HE301

TOBACCO CONTROL ACT 1990

TOBACCO CONTROL (PACKAGE LABELS) AMENDMENT REGULATIONS 1995

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the Tobacco Control (Package Labels) Amendment Regulations 1995.

Principal regulations

2. In these regulations the Tobacco Control (Package Labels) Regulations 1994* are referred to as the principal regulations.

[* Published in Gazette of 9 December 1994 at p. 6666-77.]
Regulation 3 amended

3. (1) Regulation 3 (1) of the principal regulations is amended —
   (a) by deleting the definition of "irregular package"; and
   (b) by deleting the definition of "pouch" and substituting the following definition —
   "pouch" means a package that —
   (a) is made from flexible material; and
   (b) takes the form of a rectangular pocket with a flap that covers the opening; "

(2) Regulation 3 (3) of the principal regulations is repealed and the following subregulation is substituted —

"(3) Unless the contrary intention appears, an area of a surface that bears decorative ridges, embossing, bulges, or other irregularities, but is otherwise flat, is taken to be a flat area for the purposes of these regulations."

(3) Regulation 3 (5) of the principal regulations is repealed and the following subregulation is substituted —

"(5) For the purposes of these regulations, the surface area of a package is the area that would be covered by the outer layer of the package if it were opened out and pressed flat."

Regulation 4 amended

4. Regulation 4 of the principal regulations is amended by deleting "a tobacco product" and substituting the following —

"tobacco prepared for smoking ".

Regulation 7 amended

5. (1) Regulation 7 (1) of the principal regulations is amended by deleting "(other than an irregular package) — " and substituting the following —

"(other than a package of a kind described in item 8 of Schedule 2) — "

(2) Regulation 7 (2) of the principal regulations is repealed and the following subregulation is substituted —

"(2) A package of a kind described in item 8 of Schedule 2 —
   (a) is not required to bear an explanatory message; and
   (b) must bear a warning message printed on the package twice."
Regulation 9 repealed and a regulation substituted

6. Regulation 9 of the principal regulations is repealed and the following regulation is substituted —

"Position of warning message and explanatory message

9. (1) For a package of a kind described in item 1 or 2 of Schedule 2 —

(a) the warning message is to be printed —

(i) on the face of the package specified in the relevant item; and

(ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed;

and

(b) the explanatory message is to be printed —

(i) on the face of the package that is opposite to the face on which the warning message is to be printed; and

(ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed.

(2) For a package of a kind described in item 3, 5, 6 or 7 of Schedule 2 —

(a) the warning message is to be printed on the face of the package specified in the relevant item; and

(b) the explanatory message is to be printed on the face of the package that is opposite to the face on which the warning message is to be printed.

(3) For a pouch described in item 4 of Schedule 2, the warning message is to be printed on the face of the pouch specified in the item.

(4) If the flap of a pouch described in item 4 of Schedule 2 is, in area, less than 33⅓% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed —

(a) on the face that is partly covered by the flap when the package is closed; and

(b) not in the area that is covered by the flap when the package is closed.

(5) If the flap of a pouch described in item 4 of Schedule 2 is, in area, at least 33⅓% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed on the outside of the flap.

(6) For a package of a kind described in item 8 of Schedule 2, the 2 warning messages are to be printed on the package as far apart as possible.

(7) For a package of a kind described in item 9 of Schedule 2 —

(a) the warning message is to be printed on the face of the package specified in the item; and

(b) the explanatory message is to be printed as far as possible from the warning message on the package."
Regulation 10 repealed and a regulation substituted

7. Regulation 10 of the principal regulations is repealed and the following regulation is substituted —

"Area to be covered by warning message and explanatory message

10. (1) A warning message that is printed on a package of a kind described in items 1 to 7 of Schedule 2 must cover at least 25% of the area of the face on which it is printed.

(2) An explanatory message that is printed on a package of a kind described in items 1 to 7 of Schedule 2 must cover at least 33½% of the area of the face on which it is printed.

(3) A warning message that is printed on a package of a kind described in item 8 or 9 of Schedule 2 must cover at least 15% of the total surface area of the package.

(4) An explanatory message that is printed on a package of a kind described in item 9 of Schedule 2 must cover at least 20% of the total surface area of the package.

Regulation 16 amended

8. (1) Regulation 16 (2) of the principal regulations is amended —

(a) in paragraph (a) by deleting "retail package (other than an irregular package)" and substituting the following —

"package (other than a package of a kind described in item 8 or 9 of Schedule 2)"

; and

(b) in paragraph (b) by deleting "retail package (other than an irregular package)" and substituting the following —

"package (other than a package of a kind described in item 8 or 9 of Schedule 2)"

(2) Regulation 16 (4) is repealed and the following subregulations are substituted —

"(4) The message required by subregulation (3) must be printed on a package of a kind described in item 1, 2, 3, 5 or 7 of Schedule 2 —

(a) if both or all the sides of the package are the same in area — on one side of the package;

(b) if one side of the package is larger than the other or others — on the larger or largest side; or

(c) if 2 or more sides of the package are larger than the other or others — on one of those larger sides.

(4a) The message required by subregulation (3) must be printed on a package of a kind described in item 8 or 9 of Schedule 2 anywhere on the package.

(3) Regulation 16 (6) (b) (iii) of the principal regulations is deleted and the following subparagraph is substituted —

"(iii) in the case of a package of a kind described in item 8 or 9 of Schedule 2 — at least 9% of the total surface area of the package."
Regulation 22 amended

9. Regulation 22 of the principal regulations is amended by repealing subregulation (3) and substituting the following subregulations —

"(3) It is a defence to a complaint for an offence under the Tobacco (Warning Labels) Regulations 1987 alleged to have been committed on or after 1 April 1994 and before 1 April 1995 to prove that the labelling on the package —

(a) complied with the Schedule to the Health (Tobacco Warning Labels) Regulations 1986 of the State of Victoria, as those regulations were in force on 31 August 1993; or

(b) would comply with Parts 2, 3 and 4 of these regulations if they were then in operation.

(4) It is a defence to a complaint for an offence under section 9 of the Act to prove that the labelling on the package containing tobacco prepared for smoking —

(a) complied with the Schedule to the Health (Tobacco Warning Labels) Regulations 1986 of the State of Victoria, as those regulations were in force on 31 August 1993; or

(b) complied with the Tobacco (Warning Labels) Regulations 1987, as those regulations were in force immediately before 1 April 1995."

Schedule 2 amended

10. (1) Schedule 2 to the principal regulations is amended by deleting item 3 and substituting the following item —

"3 Any other package (except a pouch) all the faces of which are rectangular or square

(a) If one of the largest faces of the package forms, or forms part of, a lid — that face.

(b) In any other case — that one of the largest faces of the package that is towards a person who holds the package correctly for the purpose of removing its contents.

(2) Schedule 2 to the principal regulations is amended by inserting after item 7 the following items —

"8 A package —

(a) the shape of which is not described in items 1 to 7; and

The package must bear 2 warning messages, printed as far apart as possible.

(b) the total surface area of which is less than 145 square centimetres

The messages must be printed on the face, or faces, of the package that allow this result to be achieved."
A package — Any face of the package.

(a) the shape of which is not described in items 1 to 7; and

(b) the total surface area of which is at least 145 square centimetres.

By His Excellency's Command,

M. C. WAUCHOPE, Clerk of the Council.