

Western Australia

**Tobacco Control (Package Labels)
Regulations 1994**

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Tobacco Control (Package Labels) Regulations 1994

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Western Australia

Tobacco Control Act 1990

Tobacco Control (Package Labels) Regulations 1994

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Tobacco Control (Package Labels) Regulations 1994*¹.

2. Commencement

- (1) Subject to this regulation, these regulations come into operation on the day on which they are published in the *Gazette*¹.
- (2) Parts 2, 3 and 4 come into operation on 1 April 1995.

Part 2 — General

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
- “**cigar**” means a roll of cut tobacco for smoking, enclosed in tobacco leaf or the leaf of another plant;
 - “**cigarette**” means a roll of cut tobacco for smoking, enclosed in paper;
 - “**corresponding explanatory message**”, in relation to a warning message, means the explanatory message that appears in the same item in Schedule 1 as the warning message;
 - “**explanatory message**” means a message set out in Column 3 of Schedule 1;
 - “**face**”, in relation to a package of which the outer surface includes 2 or more flat areas that are bounded by edges of the package, means any of those flat areas;
 - “**flip-top pack**” means a package of the kind commonly called a flip-top pack or hinge-top pack;
 - “**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;
 - “**soft pack**” means a package of the kind commonly called a soft pack or soft cup;
 - “**warning message**” means a message set out in Column 2 of Schedule 1.
- (2) For the purposes of these regulations, unless the contrary intention appears, openings, gaps or edges that are created in a face of a package when the package is opened are to be disregarded.

- (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.
- (4) For the purposes of these regulations —
 - (a) a soft pack is taken to be a solid that has all its faces rectangular and that has edges equal in length to the edges of the smallest rectangular solid inside which the pack will fit when it is not compressed; and
 - (b) a face that has rounded corners but is otherwise square or rectangular is taken to be square or rectangular, as the case requires.
- (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.
- (6) To avoid doubt, it is declared that a reference in these regulations to a cylindrical package includes a package that is, in one plane, elliptical, rather than circular, in cross-section.
- (7) For the purposes of these regulations, a message that is printed on an adhesive label attached to a package in accordance with regulation 13 is taken to be printed on the package to which the label is attached.

[Regulation 3 amended in Gazette of 17 Mar 1995 p. 1022.]

4. Application

For the purposes of the Act a package containing tobacco prepared for smoking is labelled in accordance with these regulations if it bears the messages required by these regulations in accordance with these regulations.

[Regulation 4 amended in Gazette 17 Mar 1995 p. 1022.]

5. Regulations do not apply to cigars sold singly

These regulations do not apply to cigars sold singly.

6. Package must bear warning message and, in certain cases, explanatory message

Subject to this Part, a package must bear —

- (a) a warning message and the corresponding explanatory message; or
- (b) if permitted or required by another provision of these regulations —
 - (i) a warning message, the same warning message repeated and the corresponding explanatory message; or
 - (ii) a warning message and the same warning message repeated.

7. Messages on certain smaller packages

- (1) If the largest face of a package (other than a package of a kind described in item 8 of Schedule 2) —
 - (a) has an area of 40 square centimetres or less; and
 - (b) would, but for this subregulation, be required to bear an explanatory message,then —
 - (c) an explanatory message need not be printed on that face; and
 - (d) both that face and the face on which the warning message is to be printed must bear the same warning message.
- (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 7 amended in Gazette 17 Mar 1995 p. 1022.]

8. Format of warning message and explanatory message

A warning message or an explanatory message must be in the following format:

- (a) the text must be printed —
 - (i) within a black rectangular or square border of which the lines are no wider than an upper-case letter “I” in the type size used for the text of the message; and
 - (ii) on a white background within the border referred to in subparagraph (i);
- (b) the text must be printed in the type face known as Helvetica, in upper-case and lower-case letters as the text of the message is set out in Schedule 1, in type that is —
 - (i) clear and legible;
 - (ii) subject to paragraph (c), of the same height throughout the message;
 - (iii) black;
 - (iv) of normal weight; and
 - (v) of such a size that the text as nearly as possible fills the background on which it is printed;and
- (c) the words “Government Health Warning” must be in type of a point size not greater than 50% of the point size of the type used for the remainder of the message.

9. Position of warning message and explanatory message

- (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

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- (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 33¹/₃% 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 33¹/₃% 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 9 inserted in Gazette 17 Mar 1995 p. 1023.]

10. Area to be covered by warning message and explanatory message

- (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 $\frac{1}{3}$ % 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 10 inserted in Gazette 17 Mar 1995 p. 1024.]

11. Orientation of a message

The text of a warning message or an explanatory message must be oriented as follows:

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- (a) if the face on which the message is to be printed has other text printed on it, and all, or the majority of, that other text is oriented in one direction — the text must be oriented in that direction; or
- (b) if paragraph (a) does not apply — the text may be oriented in any direction.

12. Messages not to be obscured etc.

- (1) If a message that is required by these regulations to be printed on a package is likely to be obscured or obliterated by a wrapper on the package, the message must be printed on both the wrapper and the package.
- (2) A message must not be likely to be obliterated, removed or rendered permanently unreadable when the package on which it is printed is opened in the normal way.

13. Use of adhesive labels

- (1) A message that is required by these regulations to be printed on a package may be printed on an adhesive label that is affixed to the package.
- (2) Subregulation (1) does not apply to a flip-top pack or a soft pack after 30 June 1996.
- (3) An adhesive label referred to in subregulation (1) must —
 - (a) comply with these regulations in all respects other than as specifically set out in this regulation;
 - (b) be affixed to the face of the package on which the message that it bears is required to be printed, but may be affixed anywhere on that face; and
 - (c) be fastened firmly to the package so as not to be easily removable.
- (4) An adhesive label referred to in subregulation (1) may be affixed in any orientation.

14. Messages to appear in rotation

- (1) Each warning message and (where required by these regulations) the corresponding explanatory message must be printed in rotation on packages so that, during the period of 12 months beginning on 1 January in each year, each message appears as nearly as possible on an equal number of packages of each kind of tobacco product.
- (2) A tobacco product is of different kinds for the purposes of subregulation (1) if —
 - (a) it is sold under different brand names; or
 - (b) it is sold under one brand name but is distinguished in one or more of the following ways:
 - (i) containing or not containing menthol;
 - (ii) being otherwise differently flavoured;
 - (iii) having different contents of tar;
 - (iv) allegedly differing in “mildness”;
 - (v) having or not having filter tips or cork tips;
 - (vi) being sold in packages containing different numbers of pieces;
 - (vii) being of different length or mass.

Part 3 — Packages containing cigarettes

15. Application of Part

This Part applies to a package containing cigarettes.

16. Message to be printed on the side of a package of cigarettes

- (1) For the purposes of this regulation, a reference to the sides of a package containing cigarettes is a reference —
 - (a) in the case of a cylindrical package — to those parts of the curved surface of the package that, if the vertical centre-line of the largest brand-name on the curved surface of the package is taken to be 0°, extend —
 - (i) from 60° to 120°; and
 - (ii) from 240° to 300°,around the circumference of a flat face of the package;
 - (b) in the case of a package that has 2 faces that are hexagonal or octagonal, and of which all the other faces are square or rectangular — to the square or rectangular faces of the package, other than the front and the back; and
 - (c) in any other case — to the surfaces of the package, other than the back and the front, that are vertical when the package is held so that the axis of the cigarettes within it is vertical.
- (2) For the purposes of subregulation (1) —
 - (a) the front of a package (other than a package of a kind described in item 8 or 9 of Schedule 2) is that face of the package on which the warning message is required to be printed; and
 - (b) the back of a package (other than a package of a kind described in item 8 or 9 of Schedule 2) is the face —
 - (i) on which the explanatory message is required to be printed; or

- (ii) on which the explanatory message would, but for regulation 7(1), be required to be printed.
- (3) The following message must be printed on a package of cigarettes —
 - “
 - The smoke from each cigarette contains, on average:
 - [xx] milligrams or less of tar — condensed smoke containing many chemicals, including some that cause cancer;
 - [yy] milligrams or less of nicotine — a poisonous and addictive drug;
 - [zz] milligrams or less of carbon monoxide — a deadly gas which reduces the ability of blood to carry oxygen.
 - ”.
- (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.
- (5) The message required by subregulation (3) must be printed —
 - (a) in the type face known as Helvetica, in type that is —
 - (i) clear and legible;
 - (ii) black;

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- (iii) of normal weight; and
 - (iv) of such a size that the text as nearly as possible fills the background on which it is printed;
 - (b) in upper and lower case, as the text of the message is set out in subregulation (3);
 - (c) if the message is required to appear on the side of the package, oriented so that the lines of type making up the message are parallel to the longest edges of the face on which the message is printed; and
 - (d) on a rectangular or square background of the kind set out in subregulation (6).
- (6) The background referred to in paragraph (5)(d) —
 - (a) must be white; and
 - (b) must occupy —
 - (i) in the case of a package other than a flip-top pack or an irregular package — the whole of one side;
 - (ii) in the case of a flip-top pack — the whole of one side except the part of that side that forms part of the top;
 - (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.
- (7) When the message required by subregulation (3) is printed on a package, “[xx]”, “[yy]” and “[zz]” are to be replaced by —
 - (a) the average amount of tar, nicotine or carbon monoxide, respectively, produced by a cigarette of the kind contained in the package, when cigarettes of that kind are tested according to the testing methods specified in regulation 17; or

- (b) if, when cigarettes of that kind are tested according to those testing methods —
 - (i) the average amount of tar produced by a cigarette does not exceed 16 milligrams;
 - (ii) the average amount of nicotine produced by a cigarette does not exceed 1.5 milligrams; and
 - (iii) the average amount of carbon monoxide produced by a cigarette does not exceed 20 milligrams,

a figure worked out by taking from the column of Schedule 3 that relates respectively to tar, nicotine, or carbon monoxide the lowest figure that is greater than the average amount of tar, nicotine, or carbon monoxide, respectively, produced by a cigarette of that kind.

[Regulation 16 amended in Gazette 17 Mar 1995 p. 1024.]

17. Testing methods

- (1) The testing methods to be used for the purposes of regulation 16(7) to determine the average amount of tar, nicotine and carbon monoxide produced by a cigarette are the following standard methods published by the International Standards Organisation:
 - (a) tar — ISO 4387 (Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine);
 - (b) nicotine — ISO 10315 (Cigarettes — determination of nicotine in smoke condensates — gas chromatographic method);
 - (c) carbon monoxide — ISO 8454 (Cigarettes — determination of carbon monoxide in the vapour phase of smoke (NDIR method)).

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- (2) The testing methods specified in subregulation (1) are to be used in accordance with the following standards published by the International Standards Organisation:
- (a) ISO 3308 (Routine analytical cigarette-smoking machine — definitions and standard conditions);
 - (b) ISO 8243 (Cigarettes — sampling);
 - (c) ISO 3402 (Tobacco and tobacco products — atmosphere for conditioning and testing).

Part 4 — Packages containing cigars

18. Application of Part

This Part applies to a package containing cigars.

19. Packages of cigars must bear certain messages

A package containing cigars must bear —

- (a) a warning message, and the corresponding explanatory message, in accordance with Part 2;
- (b) a warning message, the warning message repeated, and the corresponding explanatory message, in accordance with regulation 20; or
- (c) a warning message, and the corresponding explanatory message, in accordance with regulation 21.

20. Messages on package with hinged lid

- (1) A warning message and explanatory message may be printed on a package in accordance with this regulation if and only if the package has a hinged lid formed by one face of the package.
- (2) A package containing cigars bears a warning message and the corresponding explanatory message in accordance with this regulation if —
 - (a) the warning message is printed on both the outside of the lid and the base of the package;
 - (b) each warning message occupies at least 25% of the area of the face on which it is printed;
 - (c) the explanatory message is printed on the inside surface of the lid;
 - (d) the explanatory message occupies at least 33% of the area of the inside surface of the lid;
 - (e) the warning message and the explanatory message are otherwise in accordance with Part 2.

21. Messages on other packages of cigars

A package containing cigars bears a warning message and the corresponding explanatory message in accordance with this regulation if —

- (a) the warning message is printed on the face of the package that is specified in Schedule 2 for a package of that kind;
- (b) the corresponding explanatory message is printed on the face of the package that is opposite to the face on which the warning message is, under paragraph (a), to be printed;
- (c) the areas occupied by the warning message and the explanatory message are as set out in the item of Schedule 4 that applies to that package; and
- (d) the warning message and the explanatory message are otherwise in accordance with Part 2.

Part 5 — Miscellaneous

22. Repeals

- (1) The *Tobacco Control (Package Labels) Regulations 1993* are repealed.
- (2) The *Tobacco (Warning Labels) Regulations 1987* are repealed on 1 April 1995.
- (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.

[Regulation 22 amended in Gazette 17 Mar 1995 p. 1025.]

Schedule 1 Warning messages and explanatory messages

Schedule 1

[reg. 3]

Warning messages and explanatory messages

Col. 1 Item No.	Column 2 Warning message	Column 3 Explanatory message
1	SMOKING CAUSES LUNG CANCER Government Health Warning	SMOKING CAUSES LUNG CANCER. Tobacco smoke contains many cancer-causing chemicals including tar. When you breathe the smoke in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer can grow and spread before it is noticed. It can kill rapidly. For more information, call 13 2130. Government Health Warning
2	SMOKING IS ADDICTIVE Government Health Warning	SMOKING IS ADDICTIVE. Nicotine, a drug in tobacco, makes smokers feel they need to smoke. The more you smoke, the more your body will depend on getting nicotine and you may find yourself hooked. It may be difficult to give up smoking once you are hooked on nicotine. For more information, call 13 2130. Government Health Warning
3	SMOKING KILLS Government Health Warning	SMOKING KILLS. In Australia, tobacco smoking causes more illness and early death than using any other drug. Tobacco smoking causes more than 4 times the number of deaths caused by car accidents. For more information call 13 2130. Government Health Warning

Warning messages and explanatory messages Schedule 1

Col. 1 Item No.	Column 2 Warning message	Column 3 Explanatory message
4	SMOKING CAUSES HEART DISEASE Government Health Warning	SMOKING CAUSES HEART DISEASE. Tobacco smoking is a major cause of heart disease. It can cause blockages in the body's arteries. These blockages can lead to chest pain and heart attacks. Heart attack is the most common cause of death in Australia. Smokers run a far greater risk of having a heart attack than people who don't smoke. For more information call 13 2130. Government Health Warning
5	SMOKING WHEN PREGNANT HARMS YOUR BABY Government Health Warning	SMOKING WHEN PREGNANT HARMS YOUR BABY. Poisons in tobacco smoke reach your baby through the blood stream. If you smoke when you are pregnant, you greatly increase the chance of having a baby of low birth-weight. Smoking may lead to serious complications which could harm your baby. For more information call 13 2130. Government Health Warning
6	YOUR SMOKING CAN HARM OTHERS Government Health Warning	YOUR SMOKING CAN HARM OTHERS. Tobacco smoke causes cancer and poisons people. People who breathe in your tobacco smoke can be seriously harmed. Your smoking can increase their risk of lung cancer and heart disease. Children who breathe your smoke may suffer asthma attacks and chest illnesses. For more information call 13 2130. Government Health Warning

Schedule 2 Positions on packages where warning message is to be printed

Schedule 2

[reg. 9]

Positions on packages where warning message is to be printed

Col. 1 Item No.	Column 2 Type of package	Column 3 Face of the package on which warning message is to be printed
1	Flip-top pack	That face that includes the front face of the flip-top.
2	Soft pack	If the brand name is printed on only one of the largest faces, or is printed in larger type on one of those faces, that face; otherwise, either of the largest faces.
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.
4	Pouch	That one of the largest faces of the folded package that is not overlapped by the flap of the package.
5	Cylindrical package containing cigarettes or cigars	That part of the curved surface of the package that extends one-twelfth of the circumference of the package each side of the vertical centre line of the brand name label on that surface (or, if that label appears more than once on that surface, the larger or largest of those labels).
6	Cylindrical package containing tobacco	That one of the circular faces that forms, or forms part of, the lid.
7	Package in the shape of a hexagonal or octagonal prism, containing cigarettes or cigars	That one of the rectangular faces of the package that bears the brand name label; or, if that label appears on more than one of those faces, the face on which the larger or largest of those labels appears.

Positions on packages where warning message is to be printed **Schedule 2**

Col. 1	Column 2	Column 3
Item No.	Type of package	Face of the package on which warning message is to be printed
8	A package — (a) the shape of which is not described in items 1 to 7; and (b) the total surface area of which is less than 145 square centimetres	The package must bear 2 warning messages, printed as far apart as possible. The messages must be printed on the face, or faces, of the package that allow this result to be achieved.
9	A 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	Any face of the package.

[Schedule 2 amended in Gazette 17 Mar 1995 p. 1025-6.]

**Schedule 3 Figures for describing average amounts of tar, nicotine
and carbon monoxide**

Schedule 3

[reg. 16(7)]

**Figures for describing average amounts of tar, nicotine and
carbon monoxide**

Tar (milligrams)	Nicotine (milligrams)	Carbon monoxide (milligrams)
1	0.2	2
2	0.3	3
4	0.4	5
8	0.8	10
12	1.2	15
16	1.5	20

Areas to be occupied by messages on certain packages of cigars **Schedule 4**

Schedule 4

[reg. 21(c)]

Areas to be occupied by messages on certain packages of cigars

Col. 1 Item No.	Column 2 Area of front and back face of package (cm ²)	Column 3 Area to be occupied by warning message (cm ²)	Column 4 Area to be occupied by explanatory message (cm ²)
1	less than 70	15	20
2	not less than 70 but less than 90	20	27
3	not less than 90 but less than 110	25	33
4	not less than 110 but less than 130	30	40
5	not less than 130 but less than 150	35	46
6	not less than 150 but less than 170	40	53
7	not less than 170 but less than 250	53	70
8	not less than 250 but less than 330	73	96
9	330 or greater	73	96

Notes

¹ This is a compilation of the *Tobacco Control (Package Labels) Regulations 1994* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Tobacco Control (Package Labels) Regulations 1994</i>	9 Dec 1994 p. 6666-77	Regulations other than Pt. 2-4: 9 Dec 1994 (see r. 2(1)); Pt. 2-4: 1 Apr 1995 (see r. 2(2))
<i>Tobacco Control (Package Labels) Amendment Regulations 1995</i>	17 Mar 1995 p. 1021-6	17 Mar 1995
Reprint 1: The Tobacco Control (Package Labels) Regulations 1994 as at 12 Dec 2003 (includes amendments listed above)		

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Tobacco Products Control Act 2006</i> s. 126 ²	5 of 2006	12 Apr 2006	To be proclaimed (see s. 2)

² On the date as at which this compilation was prepared, the *Tobacco Products Control Act 2006* s. 126, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

126. Repeals, transitional provisions, consequential amendments to other Acts

Schedule 2 has effect.

”.

Schedule 2 Division 1 cl. 2(2) reads as follows:

“

**Schedule 2 — Repeals, transitional provisions,
consequential amendments to other Acts**

[s. 126]

Division 1 — Repeals

2. Regulations under the *Tobacco Control Act 1990* repealed

.....

- (2) The *Tobacco Control (Package Labels) Regulations 1994* are repealed.

”