Tobacco Plain Packaging Amendment Regulation 2012 (No.)[1]

Select Legislative Instrument 2012 No.

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

Dated 2012

Governor-General

By Her Excellency's Command

TANYA PLIBERSEK
Minister for Health

---

1 Name of regulation

This regulation is the *Tobacco Plain Packaging Amendment Regulation 2012 (No.)*.

2 Commencement

This regulation commences on the commencement of sections 17 to 27A of the *Tobacco Plain Packaging Act 2011*.

3 Amendment of *Tobacco Plain Packaging Regulations 2011*

Schedule 1 amends the *Tobacco Plain Packaging Regulations 2011*.

Schedule 1 Amendments

(section 3)

[1] Regulation 1.1.3, definition of *bar code*

omit

series of bars

insert

series of numbers and bars

[2] Regulation 1.1.3

insert

bidi means a tobacco product for smoking, not enclosed in paper, commonly known as a bidi.

cigar means a roll of cut tobacco for smoking, enclosed in tobacco leaf or the leaf of another plant.

cigar tube means a tube for packaging one cigar.

pouch means primary packaging that:

(a) is made from flexible material; and

(b) takes the form of a rectangular pocket with a flap that covers the opening.

[3] Regulation 1.1.6

omit

[4] Regulation 2.1.3, heading

substitute

2.1.3 Physical features of lining of primary packaging of tobacco products

[5] Subregulation 2.1.3 (1)

substitute

(1) The lining of primary packaging of tobacco products may be textured over the entire surface of the lining with small dots or squares embossed into the lining, for the purpose of the automated manufacture of the packaging, or the packing of tobacco products into the packaging.

[6] After regulation 2.1.3

insert

2.1.4 Physical features of cigar tubes

(1) A cigar tube:

(a) must be cylindrical and rigid; and

(b) may have one or both ends tapered or rounded.

(2) The opening to a cigar tube must be at least 15 mm in diameter.

1110688B-120222Z.doc, 22/02/2012, 5:00 PM

2.1.5 Physical features of other primary packaging

Primary packaging of tobacco products, other than a cigarette pack or a cigar tube, must comply with the following requirements:

(a) the largest dimension of the packaging must be at least 85 mm;

(b) the second largest dimension of the packaging must be at least 55 mm.

2.1.6 Windows in packaging prohibited

Retail packaging of tobacco products, other than a plastic or other wrapper, must not have a cut-out area or window that enables the contents of the packaging to be visible from outside the packaging.

[7] After subregulation 2.2.1 (3)

insert

(3A) Each inner surface of primary packaging or secondary packaging, other than a cigarette pack or cigarette carton, must be:

(a) white; or

(b) the colour of the packaging material in its natural state.

[8] Regulation 2.2.1, note

omit

[9] After subregulation 2.2.1 (5)

insert

Surfaces of pouches

(6) In this regulation:

(a) a reference to inner surface of a pouch is a reference to the part of the surface of the pouch that, when the pouch is closed:

(i) is in direct contact with, or could come into direct contact with, the tobacco product; or

(ii) could come into direct contact with the tobacco product but for a lining or other insert in the pouch; and

(b) any other surface of a pouch is taken to be an outer surface.

Note 1 ***Pouch*** is defined in regulation 1.1.3.

Note 2 Section 19 of the Act sets out other requirements relating to the colour and finish of retail packaging.

[10] Subregulation 2.3.4 (4)

omit

For a plastic or other wrapper that covers more than one item of primary packaging:

insert

For retail packaging of tobacco products other than a cigarette pack or cigarette carton:

[11] Paragraph 2.3.5 (3) (a)

substitute

(a) included on an adhesive label fastened firmly to the wrapper so as not to be easily removable; or

1110688B-120222Z.doc, 22/02/2012, 5:00 PM

[12] After subregulation 2.3.5 (3)

insert

(4) For paragraph (3) (a), an adhesive label is easily removable if:

(a) it is not likely to stay fastened during the expected life of the wrapper; or

(b) it can be removed without damaging the label or the wrapper.

[13] Subparagraph 2.3.9 (1) (b) (iv)

substitute

(iv) for a cigarette pack — appear on the side outer surface of the pack that does not bear a health warning; and

(v) for other retail packaging that is marked with a name and address in accordance with regulation 2.3.4 or 2.3.8 — appear on the same surface as the name and address; and

[14] After regulation 2.4.1

insert

2.4.2 Appearance of names on other retail packaging

(1) This regulation applies to retail packaging of tobacco products other than:

(a) retail packaging of cigarettes; and

(b) a plastic or other wrapper that covers primary packaging, secondary packaging or a tobacco product that is for retail sale.

(2) Any brand, business or company name, or any variant name, appearing on the retail packaging, must be printed on the packaging, or on an adhesive label fixed to the packaging in accordance with subregulation (3), in accordance with the following requirements:

(a) in the typeface known as Lucida Sans;

(b) for a brand, business or company name — no larger than 14 points in size;

(c) for a variant name — no larger than 10 points in size;

(d) with the first letter in each word capitalised and with no other upper case letters;

(e) in normal weighted regular font;

(f) in the colour known as Pantone Cool Gray 2C.

(3) For subregulation (2), the adhesive label:

(a) must be in the colour known as Pantone 448C; and

(b) must be no larger than reasonably necessary to print the brand, business or company name, and any variant name, in the typeface and size mentioned in paragraphs (2) (a) to (c); and

(c) must be fastened firmly to the retail packaging so as not to be easily removable; and

(d) must not obscure any relevant legislative requirement.

(4) For paragraph (3) (c), an adhesive label is easily removable if:

(a) it is not likely to stay fastened during the expected life of the retail packaging; or

(b) it can be removed without damaging the label or the retail packaging.

2.4.3 Location of names on cigar tubes

(1) Any brand, business or company name, or any variant name, appearing on a cigar tube:

(a) must not obscure any relevant legislative requirement; and

(b) must appear only once on the cigar tube; and

(c) must appear across one line only.

(2) The orientation of the names must appear as follows:

(a) if the cigar tube contains a brand, business or company name but no variant name — the name must appear in the same orientation as, and immediately below, the health warnings on the surface;

(b) if the cigar tube contains a variant name only — the variant name must appear in the same orientation as, and immediately below, the health warnings on the surface;

(c) if the cigar tube contains a variant name and the brand, business or company name:

(i) the brand, business or company name must appear in the same orientation as, and immediately below, the health warnings on the surface; and

(ii) the variant name must appear parallel to, in the same orientation as, and immediately below the brand, business or company name.

2.4.4 Location of names on other retail packaging

(1) This regulation applies to retail packaging of tobacco products other than cigarette packs, cigarette cartons and cigar tubes.

Note The location of names on cigarette packs and cigarette cartons is set out in section 21 of the Act.

(2) Any brand, business or company name, or any variant name, appearing on the retail packaging:

(a) must not obscure any relevant legislative requirement; and

(b) must appear across one line only; and

(c) must not appear more than once on each surface identified as a front outer surface or back outer surface by the *Competition and Consumer (Tobacco) Information Standard 2011*; and

(d) may appear only on the surfaces mentioned in paragraph (c); and

(e) must appear in the same orientation as, and not above, the health warnings on the surface; and

(f) for a variant name — must appear parallel to, in the same orientation as and immediately below the brand, business or company name.

[15] After Division 2.5

insert

Division 2.6 Inserts and onserts

2.6.1 Adhesive label health warnings

Retail packaging of tobacco products may include an adhesive label bearing a health warning that complies with either of the following:

(a) the *Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 2004* (before 1 December 2012);

(b) the *Competition and Consumer (Tobacco) Information Standard 2011*.

2.6.2 Inserts to avoid damage to tobacco products

(1) Retail packaging of tobacco products, other than cigarette packs or cigarette cartons, may include an insert if the insert is used to avoid damage to the tobacco product during transportation or storage.

(2) The insert must be either:

(a) white; or

(b) the colour of the packaging material in its natural state.

Note A lining in the retail packaging of a tobacco product, other than a cigarette pack, is an insert.

2.6.3 Tabs for resealing tobacco products

(1) Primary packaging of tobacco products, other than cigarette packs, may include a tab for resealing the packaging.

(2) The tab must be entirely:

(a) black; or

(b) transparent and not coloured; or

(c) the colour known as Pantone 448C.

(3) The tab must not obscure any relevant legislative requirement.

1110688B-120222Z.doc, 22/02/2012, 5:00 PM

[16] After Division 3.1

insert

Division 3.2 Appearance of other tobacco products

3.2.1 Appearance of cigars

(1) A single band may appear around the circumference of a cigar if it is the colour known as Pantone 448C and it complies with this regulation.

(2) The band may be an adhesive band:

(a) that completely covers another band or bands; and

(b) that is fastened firmly to, and not easily removable from, the band or bands it covers.

(3) The following marks may appear on the band:

(a) the brand, company or business name and variant name of the cigar in accordance with subregulations (5) and (6);

(b) the name of the country in which the cigar was made or produced in accordance with subregulation (5);

(c) an alphanumeric code in accordance with subregulations (5) and (7).

(4) The band may also contain a covert mark:

(a) that is not visible to the naked eye; and

(b) that does not provide access to tobacco advertising and promotion.

(5) The marks mentioned in subregulation (3) must:

(a) appear only once on the band; and

(b) be printed:

(i) in the typeface known as Lucida Sans; and

(ii) no larger than 10 points in size; and

(iii) in normal weighted regular font; and

(iv) in the colour known as Pantone Cool Gray 2C.

(6) The brand, business or company name and variant name must be placed horizontally along the length of the band so that they run around the circumference of the cigar.

(7) The alphanumeric code must not:

(a) constitute tobacco advertising and promotion; or

(b) provide access to tobacco advertising and promotion; or

(c) be false, misleading, deceptive or likely to create an erroneous impression about the cigar's characteristics, health effects, hazards or emissions; or

(d) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or

(e) represent, or be linked or related in any way to, the emission yields of the cigar, such as tar, nicotine or carbon monoxide.

(8) To avoid doubt, if a band (a ***non-compliant band***) is completely covered by an adhesive band that complies with subregulation (2) so that the non-compliant band is not visible on the cigar, the requirements for bands in this regulation do not apply to the non-compliant band.

3.2.2 Threads on bidis

A bidi may include a single black thread around the circumference of the bidi.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.

1110688B-120222Z.doc, 22/02/2012, 5:00 PM