



Tobacco Plain Packaging Regulations 2011¹

Select Legislative Instrument 2011 No. 263

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Tobacco Plain Packaging Act 2011*.

Dated 7 December 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

NICOLA ROXON
Minister for Health and Ageing

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Regulation 1.1.1

Part 1 Preliminary**1.1.1 Name of Regulations**

These Regulations are the *Tobacco Plain Packaging Regulations 2011*.

1.1.2 Commencement

These Regulations commence on the commencement of sections 17 to 27A of the *Tobacco Plain Packaging Act 2011*.

1.1.3 Definitions

In these Regulations:

Act means the *Tobacco Plain Packaging Act 2011*.

bar code means a mark containing information about a product in the form of a series of bars of varying thickness designed to be read by an optical scanner.

calibration mark means a mark used only for the purpose of the automated manufacture of retail packaging.

lowered permeability band — see subregulation 3.1.1 (2).

origin mark means a mark on the retail packaging of tobacco products to distinguish the origin of the tobacco products and does not include a date by which it is recommended that the product be used.

primary packaging means retail packaging of a tobacco product within the meaning of paragraph (a) of the definition of *retail packaging* in subsection 4 (1) of the Act.

secondary packaging means retail packaging of a tobacco product within the meaning of paragraph (b) of the definition of *retail packaging* in subsection 4 (1) of the Act.

Regulation 1.1.6

tear strip means a line of plastic incorporated into a plastic or other wrapper, to enable the wrapper to be opened quickly, but does not include any part of the wrapper that is removed with the tear strip when the wrapper is opened.

Note Several other words and expressions used in these Regulations have the meaning given by subsection 4 (1) of the Act, for example:

- cigarette carton
- cigarette pack
- filter tip
- fire risk statement
- health warning
- imitation cork tip
- measurement mark
- relevant legislative requirement
- retail packaging
- tobacco advertising and promotion
- tobacco product
- trade description
- variant name.

1.1.4 Purpose

These Regulations prescribe requirements for the retail packaging and appearance of tobacco products for Part 2 of Chapter 2 of the Act.

1.1.5 Exemption from *Trans-Tasman Mutual Recognition Act 1997*

For section 109 of the Act, on and from 1 October 2012 the Act is exempt from the operation of the *Trans-Tasman Mutual Recognition Act 1997*.

1.1.6 Application

These Regulations only apply to the retail packaging and appearance of cigarettes.

Note The requirements for the retail packaging and appearance of other tobacco products are being developed.

Regulation 2.1.1

Part 2 Requirements for retail packaging of tobacco products

Division 2.1 Physical features of retail packaging

2.1.1 Physical features of cigarette packs

- (1) The dimensions of a cigarette pack, when the flip-top lid is closed, must not be:
 - (a) height — less than 85 mm or more than 125 mm; and
 - (b) width — less than 55 mm or more than 82 mm; and
 - (c) depth — less than 20 mm or more than 42 mm.
- (2) A cigarette pack must not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid.
- (3) The flip-top lid to a cigarette pack must be hinged only at the top of the pack.

Note 1 Subsection 18 (1) of the Act sets out general requirements for the physical features of retail packaging for all tobacco products. Subsections 18 (2) and (3) of the Act set out additional requirements relating to the physical features of cigarette packs and cigarette cartons.

Note 2 Paragraph 18 (3) (b) of the Act sets out other requirements in relation to flip-top lids.

2.1.2 Physical features of cigarette cartons

A cigarette carton may include a perforated strip for opening the carton that leaves serrations on the edge of a surface of the carton when the carton is opened.

Regulation 2.2.1

2.1.3 Physical features of lining of cigarette packs

- (1) The lining of a cigarette pack may be textured over the entire surface of the lining with small dots or squares embossed into the lining, for the purpose of the automated manufacture of cigarette packs, or the packing of cigarettes into cigarette packs.
- (2) If the lining is embossed as permitted by subregulation (1), the dots or squares embossed into the lining must be:
 - (a) equidistant from each other; and
 - (b) closely spaced; and
 - (c) of uniform size.
- (3) However, the embossing of the lining must not:
 - (a) except as permitted by subregulations (1) and (2), form a pattern; or
 - (b) form an image or other symbol; or
 - (c) constitute tobacco advertising and promotion.

Division 2.2 Colour and finish of retail packaging

2.2.1 Colour and finish of primary packaging and secondary packaging

- (1) This regulation is made for subparagraph 19 (2) (b) (i) of the Act.
- (2) All outer surfaces of primary packaging and secondary packaging must be the colour known as Pantone 448C.
- (3) Each inner surface of a cigarette pack or cigarette carton must be white.
- (4) The lining of a cigarette pack must be silver coloured foil with a white paper backing.
- (5) This regulation does not apply to calibration marks.

Note Section 19 of the Act sets out other requirements relating to the colour and finish of retail packaging.

Regulation 2.3.1

Division 2.3 Trade marks or marks on retail packaging

2.3.1 Trade marks or marks appearing on retail packaging

- (1) The following are permitted to appear on primary packaging and secondary packaging:
 - (a) one or more origin marks in accordance with regulation 2.3.2;
 - (b) one or more calibration marks in accordance with regulation 2.3.3;
 - (c) a measurement mark and trade description in accordance with regulation 2.3.4;
 - (d) a bar code in accordance with regulation 2.3.5;
 - (e) a fire risk statement in accordance with regulation 2.3.6;
 - (f) a locally made product statement in accordance with regulation 2.3.7;
 - (g) a name and address in accordance with regulation 2.3.8.
- (2) In addition to subregulation (1), a consumer contact telephone number in accordance with regulation 2.3.9 may appear on primary packaging.
- (3) One or more calibration marks in accordance with regulation 2.3.3 may appear on a plastic or other wrapper that covers primary packaging or secondary packaging or that covers a tobacco product that is for retail sale.
- (4) In addition to subregulation (3):
 - (a) one or more origin marks in accordance with regulation 2.3.2 may appear on a plastic or other wrapper that covers a tobacco product that is for retail sale; and
 - (b) the following marks may appear on a plastic or other wrapper that covers more than one item of primary packaging:
 - (i) a measurement mark and trade description in accordance with regulation 2.3.4;
 - (ii) a bar code in accordance with regulation 2.3.5;

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- (iii) a fire risk statement in accordance with regulation 2.3.6;
 - (iv) one or more marks to conceal bar codes in accordance with regulation 2.5.1.
- (5) The trade mark or mark mentioned in subregulation (1), (2), (3) or (4) must not:
- (a) obscure any relevant legislative requirement; or
 - (b) constitute tobacco advertising and promotion; or
 - (c) provide access to tobacco advertising and promotion.

2.3.2 Origin mark

- (1) An origin mark must be:
- (a) an alphanumeric code; or
 - (b) a covert mark that is not visible to the naked eye.
- (2) If an origin mark is an alphanumeric code, it must:
- (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton — appear on either:
 - (i) the side outer surface of the pack or carton that does not bear a health warning; or
 - (ii) the bottom outer surface of the pack or carton; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in either white or black.
- (3) However, if the origin mark is printed in black, it may include a white background in the form of a rectangle no larger than 20 mm by 5 mm.

2.3.3 Calibration mark

A calibration mark on retail packaging of tobacco products:

- (a) must appear only as necessary for the automated manufacture of the packaging; and

Regulation 2.3.4

- (b) if visible or otherwise detectable on the packaging — must be as inconspicuous as possible consistent with the calibration mark's function in the manufacturing process.

2.3.4 Measurement mark and trade description

- (1) A measurement mark or trade description on primary packaging or secondary packaging must be printed:
 - (a) in the typeface known as Lucida Sans; and
 - (b) for the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* — no larger than the minimum size required by those Regulations; and
 - (c) for any other measurement mark or trade description — no larger than 10 points in size; and
 - (d) in normal weighted regular font; and
 - (e) in the colour known as Pantone Cool Gray 2C.
- (2) A measurement mark or trade description on a plastic or other wrapper that covers more than one item of primary packaging must be printed:
 - (a) in white; and
 - (b) on a black rectangular background.
- (3) For a cigarette pack or cigarette carton:
 - (a) the name and address required by Division 4.3 of the *National Trade Measurement Regulations 2009* must:
 - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
 - (ii) appear only once on that surface; and
 - (b) the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* may appear once on no more than 2 of the front, top and bottom outer surfaces of the pack or carton; and
 - (c) the trade description must:
 - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
 - (ii) appear only once on that surface.

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- (4) For a plastic or other wrapper that covers more than one item of primary packaging:
 - (a) the name and address required by Division 4.3 of the *National Trade Measurement Regulations 2009* must appear only once on the packaging; and
 - (b) the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* may appear once on no more than 2 surfaces of the packaging; and
 - (c) the trade description must appear only once on the packaging.

2.3.5 Bar code

- (1) A bar code must:
 - (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton — appear only on the side outer surface of the pack or carton that does not bear a health warning; and
 - (c) be printed in either:
 - (i) black and white; or
 - (ii) the colour known as Pantone 448C and white; and
 - (d) be rectangular in shape.
- (2) The bar code must not form a picture, symbol or design.
- (3) For a plastic or other wrapper covering more than one item of primary packaging, the bar code may be:
 - (a) included on an adhesive label fixed to the wrapper; or
 - (b) printed on the wrapper.

2.3.6 Fire risk statement

- (1) The following requirements apply to a fire risk statement on primary packaging or secondary packaging:
 - (a) the text of the statement must be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in normal weighted regular font; and

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- (iv) in the colour known as Pantone Cool Gray 2C;
 - (b) for a cigarette pack — the statement must be placed beneath the health warning on the back outer surface of the pack;
 - (c) for a cigarette carton — the statement must be placed on the back outer surface of the carton.
- (2) A fire risk statement on a plastic or other wrapper that covers more than one item of primary packaging must be printed:
- (a) in white; and
 - (b) on a black rectangular background.
- (3) The fire risk statement may be included on an adhesive label on retail packaging of tobacco products (other than an insert or onsert) if the background of the adhesive label is the colour known as Pantone 448C and the adhesive label is permitted by:
- (a) regulation 14 of the *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*; or
 - (b) a safety standard made under section 104, or declared under section 105, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk; or
 - (c) an information standard made under section 134, or declared under section 135, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk.
- (4) However, if an adhesive label mentioned in subregulation (3) is on a plastic or other wrapper covering more than one item of primary packaging, the background of the adhesive label must be black.

2.3.7 Locally made product statement

- (1) If a tobacco product is made or produced in Australia, the primary packaging and secondary packaging of the product may include one sentence to that effect stating any of the following:
- (a) the product's country of origin;
 - (b) the country of origin for components of the product;

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- (c) that components of the product are imported;
but must not otherwise describe the product or the components
of the product.

Example

“Made in Australia from imported tobacco”, not “Made in Australia from
imported premium tobacco”.

- (2) The words must:
- (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton — appear only on
the side outer surface of the pack or carton that does not
bear a health warning; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C.

2.3.8 Marking of name and address on packaging

- (1) If regulation 4.7 of the *National Trade Measurement Regulations 2009* does not apply to the primary packaging and secondary packaging of a tobacco product, that packaging of the product may include the name and address of the person who packed the product or on whose behalf it was packed.

Note Regulation 4.8 of the *National Trade Measurement Regulations 2009* has an exemption for imported prepackaged products.

- (2) The words must:
- (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton — appear only on
the side outer surface of the pack or carton that does not
bear a health warning; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C.

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- (3) The address must be a place in Australia where a document may be served personally on the person.

Note A post office box address is not a place where a document may be served personally.

2.3.9 Consumer contact telephone number

- (1) A consumer contact telephone number:
- (a) must be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C; and
 - (b) must only:
 - (i) appear as numerals or as any combination of numerals, hyphens and brackets; and
 - (ii) be prefaced with the abbreviation “Phone:” or “Ph:”, exactly in one of those forms; and
 - (iii) appear once on the primary packaging; and
 - (iv) for a cigarette pack — appear only on the side outer surface of the pack that does not bear a health warning; and
 - (c) must not:
 - (i) be false, misleading, deceptive or likely to create an erroneous impression about the characteristics, health effects, hazards or emissions of the tobacco product; or
 - (ii) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or
 - (iii) represent, or be linked or related in any way to, the emission yields of the tobacco product, such as tar, nicotine or carbon monoxide; or
 - (iv) represent, or be related in any way to, the brand or variant name of the tobacco product.

Note Subregulation 2.3.1 (5) also provides restrictions in relation to tobacco advertising and promotion.

Division 2.4 Brand, business, company and variant names

2.4.1 Appearance of names on retail packaging of cigarettes

Any brand, business or company name, or any variant name, appearing on cigarette packs or cigarette cartons must be printed:

- (a) in the typeface known as Lucida Sans; and
- (b) for a brand, business or company name — no larger than 14 points in size; and
- (c) for a variant name — no larger than 10 points in size; and
- (d) with the first letter in each word capitalised and with no other upper case letters; and
- (e) in a normal weighted regular font; and
- (f) in the colour known as Pantone Cool Gray 2C.

Note Subsections 21 (2) and (3) of the Act set out additional requirements for the appearance of brand, business, company, and variant, names on cigarette packs and cigarette cartons.

Division 2.5 Wrappers

2.5.1 Mark on wrapper to conceal bar codes

A plastic or other wrapper covering more than one item of primary packaging may be marked with a solid black rectangle to conceal the bar code on each item of primary packaging covered by the wrapper.

2.5.2 Tear strips on wrappers

- (1) A plastic or other wrapper that covers primary packaging or secondary packaging, or that covers a tobacco product for retail sale, may include one tear strip.
- (2) The tear strip must:
 - (a) be either:
 - (i) entirely black; or

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- (ii) entirely transparent and not coloured; and
 - (b) form a single continuous straight line of constant width, not wider than 3 mm, around the circumference of the primary packaging or secondary packaging covered by the wrapper.
- (3) However, a transparent and not coloured tear strip may include a single solid black line not more than 15 mm long indicating where the tear strip begins.
- (4) A tear strip on a plastic or other wrapper that covers one cigarette pack must be parallel, and as close as possible, to the bottom edge of the flip-top lid.
- (5) A tear strip on a plastic or other wrapper that covers a cigarette carton or more than one cigarette pack must be parallel to any straight edge of the cigarette carton or cigarette packs.

Part 3 Requirements for appearance of tobacco products

Division 3.1 Appearance of cigarettes

3.1.1 Paper casing for cigarettes

- (1) The paper casing, and lowered permeability band (if any), of cigarettes must be:
 - (a) white; or
 - (b) white with an imitation cork tip.

- (2) In this regulation:

lowered permeability band means a concentric band of paper or other material that is included in, or applied to, cigarette paper in order to inhibit the burning of the cigarette.

3.1.2 Alphanumeric code on cigarettes

- (1) A cigarette may be marked with an alphanumeric code.
- (2) The alphanumeric code must:
 - (a) appear only once on the cigarette; and
 - (b) be printed:
 - (i) parallel to, and not more than 38 mm from, the end of the cigarette that is not designed to be lit; and
 - (ii) in the typeface known as Lucida Sans; and
 - (iii) no larger than 8 points in size; and
 - (iv) in normal weighted regular font; and
 - (v) in black.
- (3) The alphanumeric code must not:
 - (a) constitute tobacco advertising and promotion; or
 - (b) provide access to tobacco advertising and promotion; or
 - (c) be false, misleading, deceptive or likely to create an erroneous impression about the cigarette's characteristics, health effects, hazards or emissions; or

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- (d) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or
- (e) represent, or be linked or related in any way to, the emission yields of the cigarette, such as tar, nicotine or carbon monoxide; or
- (f) represent, or be related in any way to, the brand or variant name of the cigarette.

3.1.3 Colour of filter tip of cigarettes

If a cigarette includes a filter tip, the filter tip must be white.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.