

Tobacco Advertising Prohibition Regulations 1993 No. 129

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 129

Issued by the authority of the Minister for Health

Tobacco Advertising Prohibition Act 1992

Tobacco Advertising Prohibition Regulations

The Tobacco Advertising Prohibition Act 1992 (the Act) creates an offence for the publication (which includes display) or broadcast of an advertisement for cigarettes and other tobacco products, including cigarette papers, pipes etc. Publication of a tobacco brand name or the manufacturer of a tobacco product is considered to be an advertisement.

The Act is intended to limit the exposure of the public to messages and images that may persuade them:

- (a) to start smoking, or to continue smoking; or
- (b) to use, or to continue using, tobacco products.

The object is to improve public health.

Section 34 of the Act provides that the Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

The Act provides a number of exceptions to the prohibition on publishing a tobacco advertisement. The Regulations prescribe particular circumstances in which tobacco advertising would be permitted (as exceptions to the prohibition on publishing a tobacco advertisement):

- (i) the publication of an acknowledgment of assistance or support is not considered a tobacco advertisement if that acknowledgment complies with the Regulations;
- (ii) tobacco advertising is allowed at the point of sale, provided the display of the advertisement complies with all applicable requirements as to the size, content and location of the advertisement set out in Regulations; and
- (iii) the display of tobacco advertising signs is permitted in circumstances specified, and before a date specified (but not later than 31 December 1995) in accordance with Regulations, which will also specify the size and composition of these displays.

Details of the Regulations are attached.

The proposed Regulations would take effect on 1 July 1993.

DETAILS OF THE REGULATION

The Regulations prescribe particular circumstances in which tobacco advertising would be permitted (as exceptions to the prohibition on publishing a tobacco advertisement).

Regulations 1, 2, and 3 relate to the citation of the Regulations, the commencement date, and the interpretation of terms used in the Regulations.

Regulation 4 defines, for the purposes of subsection 10(5) of the Act, the circumstances under which the publication of an acknowledgment of assistance or support would not be considered a tobacco advertisement:

- written acknowledgment of assistance or support is permitted under subregulation 4(2) of the Regulations, if it is included in printed matter available at, or issued in connection with, an event to which the assistance or support is provided OR an event in relation to the subject matter of the assistance or support. In addition, an acknowledgment complies with this subregulation if it is in printed matter of a kind normally issued by the organisation to which the assistance or support is provided. Further, any acknowledgment must comply with a number of conditions which limit where in the printed matter the acknowledgment may appear and the type face of the acknowledgment. The conditions also specify that an acknowledgment must be in the form of words only (excluding the use of logos);
- in relation to the production of a video, subregulation 4(3) of the Regulations specifies that an acknowledgment of assistance or support is to appear only once at the end of the video, and must be in text form and of the same type face as the rest of the credits. Other limitations are also placed on such acknowledgments, such as excluding the use of logos;
- in relation to donations of exhibits, subregulation 4(4) of the Regulations specifies that acknowledgments of exhibits which form part of a collection including exhibits donated by others, must be in close proximity to the exhibit, and similar in style to, and not larger than, signs bearing acknowledgments for other exhibitors. If the exhibit is not part of a collection including donations by others, the acknowledgment should appear once only on a single sign not more than 220 square centimetres in area and in close proximity to the exhibit; and

Regulation 5 specifies that oral acknowledgments of assistance or support should be confined to either a speech at the opening or the conclusion of a relevant event OR a speech forming part of the formal proceedings (eg. an annual general meeting) of the organisation in receipt of the assistance or support. Any oral acknowledgment must comply with conditions set out in paragraph 5(2)(b) which specify that the acknowledgment must be made in a manner that gives it no more prominence than the generality of the speech and must give the full name of the provider of the assistance or support. Further, if assistance or support was provided by a number of organisations, the acknowledgment must occur only within a list of all supporters.

Regulations 6, 7 and 8 specify, for the purposes of subsection 16(2) of the Act, circumstances under which tobacco advertising would be allowed at the point of sale, provided the display of the advertisement complies with all applicable requirements as to the size, content and location of the advertisement. Points of sale are defined in the Regulations and include any place that is delimited by fixed boundaries (whether or not it has walls on those boundaries) and kiosks.

The following points of sale constraints are set out in Regulations 6 and 7:

- between 30 June 1993 and 1 October 1993, point of sale advertising must have been displayed at or on that place on 30 June 1993 OR the advertisement must comply with the conditions generally applicable from 1 October 1993 (under Regulation 7) and as set out below.

This period of grace, will enable points of sale to comply with the restrictions after 1 October 1993;

- from 1 October 1993, restrictions at point of sale will include prohibiting fixing advertisements to outside walls, windows or doors (except for general signs to the effect that tobacco products are on sale in the shop). Also, advertisements will need to be wholly within the boundaries of the shop, be visible from the place within the shop where tobacco products are sold and, if placed on a window, face the inside of the shop; and
- for vending machines (Regulation 8), advertisements must not extend beyond the edges of the machine itself.

Regulation 9 specifies that applications to the Minister to specify an event (of international significance which would be lost to Australia without the specification) pursuant to section 18 of the Act, must be made at least 3 months before the day (or the first day) on which the event is to be held. The Minister may also specify a lesser period (ie. accept a late application) if the Minister considers this is necessary.

Regulation 10 specifies, for the purposes of section 22 of the Act, the phase-out time permitted for tobacco advertising signs:

- until 30 September 1993 for posters not greater than 1.5 square metres;
- until 30 June 1994, for posters between 1.5 square metres and 4.5 square metres;
- until 31 December 1993 for signs on taxis;
- until 31 December 1995 for posters between 4.5 square metres and 18 square metres, and for all other signs.