



Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Rules 2024

I, Mark Butler, Minister for Health and Aged Care, make the following rules.

Dated 16 September 2024

Mark Butler
Minister for Health and Aged Care

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1 Name

This instrument is the *Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Rules 2024*.

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.	5 October 2024

Note: This table relates only to the provisions of this instrument as originally made.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 *Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Act 2023*.

4 Definitions

Note: A number of expressions used in this instrument are defined in Schedule 2 to the transitional Act, including the following:

- (a) commencement day;
- (b) main transition period;
- (c) old TPP Act.

- (1) In this instrument:

new Act means the *Public Health (Tobacco and Other Products) Act 2023*.

new measure transition period means the period starting on 1 April 2025 and ending on 30 June 2025.

transitional Act means the *Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Act 2023*.

- (2) An expression used in this instrument that is also used in the new Act has the same meaning in this instrument as it has in the new Act.

5 Health promotion inserts may be inserted in retail packaging during main transition period

Scope

- (1) This section applies in relation to the retail packaging of tobacco products (within the meaning of any of paragraphs (a) to (d) of the definition of **retail packaging** in section 71 of the new Act).

Health promotion inserts may be inserted during main transition period

- (2) Despite section 23 of the old TPP Act, the retail packaging of tobacco products may, during the main transition period, include the health promotion inserts prescribed by regulations made for the purposes of paragraph 82(1)(a) of the new Act.

Note 1: Section 23 of the old TPP Act continues to apply during the main transition period for the purposes of item 13 of Schedule 2 to the transitional Act.

Note 2: From the end of the main transition period, the retail packaging must include the health promotion inserts (see paragraph 82(1)(a) of the new Act).

- (3) During the main transition period, for the purposes of subitem 13(2) of Schedule 2 to the transitional Act, the retail packaging of tobacco products is taken to continue to comply with the requirements of section 23 of the old TPP Act, if:
 - (a) the retail packaging of the tobacco products includes a health promotion insert in accordance with subsection (2); and
 - (b) the retail packaging of the tobacco products otherwise complies with the requirements of section 23 of the old TPP Act, as in force immediately before the commencement day.

6 Application of new measures to pre-supplied regulated tobacco items

Scope

- (1) This section applies in relation to a person (the **retailer**) who, during the new measure transition period:
 - (a) sells regulated tobacco items by retail sale; or
 - (b) offers such items for retail sale.

Extended transition period for retailers—new measures

- (2) The retailer does not contravene a provision of the new Act mentioned in subsection (3), by reason only that a regulated tobacco item does not comply with a tobacco product requirement mentioned in Division 2 of Part 4 of Schedule 2 to the transitional Act, if all of the following conditions are satisfied:
 - (a) the item was supplied to the retailer in retail packaging before the start of the new measure transition period;
 - (b) the retailer possesses, sells or supplies, or offers to sell or supply, the item in that retail packaging;

- (c) the retailer does not contravene a provision of the new Act mentioned in subitem 15(2) of Schedule 2 to the transitional Act in relation to the retail packaging of the item because of item 16 of that Schedule.

Note: Division 2 of Part 4 of Schedule 2 to the transitional Act deals with the application of certain new tobacco product requirements in Chapter 3 of the new Act.

Provisions in new Act subject to extended transition period

- (3) For the purposes of subsection (2), the provisions of the new Act are each of the following:
 - (a) section 94 (selling or supplying tobacco products in non-compliant retail packaging);
 - (b) section 96 (possessing tobacco products in non-compliant retail packaging);
 - (c) section 102 (selling or supplying non-compliant regulated tobacco items);
 - (d) section 104 (possessing non-compliant regulated tobacco items);
 - (e) section 108 (selling or supply tobacco products in non-compliant retail packaging to a constitutional corporation);
 - (f) section 110 (possessing tobacco products in non-compliant retail packaging obtained from a constitutional corporation);
 - (g) section 116 (selling or supplying non-complaint regulated tobacco items to a constitutional corporation);
 - (h) section 118 (possessing non-compliant regulated tobacco items obtained from a constitutional corporation).