



Tobacco Plain Packaging Amendment (Track and Trace Identifiers) Regulations 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

Bridget McKenzie
Minister for Regional Services, Sport, Local Government and Decentralisation

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
	<i>Tobacco Plain Packaging Regulations 2011</i>	2

1 Name

This instrument is the *Tobacco Plain Packaging Amendment (Track and Trace Identifiers) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	8 December 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Tobacco Plain Packaging Act 2011*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Tobacco Plain Packaging Regulations 2011

1 After the heading to regulation 1.1.3

Insert:

- Note: A number of expressions used in these Regulations are defined in the Act, including the following:
- (a) health warning;
 - (b) relevant legislative requirement;
 - (c) retail packaging;
 - (d) tobacco advertising and promotion;
 - (e) tobacco product.

2 Regulation 1.1.3

Insert:

machine-readable code means an optical code representing data in a form that is only readable with the aid of an optical scanner.

primary packaging track and trace identifier means a unique identifier that:

- (a) appears on the primary packaging of a tobacco product; and
- (b) is of a kind referred to in Article 6 or 10 of the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017, as existing on the day this definition commences.

Note: The Regulation could in 2018 be viewed on the European Union website (<https://europa.eu>).

secondary packaging track and trace identifier means a unique identifier that:

- (a) appears on the secondary packaging of a tobacco product; and
- (b) is of a kind referred to in Article 6 or 10 of the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017, as existing on the day this definition commences.

Note: The Regulation could in 2018 be viewed on the European Union website (<https://europa.eu>).

3 Regulation 1.1.3 (note)

Repeal the note.

4 After subregulation 2.3.1(2)

Insert:

(2A) In addition to subregulation (1):

- (a) a primary packaging track and trace identifier in accordance with regulation 2.3.10 may appear on primary packaging; and
- (b) a secondary packaging track and trace identifier in accordance with regulation 2.3.11 may appear on secondary packaging.

5 Subregulation 2.3.1(5)

After “(2),”, insert “(2A),”.

6 At the end of Division 2.3

Add:

2.3.10 Primary packaging track and trace identifiers*Cigarette packs*

- (1) A primary packaging track and trace identifier on a cigarette pack must:
 - (a) appear only once on the cigarette pack; and
 - (b) appear on only one of the following:
 - (i) the side outer surface of the pack that does not bear a health warning;
 - (ii) the bottom outer surface of the pack;
 - (iii) the top outer surface of the pack; and
 - (c) to the extent that the track and trace identifier is an alphanumeric code—be printed:
 - (i) in normal weighted regular font; and
 - (ii) in black, white or grey; and
 - (d) to the extent that the track and trace identifier is a machine-readable code—be printed in black, white or grey; and
 - (e) be printed on a background that is the colour known as Pantone 448C.

Retail packaging of tobacco products other than cigarette packs

- (2) A primary packaging track and trace identifier on primary packaging of tobacco products other than a cigarette pack:
 - (a) must appear only once on the packaging; and
 - (b) must either:
 - (i) be included on an adhesive label fastened firmly to the packaging so as not to be easily removable; or
 - (ii) be printed on the packaging; and
 - (c) to the extent that the track and trace identifier is an alphanumeric code—must be printed:
 - (i) in normal weighted regular font; and
 - (ii) in black, white or grey; and
 - (d) to the extent that the track and trace identifier is a machine-readable code—must be printed in black, white or grey; and
 - (e) if subparagraph (b)(ii) applies—must be printed on a background that is the colour known as Pantone 448C; and
 - (f) may appear on the surface of the packaging that bears a health warning, but must not wholly or partly obscure the health warning.

Adhesive labels

- (3) An adhesive label mentioned in subparagraph (2)(b)(i) must:
 - (a) be transparent and not coloured; or
 - (b) be the colour known as Pantone 448C.
- (4) For the purposes of subparagraph (2)(b)(i), an adhesive label is easily removable if:

- (a) the adhesive label is not likely to stay fastened during the expected life of the packaging; or
- (b) the adhesive label can be removed without damaging the label or the packaging.

2.3.11 Secondary packaging track and trace identifiers

Cigarette cartons

- (1) A secondary packaging track and trace identifier on a cigarette carton must:
 - (a) appear only once on the cigarette carton; and
 - (b) appear only on a single side outer surface of the carton that does not bear a health warning; and
 - (c) either:
 - (i) be included on an adhesive label fastened firmly to the packaging so as not to be easily removable; or
 - (ii) be printed on the packaging; and
 - (d) to the extent that the track and trace identifier is an alphanumeric code—be printed:
 - (i) in normal weighted regular font; and
 - (ii) in black, white or grey; and
 - (e) to the extent that the track and trace identifier is a machine-readable code—be printed in black, white or grey; and
 - (f) be printed on a background that is the colour known as Pantone 448C.

Retail packaging of tobacco products other than cigarette cartons

- (2) A secondary packaging track and trace identifier on secondary packaging of tobacco products other than a cigarette carton:
 - (a) must appear only once on the packaging; and
 - (b) must either:
 - (i) be included on an adhesive label fastened firmly to the packaging so as not to be easily removable; or
 - (ii) be printed on the packaging; and
 - (c) to the extent that the track and trace identifier is an alphanumeric code—must be printed:
 - (i) in normal weighted regular font; and
 - (ii) in black, white or grey; and
 - (d) to the extent that the track and trace identifier is a machine-readable code—must be printed in black, white or grey; and
 - (e) if subparagraph (b)(ii) applies—must be printed on a background that is the colour known as Pantone 448C; and
 - (f) may appear on the surface of the packaging that bears a health warning, but must not wholly or partly obscure the health warning.

Adhesive labels

- (3) An adhesive label mentioned in subparagraph (1)(c)(i) or (2)(b)(i) must:
 - (a) be transparent and not coloured; or
 - (b) be the colour known as Pantone 448C.

- (4) For the purposes of subparagraphs (1)(c)(i) and (2)(b)(i), an adhesive label is easily removable if:
- (a) the adhesive label is not likely to stay fastened during the expected life of the packaging; or
 - (b) the adhesive label can be removed without damaging the label or the packaging.