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**Official Gazette**

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**NOTIFICATION**

From the Ministries of Internal Affairs, Finance, and Health:

**NOTIFICATION REGARDING PROCEDURES AND GUIDELINES IN  
RELATION TO THE ENFORCEMENT OF DECISIONS ON ADMINISTRATIVE  
SANCTIONS IMPOSED ON CONSUMERS OF TOBACCO PRODUCTS IN  
PUBLIC PLACES, TRANSPORTATION, BUILDINGS, AND FACILITIES**

**Purpose and Scope**

**ARTICLE 1** – (1) The purpose of this Notification is to regulate the procedures and guidelines pertaining to the administrative sanctions to be enforced by public officers authorized by a head of a relevant unit on those who consume tobacco products in places, vehicles, buildings, and facilities belonging to public institutions and corporations, as stated in Article 2 of Law #4207 dated 11/07/1996 on Prevention and Control of Hazards of Tobacco Products.

**Authority**

**ARTICLE 2** – (1) Those who consume tobacco products in places specified in Article 1 shall be given an administrative fine by public officers authorized by a head of a relevant administrative unit.

**Detection**

**ARTICLE 3** – (1) When notice is received regarding the consumption of tobacco products in places specified in Article 1, an authorized public officer shall immediately carry out any necessary investigations. When adequate proof is found at the conclusion of the investigation or when the consumption of tobacco products is detected, such authorized public officer shall issue an Administrative Sanction Decision Record, as shown in Appendix #1.

**Proof of Consumption of Tobacco Products**

**ARTICLE 4** – (1) The following information, documents, and evidence shall be used as objects of proof:

- a) Record and/or factual report duly issued,
- b) Record containing the statements of the complainant or other persons who have provided information, if any,
- c) Visual documents suitable as evidence (photographs, video recordings, etc.)

### **Record Preparation**

**ARTICLE 5** – (1) Administrative Sanction Decision Record shall be issued in three copies.

A copy of the Administrative Sanction Decision Record shall be given to the person concerned, a copy shall be stored in the unit executing the sanction decision, and another copy shall be sent to the Tax Administration of the place of residence of the concerned person for collection, excluding administrations authorized to collect the administrative fine upon the finalization of uncollected administrative sanction decisions. The procedure carried out shall be recorded in the Administrative Sanction Casebook, as shown in Appendix #2. The row number of the Administrative Sanction Casebook shall be written in the relevant section of the record. The record shall be signed by at least two authorized officers. Where the annulment of the records is required, the annulment process shall be performed by means of striking of the record and by placing an annulment comment on it.

(2) In case the same fault is committed more than once, a separate Administrative Sanction Decision Record shall be issued in relation to each fault.

### **Signing of the Record**

**ARTICLE 6** – (1) The person with regards to whom the decision is enforced shall be informed in relation to the following matters, and he/she shall be asked to sign the decision record.

The fine is required to be paid within one month from the date of notification of the decision,

b) He/She may appeal against the decision personally or through his/her legal representative or lawyer to the Magistrate's Court no later than 15 days as of the date of notification or pronouncement of the Administrative Sanction Decision to him/herself.

c) In case appeal is not made within this period, the Administrative Sanction Decision will be finalized,

d) In case the administrative fine is not paid within the period of appeal,  $\frac{3}{4}$  of the fine shall be collected from him/her,

e) Advance payment shall not affect the person's right to appeal against this Decision.

(2) In case the person fails to sign, this situation shall be stated in the "Signature of the Person Enforcing the Administrative Sanction" section of this Administrative Sanction Decision Record. A copy of the Administrative Sanction Decision Record shall be given to the concerned person.

### **Collection**

**ARTICLE 7** – (1) If the person who is given an administrative fine agrees to pay the fine at the moment it is issued or to pay the fine without appealing, in the process of collection made by the personnel assigned as the accounting authority pay clerk at institutions subject to Public Finance Management and Control Law #5018, "the total amount of the administrative fine, the discounted amount, and the collected amount" shall be indicated separately on the accountant authority pay clerk's receipt. (Example: In case an Administrative Sanction Decision is enforced on the person consuming tobacco products in indoor areas, and the person for whom the Sanction Decision is enforced agrees to pay the fine immediately, the fine amount of 62 TRY for 2008, the discount amount of 15.5 TRY, and the collected amount of 46.5 TRY shall be indicated separately on the accounting authority pay clerk's receipt.)

(2) In case the economic state of the person does not permit immediate payment, and he/she applies within one month, provided that he/she pays the first installment of the administrative fine in advance, it may be decided for the fine to be paid within one year, and in 4 equal installments. In case the installments are not paid on time and in full, the remaining amount of the administrative fine shall be reported to the Tax Administration for collection (administrations with the authority to collect administrative fines are excluded). The application for breaking down the fine into installments shall be made to the Administration that made the Decision within one month after the notification of the Administrative Sanction Decision, and requests shall be assessed and resolved by these administrations.

(3) Existing accounting authority pay clerk receipts may be used by institutions subject to Public Finance Management and Control Law #5018, or accounting authority pay clerk receipts shall be obtained from revenue office accounting managements and revenue departments and used for collection procedures.

### **Finalization of the Administrative Sanction Decision**

**ARTICLE 8** – (1) The Administrative Sanction Decision pertaining to the administrative fine shall be finalized in case the concerned person does not appeal to the Magistrate's Court within fifteen days as of the date of notification or pronouncement of the Decision. In case the concerned person applies to the Magistrate's Court, the Administrative Sanction Decision shall not be finalized until the judgment is concluded. (The necessary explanations concerning the finalization of Administrative Sanction

Decisions have been made in the General Notification for Collection with Serial Number 442 published in the Official Gazette #26520 dated 05/12/2007.)

(2) The Administrative Sanction Decision shall be sent in writing to the Tax Administration of the place of residence of the person fined for collection (administrations having the authority to collect administrative fines are excluded), following the finalization of the Decision.

### **Those who shall not be Given Administrative Fines**

**ARTICLE 9** – (1) An Administrative Sanction Decision Record shall be issued, however, no administrative fine shall be applied to children who are under 15 at the time they committed the offence, or persons who cannot perceive the legal meaning and consequences of the offence committed, or those who have lost significant ability to control their behavior in relation to this offence due to a mental disease.

### **Return**

**ARTICLE 10** – (1) In case the collected administrative fines need to be returned in accordance with relevant legislations, rejection and return procedures shall be performed by the accounting unit that performed the collection.

### **Determining Authorized Public Officers**

**ARTICLE 11** – (1) Heads of relevant units shall determine and announce the public officers authorized to apply administrative sanctions as of the date of publication of this Notification.

### **Preservation of Records**

**ARTICLE 12** – (1) Administrative Sanction Decision Records, other relevant documents and books kept shall be preserved in an authorized unit performing these procedures throughout the expiration period.

### **Effectiveness**

**ARTICLE 13** - (1) This Notification shall become effective on the date of its publication to be valid as of 05/19/2008.

### **Enforcement**

**ARTICLE 14** – (1) The provisions of this Notification shall be enforced by public administrations.

**Appendix 1**

<b>ADMINISTRATIVE SANCTION DECISION RECORD</b>		
<b>I. IDENTITY DETAILS</b>		
a) Nationality:	:	
b) Turkish ID No:	:	
c) Tax ID No:	:	
d) Name:	:	
e) Father's Name:	:	
f) Date and Place of Birth:	:	
g) Province of Birth Registry:	:	
g) District of Birth Registry:	:	
i) Quarter/Village:	:	
j) Address of Residence:	:	
k) Home Phone:	:	
l) Mobile Phone:	:	
<b>II. INFORMATION ON THE FAULTY ACT COMMITTED</b>		
1. Faulty Act:		
2. Place the Act was Committed:		
3. Date and Time the Act was Committed:		
4. Evidence Obtained in Relation to the Fault:		
5. Amount of Fine for Sanctions Enforced:		
Amount Received if Payment Made:		
6. This record which is hereby drawn up as a requirement of the Administrative Sanction Decision made before or at the absence of the person has been notified to the person, whose identity is stated above on ...../..../20... by the authorized officers whose names are given below.		
7. Signature of the Person for whom the Administrative Sanction is Enforced (Notified)		
8. Administrative Sanction Casebook Row Number:		
<b>III. PUBLIC INSTITUTION AND CORPORATION OFFICERS ENFORCING THE ADMINISTRATIVE SANCTION DECISION</b>		
Officer: 1		Officer: 2
1. Name		
2. Designation		

3. Unit		
4. Signature		
LEGAL WARNINGS:		
1 – You may appeal to the Magistrate’s Court in person or through your legal representative or lawyer against this Administrative Sanction no later than 15 days as of the date of notification of the Decision to you. In case application is not made within this period, the Administrative Sanction Decision will be finalized.		
2 – You are required to pay the administrative fine within one month; if you pay the fine without appealing, $\frac{3}{4}$ of the fine will be collected. Advance payment shall not affect the person’s right to appeal against this Decision.		
3 – In case the person fails to place his/her signature, this situation shall be stated in Section II. 7 of the Record.		
The amount not paid following the finalization of the administrative fine shall be followed up in accordance with Law #6183.		

## Appendix 2

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