursuant to *Tobacco Act* (Canada)

22 Where a retailer is convicted of an offence arising from a contravention of section 8 of the *Tobacco Act* (Canada), the conviction pursuant to the *Tobacco Act* (Canada) is deemed to be a conviction pursuant to subsection 20(1) for the purposes of determining any applicable penalty pursuant to subsection 20(1) or 23(1) for a contravention of section 4.

Prohibition order - repeat offences by retailer

23(1) Where a retailer is convicted of a second or subsequent offence pursuant to subsection 20(1) for a contravention of section 4, the convicting judge shall also make an order:

- (a) prohibiting the retailer or any successor to the retailer from keeping or furnishing tobacco or tobacco-related products at the place or premises at which the offence took place or at any place or premises to which the business of the retailer or the retailer's successor is moved:
 - (i) for a period of seven days from the date of conviction in the case of a second offence;
 - (ii) for a period of six months from the date of conviction in the case of a third offence; and
 - (iii) for a period of one year from the date of conviction in the case of a fourth or subsequent offence; and

(b) requiring the retailer or any successor to the retailer to post clearly visible signs that:

- (i) meet the requirements of the regulations; and
- (ii) state that the retailer or successor to the retailer is prohibited from keeping or furnishing tobacco or tobacco-related products at the place or premises for the period specified in the order.

(2) An order made pursuant to clause (1)(a) does not prevent the keeping of small amounts of tobacco or tobacco-related products for the immediate personal use of persons who work in the place or premises.

Offence - contravention of order

24 Every person who contravenes an order made pursuant to subsection 23(1) is guilty of an offence and liable on summary conviction to a fine of not more than:

- (a) \$5,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(i) and, in the case of a continuing offence, to a further fine of not more than \$5,000 for each day or part of a day during which the offence continues;
- (b) \$15,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(ii) and, in the case of a continuing offence, to a further fine of not more than \$15,000 for each day or part of a day during which the offence continues; or
- (c) \$50,000 in the case of an order with respect to an offence mentioned in subclause 23(1)(a)(iii) and, in the case of a continuing offence, to a further fine of not more than \$50,000 for each day or part of a day during which the offence continues.

Offences pursuant to Parts III and IV

25(1) Every person who contravenes a provision of section 11 of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

(2) Every person who contravenes a provision of section 12, 13 or 14 of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

(3) Every person who contravenes a provision of section 18 or 19 of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$3,000.

Directors, etc., of corporations

26 Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence, and is liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.

Vicarious liability

27 In a prosecution for an offence pursuant to this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted or convicted for the offence, unless the accused establishes that the offence was committed without his or her knowledge and that the accused exercised all due diligence to prevent its commission.

Evidence

28 In a prosecution for an offence pursuant to this Act, the trial judge may infer that any substance or object in question is tobacco or a tobacco-related product within the meaning of this Act from the fact that a witness describes it as tobacco or a tobacco-related product or by a name that is commonly applied to tobacco or a tobacco-related product.

Disposition of property seized

29(1) Where a person is convicted of a contravention of section 9, any money that was found in a vending machine capable of dispensing tobacco or tobacco-related products and that was seized in relation to the contravention is forfeited to the Crown.

(2) Subject to subsection (1), where a person is convicted of any offence pursuant to this Act, the convicting judge may make any order for the disposition of any substance or thing seized in relation to the contravention that the judge considers appropriate.

**PART VI
General****Regulations**

30 For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of clause 2(k), prescribing products as tobacco-related products;
- (c) for the purposes of clause 4(2)(f), prescribing documents that may be used as proof of age;
- (d) for the purposes of clause 8(g), prescribing places or premises in which the sale of tobacco or tobacco-related products is prohibited;
- (e) for the purposes of paragraph 9(3)(b)(ii)(A), prescribing the minimum distance from an entrance at which a vending machine may be located;
- (f) for the purposes of clause 10(2)(d), prescribing places, premises and vehicles to which provisions of this Act or the regulations apply only during the periods in which the activity that characterizes the place, premises or vehicle is being carried on;
- (g) for the purposes of clause 11(2)(q), prescribing places, premises and vehicles in which no person shall smoke or hold lighted tobacco;
- (h) for the purposes of clause 11(3)(a), prescribing requirements for separate enclosed ventilated places within special-care homes or personal care homes;
- (i) for the purposes of clause 11(3)(e), prescribing places, premises and vehicles to which subsections 11(1) and (2) do not apply;

- (j) for the purposes of section 13, governing signs to be posted respecting the prohibition against smoking or holding lighted tobacco;
- (k) for the purposes of subsection 14(1), authorizing and governing the provision of ashtrays or similar products in places or premises;
- (l) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (m) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Non-liability

31 No action or proceeding lies or shall be commenced against the minister, the department, a tobacco enforcement officer, an employee or agent of the department or any other person appointed to administer all or any of the provisions of this Act or the regulations for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

R.S.S. 1978, c.M-20 repealed

32 *The Minors Tobacco Act* is repealed.

S.S. 1983, c.N-5.1, new section

33 *The Northern Municipalities Act* is amended by adding the following section after section 108:

“Smoking

108.1(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

- (a) the lighting of any cigar, cigarette, pipe or other smoking device;
- (b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

- (a) to establish categories and subcategories of enclosed public places and public transit vehicles;
- (b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;
- (c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

S.S. 1994, c.P-37.1 amended

34(1) *The Public Health Act* is amended in the manner set forth in this section.

(2) The following subsection is added after subsection 46(2):

“(3) Nothing in this section authorizes the enactment of regulations respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(3) The following subsection is added after subsection 47(2):

“(3) Nothing in this section authorizes the enactment of bylaws respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(4) The following subsection is added after subsection 48(2):

“(3) Nothing in this section authorizes the enactment of bylaws respecting the use of tobacco or tobacco-related products as defined in *The Tobacco Control Act*”.

(5) Section 50 is amended:

(a) in subsection (3) by adding “but subject to subsection (3.1)” after “Notwithstanding any other Act”; and

(b) by adding the following subsection after subsection (3):

“(3.1) Subsection (3) does not apply to a bylaw made by a council of a municipality pursuant to section 108.1 of *The Northern Municipalities Act*, section 215.1 of *The Rural Municipality Act, 1989* or section 142 of *The Urban Municipality Act, 1984*”.

S.S. 1989-90, c.R-26.1, new section 215.1

35 Section 215.1 of *The Rural Municipality Act, 1989* is repealed and the following substituted:

“Smoking

215.1(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

(a) the lighting of any cigar, cigarette, pipe or other smoking device;

(b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

(a) to establish categories and subcategories of enclosed public places and public transit vehicles;

(b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;

(c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

S.S. 1983-84, c.U-11, new section 142

36 Section 142 of *The Urban Municipality Act, 1984* is repealed and the following substituted:

“Smoking

142(1) In this section, ‘**enclosed public place**’ means all or any part of any building or other enclosed place that is open to the public or to which the public is customarily admitted or invited.

(2) Subject to *The Tobacco Control Act*, a council may, by bylaw, prohibit, control or regulate the following activities in any enclosed public place or public transit vehicle:

(a) the lighting of any cigar, cigarette, pipe or other smoking device;

(b) the carrying or smoking of any lighted cigar, cigarette, pipe or other smoking device.

(3) For the purposes of subsection (2), the power to prohibit, control or regulate includes the following powers:

(a) to establish categories and subcategories of enclosed public places and public transit vehicles;

(b) to establish different prohibitions, controls or regulatory requirements for different categories and subcategories;

(c) to exempt any enclosed public place or public transit vehicle or any category or subcategory of enclosed public places or public transit vehicles from all or any part of a bylaw”.

Coming into force

37 This Act comes into force on proclamation.