



Tobacco Plain Packaging Regulations 2011¹

Select Legislative Instrument 2011 No.

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Tobacco Plain Packaging Act 2011*.

Dated 2011

Governor-General

By Her Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Minister for Health and Ageing

DRAFT ONLY

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Part 1 Preliminary

1.1 Name of Regulations

These Regulations are the *Tobacco Plain Packaging Regulations 2011*.

1.2 Commencement

These Regulations commence on the commencement of item 2 of the table in subsection 2 (1) of the Act.

1.3 Definitions

In these Regulations:

Act means the *Tobacco Plain Packaging Act 2011*.

bar code means a mark containing information about a product in the form of a series of bars of varying thickness designed to be read by an optical scanner.

calibration mark means a mark or trade mark used only for the purpose of the automated manufacture of retail packaging.

lowered permeability band — see subregulation 3.1 (2).

origin mark means a mark on the retail packaging of tobacco products to distinguish the origin of the tobacco products and does not include a date by which it is recommended that the product be used.

Regulation 1.4

tear strip — see subregulation 2.7 (2).

Note Several other words and expressions used in these Regulations have the meaning given by section 4 of the Act, for example:

- cigarette carton
- cigarette pack
- health warning
- imitation cork tip
- measurement mark
- relevant legislative requirement
- retail packaging
- tobacco advertising and promotion
- tobacco product
- trade description
- variant name.

1.4 Purpose

These Regulations prescribe requirements for the retail packaging and appearance of tobacco products for Part 2 of Chapter 2 of the Act.

1.5 Exemption from *Trans-Tasman Mutual Recognition Act 1997*

For subsection 109 (2) of the Act, the Act is exempt from the operation of the *Trans-Tasman Mutual Recognition Act 1997*.

Note This exemption operates for 12 months from the commencement of these Regulations.

Part 2 Requirements for retail packaging of tobacco products

2.1 Physical features of retail packaging

- (1) The dimensions of a cigarette pack must not be smaller than [x by x by x] or larger than [x by x by x].
- (2) A cigarette carton may include a perforated strip for opening the carton that leaves serrations on the edge of a surface of the carton when the carton is opened.

Note Subsection 18 (1) of the Act sets out general requirements for the physical features of retail packaging for all tobacco products. Subsections 18 (2) and (3) of the Act set out additional requirements relating to the physical features of cigarette packs and cigarette cartons.

2.2 Colour and finish of retail packaging

- (1) This regulation applies to the following things:
 - (a) all outer surfaces and inner surfaces of the retail packaging of tobacco products (within the meaning of paragraph (a) or (b) of the definition of *retail packaging* in section 4 of the Act);
 - (b) both sides of any lining of a cigarette pack.
- (2) The things mentioned in subregulation (1) must be the colour known as [XXX].

Note Section 19 of the Act sets out other requirements relating to the colour and finish of retail packaging.

2.3 Trade marks or marks appearing on retail packaging

- (1) The following are permitted to appear on the retail packaging of tobacco products:
 - (a) an origin mark in accordance with regulation 2.4;
 - (b) a calibration mark;
 - (c) a measurement mark and trade description in accordance with regulation 2.5;

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- (d) a bar code in accordance with regulation 2.6;
 - (e) a fire risk statement in accordance with regulation 2.9.
- (2) However, only a tear strip in accordance with regulation 2.7, and no other trade mark or mark, may appear on a plastic or other wrapper that covers:
- (a) the retail packaging of tobacco products (within the meaning of paragraph (a) or (b) of the definition of *retail packaging* in the Act); or
 - (b) a tobacco product that is for retail sale.
- (3) The trade mark or mark mentioned in subregulation (1) or (2) must not:
- (a) obscure any relevant legislative requirement; or
 - (b) constitute, or be able to be taken to constitute, tobacco advertising and promotion; or
 - (c) provide access to tobacco advertising and promotion.

2.4 Origin mark

- (1) An origin mark must be:
- (a) an alphanumeric code; or
 - (b) a covert mark that is not visible to the naked eye.
- (2) If an origin mark is an alphanumeric code, it must:
- (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton — appear on either:
 - (i) the side outer surface of the pack or carton that does not bear a health warning; or
 - (ii) the bottom outer surface of the pack or carton; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in the colour known as [XXX].

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2.5 Measurement mark and trade description

- (1) A measurement mark or trade description must be printed:
 - (a) in the typeface known as Lucida Sans; and
 - (b) no larger than 10 points in size; and
 - (c) in normal weighted regular font; and
 - (d) in the colour known as [XXX].
- (2) For a cigarette pack or cigarette carton:
 - (a) the name and address required by Division 4.3 of the *National Trade Measurement Regulations 2009* must:
 - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
 - (ii) appear only once on that surface; and
 - (b) the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* may appear once on no more than 2 of the front, side and bottom outer surfaces of the pack or carton; and
 - (c) the trade description must:
 - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
 - (ii) appear only once on that surface.

2.6 Bar code

- (1) A bar code must:
 - (a) for a cigarette pack or cigarette carton — appear only on the side outer surface of the pack or carton that does not bear a health warning, and only once on that surface; and
 - (b) be printed in black and white; and
 - (c) be rectangular in shape.
- (2) The bar code must not form a picture, symbol or design.

2.7 Tear strips on wrappers

- (1) A tear strip on a plastic or other wrapper that covers a cigarette pack or cigarette carton must be:
 - (a) black or not coloured; and

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(b) not wider than [xxmm].

(2) In this regulation:

tear strip means a strip of plastic incorporated into a plastic or other wrapper to enable the wrapper to be opened quickly.

2.8 Brand, business, company, and variant, names

A brand, business or company name, or any variant name, appearing on retail packaging for tobacco products must be printed:

- (a) in the typeface known as Lucida Sans; and
- (b) for a brand, business or company name — no larger than 14 points in size; and
- (c) for a variant name — no larger than 10 points in size; and
- (d) in upper-case and lower-case letters in a normal weighted, regular font; and
- (e) in the colour known as [XXX].

Note Subsections 21 (2) and (3) of the Act set out additional requirements for the appearance of brand, business, company, and variant, names on cigarette packs and cigarette cartons.

2.9 Fire risk statement

(1) The following requirements apply to a fire risk statement:

- (a) the text of the statement must be in the colour known as [XXX];
- (b) the background to the statement must be in the colour known as [XXX];
- (c) for a cigarette pack or cigarette carton — the statement must be placed beneath the health warning on the back outer surface of the pack or carton.

(2) The fire risk statement may be included on an adhesive label as an insert on retail packaging of tobacco products (other than an insert or onsert) if the adhesive label is permitted by:

- (a) regulation 14 of the *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*; or

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- (b) a safety standard made under section 104, or declared under section 105, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk; or
- (c) an information standard made under section 134, or declared under section 135, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk.

Regulation 3.1

Part 3 Requirements for appearance of tobacco products**3.1 Appearance of cigarettes**

- (1) The paper casing, and lowered permeability band (if any), of cigarettes must be:
 - (a) white; or
 - (b) white with an imitation cork tip.
- (2) In this regulation:

lowered permeability band means a concentric band of paper or other material that is included in, or applied to, cigarette paper in order to inhibit the burning of the cigarette.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.