

HEALTH**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(2) Regulation 3 (3) of the principal regulations is repealed and the following subregulation is substituted —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(3) Regulation 3 (5) of the principal regulations is repealed and the following subregulation is substituted —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(2) Regulation 7 (2) of the principal regulations is repealed and the following subregulation is substituted —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Regulation 9 repealed and a regulation substituted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 Regulation 9 of the principal regulations is repealed and the following regulation is substituted —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 33% 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 — | The package must bear 2 warning messages, printed as far apart as possible. |
| | (a) the shape of which is not described in items 1 to 7; and | The messages must be printed on the face, or faces, of the package that allow this result to be achieved. |
| | (b) the total surface area of which is less than 145 square centimetres | |

- 9 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.
