

## EXTRACT FROM THE FOOD ACT 1983

The following section is the clause relevant to shopping centre operations and extracted from **THE FOOD ACT 1983, CONTROL OF TOBACCO PRODUCT REGULATIONS 2004, MALAYSIA**

### PART IV

#### PROHIBITION ON SMOKING

- 11. Places where smoking is prohibited
- 12. Duty of proprietor, *etc.*, of the premises or vehicle

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### PART IV

#### PROHIBITION ON SMOKING

##### **Places where smoking is prohibited**

11. (1) No person shall smoke—
- (a) in any entertainment centre or theatre, except any pub, discotheque, night club or casino, at any time when such place is open to the public;
  - (b) in any hospital or clinic;
  - (c) in any public lift or toilet;
  - (d) in any air-conditioned eating place or shop;
  - (e) in any public vehicle or public transport terminal;
  - (f) in any building specified by the Minister by notification in the *Gazette* under regulation 22;
  - (g) in any airport;
  - (h) in any government premise;
  - (i) in any area which is used for any assembly activity in a building other than private or residential building;
  - (j) in any area in an educational institution or a higher educational institution;
  - (k) in any area in a nursery;
  - (l) in any school bus;
  - (m) in any floor with a service counter in the building specified in the Second Schedule;
  - (n) in any ***area in a*** shopping complex;
  - (o) in any area in a petrol station;
  - (p) in any area in a stadium, sports complex, fitness centre or gymnasium;
  - (q) in any building or public place which is used for religious purposes;
  - (r) in any area in a library; or
  - (s) in any area in an internet café.
- (2) Notwithstanding subregulation (1), the Minister may, upon application, approve any area either permanently or for such period as he may determine as smoking area.
- (3) Any person who contravenes subregulation (1) commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years.

### **Duty of proprietor, etc., of the premises or vehicle**

12. (1) The proprietor or occupier of a premise or the proprietor of a vehicle referred to in regulation 11 shall at all times—
- (a) display a sign as specified in the Third Schedule with regards to the prohibition of smoking at any conspicuous part of the premise or vehicle; and
  - (b) ensure that no person smokes in the premise or vehicle.
- (2) Any person who contravenes paragraph (1)(a) commits an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding six months.
- (3) Any person who contravenes paragraph (1)(b) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.
- (4) Where an offence under paragraph (1)(b) is committed by the proprietor or the occupier of the premise, or the proprietor of the vehicle, it shall be a defence for the person charged to prove that he had taken all reasonable steps to ensure that no person smokes in the premise or vehicle.

### **NOTE:**

It is noted that recent amendments to the above Food Act 1983 reference P.U. (A) 315/2008 AKTA MAKANAN 1983, PERATURAN-PERATURAN KAWALAN HASIL TEMBAKAU (PINDAAN) 2008 has included the additional words indicated in ***italics, bold & underlined*** in Part IV No. 11 (1) (n) abovementioned.