

Statutory Rules 1993 No. *L1**129/*

Tobacco Advertising Prohibition Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Tobacco Advertising Prohibition Act 1992*.

Dated *L* 1993.

*9 June/**L BILL HAYDEN/*

Governor-General

By His Excellency's Command,

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Minister for Health

GRAHAM RICHARDSON/

Citation

1. These Regulations may be cited as the Tobacco Advertising Prohibition Regulations.

Commencement

2. These Regulations commence on 1 July 1993.

Interpretation

3. (1) In these Regulations, unless the contrary intention appears:

“event” includes a series of events if the series is known by a collective name;

“the Act” means the *Tobacco Advertising Prohibition Act 1992*.

(2) A reference in these Regulations to the full name of a person that provided assistance or support or the full name of a donor is:

- (a) in the case of a corporation—a reference to the full registered name of the corporation, including the words describing its method of incorporation or approved abbreviations for those words (for example, “Limited”, “Ltd”, “Incorporated”, “plc”); and
- (b) in the case of a partnership, trust or other entity having a name that is registered under a law relating to partnerships, trusts or business names or is provided for in its constituent documentation—a reference to that name in full; and
- (c) in the case of a partnership, trust or other entity other than one of a kind referred to in paragraph (a) or (b)—a reference to the full name (within the meaning of those paragraphs) of each member or trustee (as the case requires) of that partnership, trust or other entity.

Written acknowledgments of assistance or support

4. (1) For the purposes of subsection 10 (5) of the Act, the publication of an acknowledgment of assistance or support that, but for that subsection and this regulation, would amount to the publication of a tobacco advertisement is permitted if that acknowledgment complies with subregulation (2), (3) or (4).

(2) An acknowledgment complies with this subregulation only if:

- (a) it is included:
 - (i) in printed matter (for example, a program, catalogue or training manual) available at, or issued in connection with, an event (such as a sporting event or an exhibition) to which assistance or support is provided or with an event

(such as a dedication ceremony) in relation to the subject-matter of the assistance or support; or

- (ii) in printed matter (for example, an annual report, guide-book or training manual) of a kind normally issued by the organisation or body to which the assistance or support was, or is to be, provided; and

(b) it complies with the following conditions:

- (i) if the printed matter comprises more than one leaf, the acknowledgment must not appear on the outside of the front or back cover, or on the spine, of that printed matter;
- (ii) the acknowledgment must be in the same type face as, and in type not larger than, that used for the generality of that printed matter;
- (iii) if there is more than one sponsor or supporter of the event or organisation for which the assistance or support was provided, the acknowledgment must appear only within a list of those sponsors or supporters and the whole of that list must be in type that is uniform as to face and size;
- (iv) the acknowledgment must be in the form of words only;
- (v) the acknowledgment must not include any trade mark or logo associated with tobacco products (except to the extent that a name referred to in subparagraph (vi) includes a word or words that comprise the whole or part of a trade mark);
- (vi) the acknowledgment must give the full name (as defined in subregulation 3 (2)) of the person that provided the assistance or support.

(3) An acknowledgment of assistance or support for the production of a video recording complies with this subregulation only if the acknowledgment:

- (a) is in the form of text displayed on screen; and
- (b) appears, once only, at the end of the video recording; and
- (c) is in the same type face as, and in type not larger than, that used for the generality of the credits; and
- (d) if there is more than one sponsor or supporter of the production of the video recording:

- (i) appears only within a list of those sponsors or supporters; and
 - (ii) is in the same type face as, and in type not larger than, that used for the acknowledgment of the other sponsors or supporters; and
 - (e) does not include any trade mark or logo associated with tobacco products (except to the extent that a name referred to in paragraph (e) includes a word or words that comprise the whole or part of a trade mark); and
 - (f) gives the full name of the person that provided the assistance or support.
- (4) An acknowledgment of assistance or support that took the form of the donation of an exhibit complies with this subregulation only if:
- (a) where the exhibit forms part of a collection and other exhibits in the collection have been donated by persons or organisations not associated with tobacco products—the acknowledgment appears once only on a single sign that is:
 - (i) in close proximity to the exhibit; and
 - (ii) similar in style to, and not larger than, signs bearing acknowledgments for those persons or organisations; or
 - (b) where paragraph (a) does not apply—the acknowledgment is in the form “Donated by (full name of donor)” that appears once only on a single sign not more than 200 square centimetres in area and in close proximity to the exhibit.

Oral acknowledgments of assistance or support

5. (1) For the purposes of subsection 10 (5) of the Act, the making in public of an oral acknowledgment of assistance or support that, but for that subsection and this regulation, would amount to the publication of a tobacco advertisement is permitted if that acknowledgment complies with subregulation (2), (3) or (4).

- (2) An acknowledgment complies with this subregulation only if:
- (a) either:
 - (i) it is included in a speech at either the opening or the conclusion of an event (such as a sporting event or an exhibition) to which assistance or support is provided or at an event (such as a dedication ceremony) in relation to the subject-matter of the assistance or support; or
 - (ii) it is included in a speech forming part of the formal proceedings (for example, an annual general meeting) of the organisation or body to which the assistance or support was, or is to be, provided; and
 - (b) it complies with the following conditions:
 - (i) the acknowledgment must be made in a manner that gives it no more prominence than the generality of that speech;
 - (ii) if there is more than one sponsor or supporter of the event or organisation for which the assistance or support was provided, the acknowledgment must occur only within a list of those sponsors or supporters;
 - (iii) the acknowledgment must give the full name (as defined in subregulation 3 (2)) of the person that provided the assistance or support.

Point of sale advertising generally

6. For the purposes of subsection 16 (2) of the Act:
- (a) a tobacco advertisement may be displayed after 30 June 1993 and before 1 October 1993 at or on a place where tobacco products are sold if:
 - (i) the advertisement was displayed at or on that place on 30 June 1993; or
 - (ii) the advertisement complies with regulation 7 or 8, as the case requires and
 - (b) a tobacco advertisement may be displayed on or after 1 October 1993 at or on a place where tobacco products are sold if the advertisement complies with regulation 7 or 8, as the case requires.

Point of sale advertising—shops

7. (1) In this regulation:
“shop” includes:
- (a) a place that is delimited by fixed boundaries, whether or not it has walls on those boundaries; and
 - (b) a kiosk.
- (2) A tobacco advertisement in a shop must:
- (a) be wholly within the boundaries of the shop; and
 - (b) be visible from the place within the shop where tobacco products are displayed for sale; and
 - (c) if placed on a window, face the inside of the shop.
- (3) Subject to subregulation (4), a tobacco advertisement must not be affixed to the outer side of:
- (a) an outside wall; or
 - (b) an outer window or door;
- of a shop.
- (4) A statement to the effect that a shop is a tobacconist’s or that tobacco products are on sale in a shop may appear on the outside of that shop.
- (5) A statement referred to in subregulation (4) must not include a trade mark, a logo, or any other information by which brands of tobacco products may be identified.

Point of sale advertising—vending machines

8. A tobacco advertisement may be attached to a vending machine that contains tobacco products only if the advertisement does not extend beyond any of the extremities of the machine itself.

Time for application for notice under section 18

9. (1) Subject to subregulation (2), an application to the Minister to specify an event under section 18 of the Act must be made at least 3 months before the day or first day, as the case requires, on which the event is to be held.

(2) Subregulation (1) does not prevent the Minister considering an application received later than 3 months before the day or first day on which the event is to be held if, in the opinion of the Minister, sufficient time remains for a proper consideration of the application.

Display of signs before 31 December 1995

10. For the purposes of section 22 of the Act, tobacco advertising signs may be displayed as follows:

- (a) posters not greater in area than 1.5 square metres (other than signs on taxis) until 30 September 1993;
- (b) posters greater in area than 1.5 square metres but not greater in area than 4.5 square metres until 30 June 1994;
- (c) posters greater in area than 4.5 square metres but not greater in area than 18 square metres until 31 December 1995;
- (d) signs on taxis until 31 December 1993;
- (e) all other signs until 31 December 1995.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

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1993.

17 June/