

EXPOSURE DRAFT



EXPOSURE DRAFT

Public Health (Tobacco and Other Products) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2023

David Hurley
Governor-General

By His Excellency's Command

Mark Butler [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Health and Aged Care

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Chapter 1—Introduction

Part 1.1—Preliminary

1 Name

This instrument is the *Public Health (Tobacco and Other Products) Regulations 2023*.

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 later of: (a) the day after this instrument is registered; and (b) immediately after the commencement of section 3 of the <i>Public Health (Tobacco and Other Products) Act 2023</i> .	

Note: This table relates only to the provisions of this instrument as originally made.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) Act 2023*.

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Chapter 1 Introduction
Part 1.1 Preliminary

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4 Simplified outline of this instrument

The *Public Health (Tobacco and Other Products) Act 2023* regulates the advertising and presentation of tobacco and e-cigarette products in order to discourage the use of such products and protect and improve public health.

This instrument supports the Act by prescribing various details for the purposes of the Act. Many of the details are relevant to determining whether a person has committed an offence, or is liable to a civil penalty, under the Act.

Chapter 2 sets out requirements for tobacco advertisements and e-cigarette advertisements that are available on, or accessible using, the internet.

Chapter 3 contains detailed tobacco product requirements for the purposes of Part 3.3 of the Act. The health warnings in Schedules 2 to 7, and the health promotion inserts in Schedule 8, are part of these tobacco product requirements.

Chapter 4 sets out further details about information that must be included in reports given to the Secretary under the Act. It also prescribes matters to which the Minister must have regard in deciding whether to publish a report, or part of a report.

5 Definitions

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

- (a) brand name;
- (b) cigar;
- (c) cigarette;
- (d) regulated tobacco item;
- (e) retail packaging;
- (f) tobacco product;
- (g) variant name.

In this instrument:

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

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age restriction warning means:

- (a) for e-cigarette products—a warning stating that:
 - (i) it is illegal to sell e-cigarette products to a person under 18; and
 - (ii) it is illegal to purchase an e-cigarette product for use by a person under 18; and
- (b) for tobacco products—a warning stating that:
 - (i) it is illegal to sell tobacco products to a person under 18; and
 - (ii) it is illegal to purchase a tobacco product for use by a person under 18.

AQS mark has the same meaning as in the *National Trade Measurement Regulations 2009*.

AS 4830—2007 means Australian Standard AS 4830-2007, *Determination of the extinction propensity of cigarettes* as existing at the commencement of this instrument.

Note: AS 4830-2007 could in 2023 be purchased from SAI Global’s website (<https://www.saiglobal.com>). The Department of Health and Aged Care can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

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

bidi means a tobacco product for smoking, not enclosed in paper, commonly known as a bidi.

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

Example: A mark used for the calibration of printer colours in the manufacture of retail packaging.

cigarette carton means any container for retail sale that contains smaller containers in which cigarettes are directly placed.

Note 1: An example of a smaller container is a cigarette pack.

Note 2: A cigarette carton is an example of *secondary packaging* of a tobacco product.

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Chapter 1 Introduction
Part 1.1 Preliminary

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cigarette pack means any container for retail sale in which cigarettes are directly placed.

Note: A cigarette pack is an example of *primary packaging* of a tobacco product.

cigar tube means a tube for packaging a single cigar.

country of origin statement: see subsection 89(2).

fire risk statement: see subsection 94(1).

full-length burn has the same meaning as in AS 4830-2007.

health promotion insert: see section 105.

health warning: see subsection 64(1).

health warning series: see subsection 64(2).

horizontal, in relation to the retail packaging of tobacco products: see subsection 7(3).

inner surface, in relation to the retail packaging of a tobacco product, means a surface of the packaging that is not an outer surface.

large cylinder means retail packaging of a tobacco product that is:

- (a) a cylindrical container; and
- (b) at least 41 mm in height.

lowered permeability band, in relation to a cigarette, 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.

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

mandatory marking: see subsection 87(3).

measurement mark: see subsection 91(1).

online e-cigarette advertisement message means the combined image and age restriction warning for e-cigarette products set out in Schedule 9.

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online tobacco advertisement warning means each combined health warning and age restriction warning for tobacco products set out in Schedule 1.

origin mark: see subsection 51(1).

outer surface, in relation to the retail packaging of a tobacco product, means a surface of the packaging described as an outer surface in subsection 72(1).

pouch means primary packaging of a tobacco product that:

- (a) is made from flexible material; and
- (b) takes the form of a rectangular pocket with a flap that covers the opening.

primary packaging of a tobacco product means retail packaging of the tobacco product within the meaning of paragraph (a) of the definition of **retail packaging** in section 71 of the Act.

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 at the commencement of this instrument.

Note: The Regulation could in 2023 be viewed on the European Union website (<https://europa.eu>).

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

secondary packaging of a tobacco product means retail packaging of the tobacco product within the meaning of paragraph (b) of the definition of **retail packaging** in section 71 of the Act.

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 at the commencement of this instrument.

Note: The Regulation could in 2023 be viewed on the European Union website (<https://europa.eu>).

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Chapter 1 Introduction
Part 1.1 Preliminary

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small cylinder means retail packaging of a tobacco product that is:

- (a) a cylindrical container; and
- (b) less than 41 mm in height.

square, in relation to the retail packaging of tobacco products: see subsection 7(4).

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

trade description means any trade description that is required to appear on the retail packaging of a tobacco product by regulations made under the *Commerce (Trade Descriptions) Act 1905*.

vertical, in relation to the retail packaging of tobacco products: see subsection 7(2).

Part 1.2—Interpretation

6 References to surfaces of cigarette packs and cigarette cartons

Surfaces of cigarette packs

- (1) A reference in this instrument to an outer surface of a cigarette pack (such as the front outer surface) is a reference to all of that outer surface, including the part of that outer surface that forms part of the flip-top lid.

Surfaces of cigarette cartons

- (2) If a cigarette carton has one or more flaps with surfaces that become visible only when the carton is opened, those surfaces are taken to be inner surfaces of the carton.

7 References to certain kinds of retail packaging of tobacco products

Cylinders

- (1) A reference in this instrument to a cylinder or a cylindrical container includes a container that is, in one plane, elliptical, rather than circular, in cross-section.

Vertical retail packaging

- (2) Retail packaging of tobacco products is **vertical** if, when the brand name on the front outer surface is read, the longest edge of that outer surface is vertical.

Horizontal retail packaging

- (3) Retail packaging of tobacco products is **horizontal** if, when the brand name on the front outer surface is read, the longest edge of that outer surface is horizontal.

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Chapter 1 Introduction
Part 1.2 Interpretation

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Square retail packaging

- (4) Retail packaging of tobacco products is *square* if, when the brand name on the front outer surface is read, the edges of the outer surface are the same dimensions.

8 Removability of adhesive labels on retail packaging of tobacco products

For the purposes of this instrument, an adhesive label attached to the retail packaging of tobacco products is easily removable if:

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

Part 1.3—Prescribed amounts of tobacco products

9 Purpose of this Part

This Part prescribes amounts, in relation to tobacco products, for the purposes of the following provisions of the Act:

- (a) paragraph 17(b) (about when a tobacco product is presumed to be offered for retail sale);
- (b) paragraph 96(3)(b) (about the personal use exception for an individual's possession of tobacco products in non-compliant retail packaging);
- (c) paragraph 110(3)(b) (about the personal use exception for an individual's possession of tobacco products in non-compliant retail packaging obtained from a constitutional corporation).

10 Prescribed amount—rebuttable presumption of offer for retail sale

For the purpose of paragraph 17(b) of the Act, the amount prescribed is:

- (a) for cigarettes—50 cigarettes; and
- (b) for tobacco products other than cigarettes—50 grams.

11 Prescribed amount—exception for possession by individual for personal use

For the purposes of paragraphs 96(3)(b) and 110(3)(b) of the Act, the amount prescribed is:

- (a) for cigarettes—1,000 cigarettes; and
- (b) for tobacco products other than cigarettes—1,000 grams.

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Chapter 1 Introduction

Part 1.4 Temporary exemption under the Trans-Tasman Mutual Recognition Act 1997

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Part 1.4—Temporary exemption under the Trans-Tasman Mutual Recognition Act 1997

12 Temporary exemption under the *Trans-Tasman Mutual Recognition Act 1997*

For the purposes of subsection 185(8) of the Act, on and from the commencement of this instrument, the Act is exempt from the operation of the *Trans-Tasman Mutual Recognition Act 1997*.

Note: The exemption operates for a period of up to 12 months (see subsection 46(4) of the *Trans-Tasman Mutual Recognition Act 1997*).

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Advertisements—permitted publications **Chapter 2**
Introduction **Part 2.1**

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Chapter 2—Advertisements—permitted publications

Part 2.1—Introduction

13 Simplified outline of this Chapter

The Act permits the publication of tobacco advertisements and e-cigarette advertisements having an online point of sale in certain circumstances.

If there is no applicable State or Territory law, the Act allows the regulations to prescribe the matters with which such advertisements need to comply for publication to be permitted. This Chapter sets out those matters.

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Chapter 2 Advertisements—permitted publications

Part 2.2 Tobacco advertisements—permitted publications for online point of sale

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Part 2.2—Tobacco advertisements—permitted publications for online point of sale

14 Purpose of this Part

This Part prescribes matters in relation to the publication of a tobacco advertisement that is available on, or accessible using, the internet for the purposes of paragraph 32(3)(e) of the Act.

15 Scope of this Part

This Part prescribes matters in relation to:

- (a) a webpage:
 - (i) on which a tobacco advertisement is displayed; or
 - (ii) that provides a facility to purchase tobacco products; and
- (b) the website on which such a webpage appears.

16 Online tobacco advertisements—webpage requirements

Basic requirements

- (1) A webpage on which a tobacco advertisement is displayed must:
 - (a) contain a text list (the *price board*) of the tobacco products advertised on the webpage; and
 - (b) use only black text on a white background in the price board; and
 - (c) display tobacco product information in the price board in a standardised layout and format, using the same sans serif typeface and font size; and
 - (d) for each tobacco product, include only the information permitted by subsection (2); and
 - (e) include the statement ‘Product prices include all taxes’.

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Advertisements—permitted publications **Chapter 2**
Tobacco advertisements—permitted publications for online point of sale **Part 2.2**

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Permitted information about tobacco products

- (2) The price board may include the following information for each tobacco product being advertised:
 - (a) the brand name and variant name (if any) of the product;
 - (b) the price of the product (inclusive of all taxes);
 - (c) the package size or mass of the product;
 - (d) a country of origin statement in the format required by subsection 89(1);
 - (e) an item number or code for the product;
 - (f) information about any other charges payable in relation to the sale of the product.

17 Display of online tobacco advertisement warnings

- (1) A webpage:
 - (a) on which a tobacco advertisement is displayed; or
 - (b) that provides a facility to purchase tobacco products;must display the online tobacco advertisement warnings in a prominent position at the top of the webpage.
- (2) The online tobacco advertisement warnings must be displayed using either of the following methods:
 - (a) a static display that clearly displays, during each quarter of the year, the warning required by Schedule 1 for that quarter;
 - (b) a dynamic display, in which each warning in Schedule 1 is clearly displayed in the sequence appearing in that Schedule for a period between 15 and 30 seconds.
- (3) The online tobacco advertisement warnings must be fixed in place so that they are clearly visible at all times to a person accessing the webpage.
- (4) The online tobacco advertisement warnings must:
 - (a) be legible and undistorted; and
 - (b) be scaled to suit the device on which they are viewed; and
 - (c) not be collapsible.

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Chapter 2 Advertisements—permitted publications

Part 2.2 Tobacco advertisements—permitted publications for online point of sale

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- (5) The online tobacco advertisement warnings must not contain any link that allows access to any other webpage.

Note: A webpage that provides a facility for the purchase of both tobacco products and e-cigarette products must comply with this section (see subsection 25(2)).

18 Online tobacco advertisement warnings—Secretary may approve file containing images

- (1) The Secretary may approve one or more electronic files containing images for use in displaying the online tobacco advertisement warnings for the purposes of this Part.
- (2) If such a file has been approved, the online tobacco advertisement warnings that are displayed on a webpage must:
- (a) be sourced from the file; and
 - (b) use the image aspect ratios in the file for each image; and
 - (c) contain the alternative-text in the file for each image.
- (3) The Secretary must make a file approved under subsection (1) available to a person on request, free of charge, if the Secretary is reasonably satisfied that the person is involved in the retail sale of tobacco products using the internet.

19 Online tobacco advertisements—website requirements

Age verification

- (1) The website must include an age verification system that limits access to the website to a person who is at least 18.

Geoblocking of certain purchasers

- (2) The website must include a facility that prevents the purchase of a tobacco product by a person located in a State or Territory in which the law of that State or Territory prohibits the purchase of tobacco products using the internet.
- (3) Subsection (2) applies regardless of the location of the person who:
- (a) publishes the tobacco advertisement; or
 - (b) hosts the website on which the tobacco advertisement is published.

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Advertisements—permitted publications **Chapter 2**
Tobacco advertisements—permitted publications for online point of sale **Part 2.2**

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20 Online tobacco advertisements—prohibited matters

- (1) The website must not:
 - (a) contain any information about regulated tobacco items that is not required or permitted under the Act or this instrument; or
 - (b) invite or allow bids or offers for the sale of tobacco products; or
 - (c) include an e-cigarette advertisement on the same webpage on which a tobacco advertisement is displayed.

- (2) To avoid doubt, the website must not include any of the following:
 - (a) prohibited terms;
 - (b) words or images that entice, or are intended to entice, a person to purchase a regulated tobacco item;
 - (c) words that directly or by implication contradict, qualify or modify a health warning or a health promotion insert;
 - (d) images of tobacco products;
 - (e) more than one price for each tobacco product;
 - (f) content that promotes another website that:
 - (i) contains a tobacco advertisement; or
 - (ii) solicits internet traffic to a tobacco advertisement.

Note: For the purposes of paragraph (2)(b), examples of words that entice a person to purchase a regulated tobacco item include, but are not limited to, the following:

- (a) cheap;
- (b) discount;
- (c) bulk savings;
- (d) buy one, get one free;
- (e) tax free.

21 Information to be in English etc.

- (1) All information that is required or permitted by this Part to be included on a website must be:
 - (a) legible; and
 - (b) in English; and
 - (c) in an undistorted form.

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Chapter 2 Advertisements—permitted publications

Part 2.2 Tobacco advertisements—permitted publications for online point of sale

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- (2) Nothing in subsection (1) prohibits the inclusion of the information in additional languages.

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Advertisements—permitted publications **Chapter 2**
E-cigarette advertisements—permitted publications for online point of sale **Part 2.3**

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Part 2.3—E-cigarette advertisements—permitted publications for online point of sale

22 Purpose of this Part

This Part prescribes matters in relation to the publication of an e-cigarette advertisement that is available on, or accessible using, the internet for the purposes of paragraph 58(3)(e) of the Act.

23 Scope of this Part

This Part prescribes matters in relation to:

- (a) a webpage:
 - (i) on which an e-cigarette advertisement is displayed; or
 - (ii) that provides a facility to purchase e-cigarette products; and
- (b) the website on which such a webpage appears.

24 Online e-cigarette advertisements—webpage requirements

Basic requirements

- (1) A webpage on which an e-cigarette advertisement is displayed must:
 - (a) contain a text list (the *price board*) of the e-cigarette products advertised on the webpage; and
 - (b) use only black text on a white background in the price board; and
 - (c) display e-cigarette product information in the price board in a standardised layout and format, using the same sans serif typeface and font size; and
 - (d) for each e-cigarette product, include only the information permitted by subsection (2); and
 - (e) include the statement ‘Product prices include all taxes’.

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EXPOSURE DRAFT

Chapter 2 Advertisements—permitted publications

Part 2.3 E-cigarette advertisements—permitted publications for online point of sale

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Permitted information about e-cigarette products

- (2) The price board may include the following information for each e-cigarette product being advertised:
 - (a) the name of the product;
 - (b) the price of the product (inclusive of all taxes);
 - (c) the package size or mass of the product;
 - (d) the name of the country of origin of the product;
 - (e) an item number or code for the product;
 - (f) information about any other charges payable in relation to the sale of the product.

25 Display of online e-cigarette advertisement message

- (1) A webpage:
 - (a) on which an e-cigarette advertisement is displayed; or
 - (b) that provides a facility to purchase e-cigarette products (but not tobacco products);must display the online e-cigarette advertisement message in a prominent position at the top of the webpage.
- (2) A webpage that provides a facility to purchase both tobacco products and e-cigarette products must comply with the requirements of section 17.
- (3) The online e-cigarette advertisement message must be a static display that is fixed in place so that it is clearly visible at all times to a person accessing the webpage.
- (4) The online e-cigarette advertisement message must:
 - (a) be legible and undistorted; and
 - (b) be scaled to suit the device on which it is viewed; and
 - (c) not be collapsible.
- (5) The online e-cigarette advertisement message must not contain any link that allows access to any other webpage.

EXPOSURE DRAFT

Advertisements—permitted publications **Chapter 2**
E-cigarette advertisements—permitted publications for online point of sale **Part 2.3**

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26 Online e-cigarette advertisement message—Secretary may approve file containing image

- (1) The Secretary may approve an electronic file containing an image for use in displaying the online e-cigarette advertisement message for the purposes of this Part.
- (2) If such a file has been approved, the online e-cigarette advertisement message that is displayed on a webpage must:
 - (a) be sourced from the file; and
 - (b) use the image aspect ratio in the file for the image; and
 - (c) contain the alternative-text in the file for the image.
- (3) The Secretary must make a file approved under subsection (1) available to a person on request, free of charge, if the Secretary is reasonably satisfied that the person is involved in the retail sale of e-cigarette products using the internet.

27 Online e-cigarette advertisements—website requirements

Age verification

- (1) The website must include an age verification system that limits access to the website to a person who is at least 18.

Geoblocking of certain purchasers

- (2) The website must include a facility that prevents the purchase of an e-cigarette product by a person located in a State or Territory in which the law of that State or Territory prohibits the purchase of e-cigarette products using the internet.
- (3) Subsection (2) applies regardless of the location of the person who:
 - (a) publishes the e-cigarette advertisement; or
 - (b) hosts the website on which the e-cigarette advertisement is published.

28 Online e-cigarette advertisements—prohibited information

- (1) The website must not:
 - (a) invite or allow bids or offers for the sale of e-cigarette products; or

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EXPOSURE DRAFT

Chapter 2 Advertisements—permitted publications

Part 2.3 E-cigarette advertisements—permitted publications for online point of sale

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- (b) include a tobacco advertisement on the same webpage on which an e-cigarette advertisement is displayed.
- (2) To avoid doubt, the website must not include any of the following:
 - (a) words or images that entice, or are intended to entice, a person to purchase an e-cigarette product;
 - (b) images of e-cigarette products;
 - (c) more than one price for each e-cigarette product;
 - (d) content that promotes another website that:
 - (i) contains an e-cigarette advertisement; or
 - (ii) solicits internet traffic to an e-cigarette advertisement.

Note: For the purposes of paragraph (2)(a), examples of words that entice a person to purchase an e-cigarette product include, but are not limited to, the following:

- (a) cheap;
- (b) discount;
- (c) bulk savings;
- (d) buy one, get one free;
- (e) tax free.

29 Information to be in English etc.

- (1) All information that is required or permitted by this Part to be included on a website must be:
 - (a) legible; and
 - (b) in English; and
 - (c) in an undistorted form.
- (2) Nothing in subsection (1) prohibits the inclusion of the information in additional languages.

Chapter 3—Tobacco product requirements

Part 3.1—Introduction

30 Simplified outline of this Chapter

Under Parts 3.4 and 3.5 of the Act, a person may commit an offence, or be liable to a civil penalty, if the person contravenes a tobacco product requirement in certain circumstances.

This Chapter prescribes the detail of certain tobacco product requirements for the purposes of the Act.

The tobacco product requirements are requirements about the retail packaging of tobacco products, as well as tobacco products themselves. The requirements deal with such matters as the following:

- (a) the physical features, colour and finish of retail packaging;
- (b) the standardisation of retail packaging;
- (c) the markings that must appear, or which may appear, on retail packaging;
- (d) the display of health warnings on retail packaging;
- (e) the inclusion of health promotion inserts in retail packaging;
- (f) the appearance, physical features and contents of tobacco products;
- (g) standards for tobacco products.

EXPOSURE DRAFT

Chapter 3 Tobacco product requirements
Part 3.2 Plain packaging—physical features

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Part 3.2—Plain packaging—physical features

31 Purpose of this Part

This Part prescribes matters in relation to the physical features of the retail packaging of tobacco products for the purposes of section 74 of the Act.

32 Physical features of retail packaging—general

Retail packaging of all tobacco products

- (1) The retail packaging of all tobacco products must comply with the following requirements:
 - (a) the outer surfaces and inner surfaces of the packaging must not have any decorative ridges, etching, embossing, debossing, bulges or other irregularities of shape or texture, or any other embellishments, except as permitted by this instrument;
 - (b) any glues or other adhesives used in manufacturing the packaging must be transparent and not coloured.

Cigarette packs and cigarette cartons

- (2) A cigarette pack or cigarette carton must also comply with the following requirements:
 - (a) the pack or carton must be:
 - (i) rigid; and
 - (ii) made only of cardboard (subject to paragraph (1)(b));
 - (b) when the pack or carton is closed:
 - (i) each outer surface of the pack or carton must be rectangular; and
 - (ii) the surfaces of the pack or carton must meet at 90 degree angles;
 - (c) all edges of the pack or carton must be rigid, straight and not rounded, bevelled or otherwise shaped or embellished in any way, other than as permitted by this instrument.

EXPOSURE DRAFT

Tobacco product requirements **Chapter 3**
Plain packaging—physical features **Part 3.2**

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Additional requirements for cigarette packs

- (3) A cigarette pack must also comply with the following requirements:
- (a) the only opening to the pack must be a flip-top lid which must:
 - (i) be hinged only at the back of the pack; and
 - (ii) have straight edges;and neither the lid, nor the edges of the lid, may be rounded, bevelled or otherwise shaped or embellished in any way;
 - (b) the inside lip of the cigarette pack must have straight edges, other than corners which may be rounded, and neither the lip, nor the edges of the lip, may be bevelled or otherwise shaped or embellished in any way.

Note: There are rules about linings of primary packaging (such as cigarette packs) in sections 35 and 43.

33 Physical features of cigarette packs—dimensions

The dimensions of a cigarette pack, when the flip-top lid is closed, must comply with the following requirements:

- (a) height—at least 85 mm but not more than 90 mm;
- (b) width—at least 55 mm but not more than 60 mm;
- (c) depth—at least 20 mm but not more than 24 mm.

34 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.

35 Physical features of lining of primary packaging of tobacco products

Certain linings permitted

- (1) The primary packaging of a tobacco product may contain a lining that complies with this section.

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EXPOSURE DRAFT

Chapter 3 Tobacco product requirements
Part 3.2 Plain packaging—physical features

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Lining requirements

- (2) The lining must not be textured, except for texturing comprising small dots or squares embossed over the entire surface of the lining that are necessary for:
 - (a) the automated manufacture of the packaging; or
 - (b) placing tobacco products into the packaging.
- (3) If the lining is embossed as permitted by subsection (2), the dots or squares embossed into the lining must be:
 - (a) equidistant from each other; and
 - (b) closely spaced; and
 - (c) of uniform size.
- (4) However, the embossing of the lining must not:
 - (a) except as permitted by subsections (2) and (3), form a pattern; or
 - (b) form a symbol or design; or
 - (c) represent, or be suggestive of, the brand name or variant name (if any) of the tobacco product.
- (5) The lining must not be such that it can be removed from the primary packaging without damaging the lining.

Note: An effect of this subsection is to prevent the lining comprising a removable 'inner pack' for the tobacco products.

36 Physical features of cigar tubes

- (1) A cigar tube:
 - (a) must be cylindrical and rigid; and
 - (b) may have one or both ends tapered or rounded.
- (2) The opening to a cigar tube must be at least 15 mm in diameter.

37 Physical features of primary packaging of loose processed tobacco

The primary packaging of loose processed tobacco must be:

- (a) a pouch; or
- (b) a small cylinder; or

EXPOSURE DRAFT

Tobacco product requirements **Chapter 3**
Plain packaging—physical features **Part 3.2**

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- (c) a large cylinder.

38 Physical features of primary packaging of other tobacco products

The primary packaging of a tobacco product (other than a cigarette pack or cigar tube) must comply with the following requirements:

- (a) the largest dimension of the packaging must be at least 85 mm;
- (b) the second largest dimension of the packaging must be at least 55 mm.

39 Resealing tobacco products

- (1) The primary packaging of a tobacco product, other than a cigarette pack, may include means for resealing the packaging.

Examples: A tab or press seal.

- (2) The means for resealing the packaging must:
 - (a) either be:
 - (i) the colour known as Pantone 448C; or
 - (ii) transparent and not coloured; and
 - (b) not be marked, textured or embellished in any way; and
 - (c) be no larger than is reasonably necessary for its purpose.
- (3) The means for resealing the packaging must not obscure any health warning or mandatory marking.

40 Windows in packaging prohibited

Retail packaging of tobacco products, other than a plastic or other wrapper, must not have a cut-out area or window that enables the contents of the packaging to be visible from outside the packaging.

41 No voids, spacers or fillers etc.

- (1) The retail packaging of tobacco products must not contain any voids.
- (2) The retail packaging of tobacco products must not contain anything within the dimensions of the packaging except:

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Chapter 3 Tobacco product requirements

Part 3.2 Plain packaging—physical features

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- (a) tobacco products; and
- (b) if Part 3.10 permits an insert to be included in the retail packaging—the insert; and
- (c) if Part 3.11 requires a health promotion insert to be included in the retail packaging—the health promotion insert.

Note: An effect of this subsection is to prohibit spacers or fillers in the retail packaging that are not otherwise permitted by this instrument.

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Tobacco product requirements **Chapter 3**
Plain packaging—colour and finish **Part 3.3**

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Part 3.3—Plain packaging—colour and finish

42 Purpose of this Part

This Part prescribes requirements in relation to the colour and finish of the retail packaging of tobacco products for the purposes of subsection 75(1) of the Act.

43 Colour and finish of retail packaging

Required finishes and colours

- (1) The following must have a matt finish:
 - (a) all outer surfaces and inner surfaces of the primary packaging, and the secondary packaging, of tobacco products;
 - (b) both sides of any lining of a cigarette pack.
- (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 the colour known as Pantone 448C.
- (4) Each inner surface of primary packaging or secondary packaging, other than a cigarette pack or cigarette carton, must be:
 - (a) for packaging that is made of metal or wood—the natural colour of the metal or wood; or
 - (b) in any other case—the colour known as Pantone 448C.
- (5) The lining of a cigarette pack must be silver coloured foil with a white paper backing.

Exceptions to colour requirements

- (6) The following are not required to be the colour mentioned in subsection (2):
 - (a) a health warning;
 - (b) the text of:

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Chapter 3 Tobacco product requirements
Part 3.3 Plain packaging—colour and finish

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- (i) the brand name or variant name (if any) for the tobacco product; and
- (ii) a mandatory marking;
- (c) any other mark permitted by this instrument for which a different colour is prescribed by this instrument.

Exception for calibration marks

- (7) This section does not apply to calibration marks.

Part 3.4—Plain packaging—standardisation

44 Purpose of this Part

This Part prescribes requirements as to the following for the purposes of subsection 76(1) of the Act:

- (a) the number of units, mass or volume of a tobacco product included in the retail packaging of that product;
- (b) the pricing of a tobacco product in retail packaging of that number of units, mass or volume.

45 Standardised retail packaging—cigarettes

- (1) A cigarette pack must contain 20 cigarettes.
- (2) The cigarettes included in the cigarette pack must all be of the same dimensions.

Note: Section 119 prescribes standardised dimensions for cigarettes.

46 Standardised retail packaging—cigarette cartons

- (1) A cigarette carton must contain 10 cigarette packs.
- (2) The retail price of a cigarette carton must be equivalent to the sum of the retail price of the individual cigarette packs contained in the carton.

Note: This subsection prevents volume discounting for cigarettes sold in cartons.

47 Standardised retail packaging—filtered and small cigars

- (1) This section applies to the retail packaging of the following cigars:
 - (a) cigars that have a filter tip;
 - (b) cigars that have:
 - (i) a diameter no greater than 10 mm; and
 - (ii) a mass no greater than 1.4 grams (excluding any mouthpiece).
- (2) The retail packaging must contain 20 cigars.

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Chapter 3 Tobacco product requirements
Part 3.4 Plain packaging—standardisation

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- (3) The cigars included in the retail packaging must all be of the same dimensions.

48 Standardised retail packaging—loose processed tobacco

The retail packaging of the following tobacco products must contain 30 grams of tobacco:

- (a) pipe tobacco;
- (b) loose processed tobacco other than pipe tobacco.

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Tobacco product requirements **Chapter 3**
Plain packaging—permitted marks **Part 3.5**

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Part 3.5—Plain packaging—permitted marks

49 Purpose of this Part

This Part prescribes:

- (a) marks that are permitted to appear on the retail packaging of tobacco products for the purposes of paragraph 77(3)(d) of the Act; and
- (b) the requirements for such marks, for the purposes of subsection 77(4) of the Act.

Note 1: This Part deals with requirements for marks other than brand names and variant names. For brand names and variant names, see Part 3.6 of this instrument.

Note 2: Health warnings and mandatory markings must also appear on the retail packaging of tobacco products (see Parts 3.7 and 3.8 of this instrument).

50 Plain packaging—permitted marks generally

Primary packaging and secondary packaging

- (1) The following marks are permitted to appear on the primary packaging, and the secondary packaging, of a tobacco product:
 - (a) an origin mark that complies with section 51;
 - (b) an AQS mark that complies with section 52;
 - (c) one or more calibration marks that comply with section 53.

Track and trace identifiers

- (2) In addition to subsection (1):
 - (a) a primary packaging track and trace identifier that complies with section 54 may appear on the primary packaging of a tobacco product; and
 - (b) a secondary packaging track and trace identifier that complies with section 55 may appear on the secondary packaging of a tobacco product.

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Chapter 3 Tobacco product requirements
Part 3.5 Plain packaging—permitted marks

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Wrappers

- (3) One or more calibration marks that comply with section 53 may appear on a plastic or other wrapper that covers:
 - (a) the primary packaging of a tobacco product; or
 - (b) the secondary packaging of a tobacco product; or
 - (c) a tobacco product that is for retail sale.
- (4) In addition to subsection (3):
 - (a) an origin mark that complies with section 51 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 of a tobacco product:
 - (i) a bar code that complies with section 93;
 - (ii) one or more marks to conceal bar codes that comply with section 99.

No decorative etc. elements

- (5) A mark permitted under this Part must not use or contain any decorative ridges, etching, embossing, debossing, bulges or other irregularities of shape or texture, or any other embellishments, except as permitted by this Part.

51 Permitted marks—origin marks

- (1) A mark (an ***origin mark***) on the retail packaging of a tobacco product that is used to distinguish the origin of the tobacco product must be:
 - (a) an alphanumeric code; or
 - (b) a covert mark that is not visible to the naked eye.
- (2) If the origin mark is an alphanumeric code, it must:
 - (a) appear only once on the retail packaging of the tobacco product; and
 - (b) be printed:
 - (i) in an English sans serif typeface; and
 - (ii) no larger than 3 mm in size; and
 - (iii) in a normal weighted regular font; and
 - (c) for a cigarette pack or cigarette carton—appear on either:

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Tobacco product requirements **Chapter 3**
Plain packaging—permitted marks **Part 3.5**

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- (i) the side outer surface of the pack or carton on which a health warning is not displayed; or
 - (ii) the bottom outer surface of the pack or carton.
- (3) If the origin mark is printed, it may be printed in either white or black.
- (4) 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.
- (5) The origin mark may be applied to the retail packaging by etching or debossing.
- (6) If the origin mark is an alphanumeric code that is applied by etching or debossing, it must be the colour known as Pantone 448C.

52 Permitted marks—AQS marks

An AQS mark on the retail packaging of a tobacco product must:

- (a) appear only as is necessary to indicate that the product is packaged in accordance with the Average Quantity System requirements under the *National Measurement Act 1960*; and
- (b) be printed:
 - (i) directly adjacent to the measurement mark (see section 91); and
 - (ii) no larger than 3 mm in size; and
 - (iii) in the colour known as Pantone Cool Grey 2C.

Note: AQS stands for Average Quantity System.

53 Permitted marks—calibration marks

A calibration mark on the retail packaging of a tobacco product:

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

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Chapter 3 Tobacco product requirements
Part 3.5 Plain packaging—permitted marks

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54 Permitted marks—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 surfaces:
 - (i) the side outer surface of the pack on which a health warning is not displayed;
 - (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 an English sans serif typeface; and
 - (ii) in normal weighted regular font; and
 - (iii) 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.

Primary packaging of tobacco products other than cigarette packs

- (2) A primary packaging track and trace identifier on the primary packaging of a tobacco product other than a cigarette pack:
 - (a) must appear only once on the packaging; and
 - (b) must either:
 - (i) be included on an adhesive label attached 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 an English sans serif typeface; and
 - (ii) in normal weighted regular font; and
 - (iii) in black, white or grey; and

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Tobacco product requirements **Chapter 3**
Plain packaging—permitted marks **Part 3.5**

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- (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 outer surface of the packaging on which a health warning is displayed.

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.

55 Permitted marks—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 carton; and
 - (b) appear only on a single side outer surface of the carton on which a health warning is not displayed; and
 - (c) either:
 - (i) be included on an adhesive label attached firmly to the carton so as not to be easily removable; or
 - (ii) be printed on the carton; and
 - (d) to the extent that the track and trace identifier is an alphanumeric code—be printed:
 - (i) in an English sans serif typeface; and
 - (ii) in normal weighted regular font; and
 - (iii) 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.

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Chapter 3 Tobacco product requirements
Part 3.5 Plain packaging—permitted marks

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Secondary packaging of tobacco products other than cigarette cartons

- (2) A secondary packaging track and trace identifier on the secondary packaging of a tobacco product other than a cigarette carton:
 - (a) must appear only once on the packaging; and
 - (b) must either:
 - (i) be included on an adhesive label attached 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 an English sans serif typeface; and
 - (ii) in normal weighted regular font; and
 - (iii) 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 outer surface of the packaging on which a health warning is displayed.

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.

56 Permitted marks—compliance with laws

- (1) The retail packaging of tobacco products may display a mark that is required to be displayed on the packaging by another law of the Commonwealth.
- (2) The mark must comply with the requirements of that other law.

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Tobacco product requirements **Chapter 3**
Plain packaging—brand names and variant names **Part 3.6**

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Part 3.6—Plain packaging—brand names and variant names

57 Purpose of this Part

This Part prescribes requirements for the appearance of brand names or variant names on the retail packaging of tobacco products for the purposes of subsection 77(4) of the Act.

58 Retail packaging of cigarettes—brand names and variant names

Cigarette packs and cigarette cartons

- (1) Any brand name or variant name that appears on a cigarette pack or cigarette carton:
 - (a) must not obscure any health warning or mandatory marking; and
 - (b) must not appear more than once on any of the following outer surfaces of the pack or carton:
 - (i) for a cigarette pack—the front, top and bottom outer surfaces of the pack;
 - (ii) for a cigarette carton—the front outer surface of the carton, and the 2 smallest outer surfaces of the carton; and
 - (c) may appear only on the surfaces mentioned in paragraph (b); and
 - (d) must appear across one line only; and
 - (e) must comply with the orientation and location requirements mentioned in subsection (2).

Orientation and location requirements

- (2) For the purposes of paragraph (1)(e), the orientation and location requirements are set out in the following table.

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Chapter 3 Tobacco product requirements

Part 3.6 Plain packaging—brand names and variant names

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Brand name or variant name—orientation and location requirements for cigarette packs and cigarette cartons

Item	If ...	appear(s) on ...	the name(s) ...
1	a brand name but no variant name	the front outer surface of a cigarette pack	must appear: (a) horizontally below, and in the same orientation as, the health warning; and (b) in the centre of the space remaining on the front outer surface beneath the health warning
2	a brand name and a variant name	the front outer surface of a cigarette pack	must appear: (a) horizontally below, and in the same orientation as, the health warning; and (b) with the variant name immediately below the brand name; and (c) with either the brand name, or the combined brand name and variant name, in the centre of the space remaining on the front outer surface beneath the health warning
3	a brand name but no variant name	the front outer surface of a cigarette carton	must appear: (a) in the same orientation as the health warning; and (b) in the centre of the space on the front outer surface that is not occupied by the health warning
4	a brand name and a variant name	the front outer surface of a cigarette carton	must appear: (a) in the same orientation as the health warning; and (b) with the variant name immediately below the brand name; and (c) with either the brand name, or the combined brand name and variant name, in the centre of the space remaining on the front outer surface that is not occupied by the health warning
5	a brand name but	any outer surface	must appear:

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Tobacco product requirements **Chapter 3**
Plain packaging—brand names and variant names **Part 3.6**

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Brand name or variant name—orientation and location requirements for cigarette packs and cigarette cartons

Item	If ...	appear(s) on ...	the name(s) ...
	no variant name	(other than a front outer surface) of a cigarette pack or cigarette carton	(a) horizontally; and (b) in the centre of the outer surface of the pack or carton
6	a brand name and a variant name	any outer surface (other than a front outer surface) of a cigarette pack or cigarette carton	must appear: (a) horizontally; and (b) with the variant name immediately below the brand name; and (c) with either the brand name, or the combined brand name and variant name, in the centre of the outer surface of the pack or carton

Section not to apply to wrappers

- (3) This section does not apply to a plastic or other wrapper that covers:
- (a) the retail packaging of a tobacco product; or
 - (b) a tobacco product that is for retail sale.

Note: For the requirements for wrappers, see Part 3.9.

59 Appearance of names on retail packaging of cigarettes

- (1) Any brand name or variant name appearing on a cigarette pack or a cigarette carton must be printed:
- (a) in the typeface known as Lucida Sans; and
 - (b) for a brand name—using the following dimensions:
 - (i) 4 mm in height;
 - (ii) up to 50 mm in width; and
 - (c) for a variant name—using the following dimensions:
 - (i) 3 mm in height;
 - (ii) up to 35 mm in width; and

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Chapter 3 Tobacco product requirements

Part 3.6 Plain packaging—brand names and variant names

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- (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.

(2) For the purposes of paragraph (1)(d), a word consists of 2 or more letters.

60 Appearance of names on other retail packaging

Scope

- (1) This section applies to the retail packaging of tobacco products other than:
 - (a) a cigarette pack or a cigarette carton; or
 - (b) a plastic or other wrapper that covers:
 - (i) the primary packaging of a tobacco product; or
 - (ii) the secondary packaging of a tobacco product; or
 - (iii) a tobacco product that is for retail sale.

Note: For the requirements for wrappers, see Part 3.9.

Requirements

- (2) Any brand name or variant name appearing on the retail packaging must be printed on the packaging, or on an adhesive label attached to the packaging, in accordance with the following requirements:
 - (a) in the typeface known as Lucida Sans;
 - (b) for a brand name—using the following dimensions:
 - (i) 4 mm in height;
 - (ii) up to 50 mm in width; and
 - (c) for a variant name—using the following dimensions:
 - (i) 3 mm in height;
 - (ii) up to 35 mm in width; and
 - (d) with the first letter in each word capitalised and with no other upper case letters;
 - (e) in normal weighted regular font;
 - (f) in the colour known as Pantone Cool Gray 2C.

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Tobacco product requirements **Chapter 3**
Plain packaging—brand names and variant names **Part 3.6**

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- (3) For the purposes of paragraph (2)(d), a word consists of 2 or more letters.

Adhesive labels

- (4) An adhesive label attached to the packaging as mentioned in subsection (2) must:
- be in the colour known as Pantone 448C; and
 - be no larger than is reasonably necessary to print the brand name and any variant name in the typeface and dimensions mentioned in paragraphs (2)(a) to (c); and
 - be attached firmly to the retail packaging so as not to be easily removable.

61 Location of names on cigar tubes

- (1) For each brand name or variant name appearing on a cigar tube, the name must:
- appear only once on the cigar tube; and
 - appear across one line only.

Requirements

- (2) The orientation of the names must appear as follows:
- if the cigar tube contains a brand name and variant name:
 - the brand name must appear in the same orientation as, and immediately below, the health warning on the front outer surface; and
 - the variant name must appear parallel to, in the same orientation as, and immediately below, the brand name; and
 - in any other case—the brand name or the variant name must appear in the same orientation as, and immediately below, the health warning on the front outer surface.

62 Location of names on other retail packaging

Scope

- (1) This section applies to the retail packaging of tobacco products other than cigarette packs, cigarette cartons and cigar tubes.

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EXPOSURE DRAFT

Chapter 3 Tobacco product requirements

Part 3.6 Plain packaging—brand names and variant names

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Requirements

- (2) Any brand name or variant name appearing on the retail packaging:
 - (a) must appear across one line only; and
 - (b) must not appear more than once on each front outer surface or back outer surface of the packaging; and
 - (c) may appear only on the surfaces mentioned in paragraph (b); and
 - (d) must appear in the same orientation as, and not above, the health warning on the outer surface; and
 - (e) for a variant name—must appear parallel to, in the same orientation as, and immediately below, the brand name.

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Tobacco product requirements **Chapter 3**
Plain packaging—health warnings **Part 3.7**
Preliminary **Division 1**

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Part 3.7—Plain packaging—health warnings

Division 1—Preliminary

63 Purpose of this Part

This Part prescribes requirements for the display of images and combinations of images on the retail packaging of tobacco products for the purposes of subsection 78(1) of the Act.

Note: For requirements in relation to the display of mandatory markings, see Part 3.8 of this instrument.

64 Key concepts relating to health warnings

- (1) A **health warning** is a numbered image, or combination of images, identified as such in a clause of Schedules 2 to 7.
- (2) A **health warning series**, for a tobacco product, is the series of health warnings specified in whichever of Schedules 2 to 7 is applicable to that tobacco product.

65 Secretary may approve file containing images for health warnings

- (1) The Secretary may approve one or more electronic files containing images for use in displaying health warnings on the retail packaging of tobacco products for the purposes of this Part.
- (2) If such a file has been approved, the health warnings that are displayed on the retail packaging of tobacco products must:
 - (a) be sourced from the file; and
 - (b) use the same resolution as the file.
- (3) The Secretary must make a file approved under subsection (1) available to a person on request, free of charge, if the Secretary is reasonably satisfied that the person is involved in packaging tobacco products in retail packaging.

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Chapter 3 Tobacco product requirements

Part 3.7 Plain packaging—health warnings

Division 2 Displaying health warnings on retail packaging

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Division 2—Displaying health warnings on retail packaging

66 Display of health warnings on retail packaging of tobacco products

The retail packaging of a tobacco product that is sold or supplied, or offered for sale or supply, must display a health warning from the health warning series for that tobacco product in accordance with this Part.

67 Health warnings to be displayed equally

- (1) The health warnings in each health warning series are to be displayed on the retail packaging of tobacco products as nearly as possible in equal numbers.
- (2) Without limiting subsection (1), retail packaging of cigarettes is taken to comply with subsection (1) if, in any random sample of 4 cigarette cartons, the same health warning appears on no more than 2 cigarette packs in any carton.

68 Health warnings not to be obscured etc.

- (1) A health warning displayed on the retail packaging of a tobacco product must not be obscured or obliterated in any way at the time of sale or supply of the tobacco product.

Examples:

- (a) If the retail packaging is covered by a plastic or other wrapper, the wrapper must not obscure or obliterate any part of the health warning.
 - (b) An adhesive label permitted to be attached to retail packaging by this instrument must not obscure or obliterate any part of the health warning.
- (2) A health warning displayed on the retail packaging of a tobacco product (other than a cigarette carton or a cigar tube) must not be likely to be obliterated, removed or rendered permanently unreadable when the retail packaging is opened in the normal way.
 - (3) A tear strip on the retail packaging of a tobacco product that complies with section 100 is taken not to obscure or obliterate a health warning.

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Tobacco product requirements **Chapter 3**
Plain packaging—health warnings **Part 3.7**
Displaying health warnings on retail packaging **Division 2**

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69 Health warnings not to be distorted

A health warning displayed on the retail packaging of a tobacco product must not be distorted.

70 How health warnings are to be applied to retail packaging

Cigarette packs and cigarette cartons

- (1) A health warning that is displayed on a cigarette pack or a cigarette carton must be printed on the pack or carton.

Retail packaging of other tobacco products

- (2) A health warning that is displayed on the retail packaging of tobacco products other than a cigarette pack or cigarette carton must:
 - (a) be printed on the retail packaging; or
 - (b) be printed on an adhesive label that is attached to the retail packaging.
- (3) For the purposes of paragraph (2)(b), the adhesive label must:
 - (a) be attached to the outer surface of the retail packaging on which the image that it displays is otherwise required to be printed; and
 - (b) be attached firmly to the retail packaging so as not to be easily removable.

71 Transparent wrappers

Wrappers covering retail packaging

- (1) Subsection (2) applies to retail packaging that is a plastic or other wrapper that covers any retail packaging of a tobacco product.
- (2) The requirements in this Part relating to the display of health warnings do not apply to the wrapper if the following conditions are met:
 - (a) the wrapper is totally transparent and not coloured;
 - (b) the tobacco products in the retail packaging covered by the wrapper are all of the same kind;

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Chapter 3 Tobacco product requirements

Part 3.7 Plain packaging—health warnings

Division 2 Displaying health warnings on retail packaging

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- (c) the tobacco products in the retail packaging covered by the wrapper are arranged so that:
- (i) only the front outer surface of the retail packaging of the tobacco product is visible at one side of the wrapper, and only the back outer surface of the retail packaging of the tobacco product is visible at the opposite side; or
 - (ii) only the front outer surface of the retail packaging of the tobacco product is visible at one end of the wrapper, and only the back outer surface of the retail packaging of the tobacco product is visible at the opposite end.

Note: Paragraph (c) permits tobacco products in retail packaging to be arranged in 'ranks' or 'files'.

Single cigars—retail packaging and wrappers

- (3) A single cigar supplied by way of retail sale must be covered by at least one layer of retail packaging that is not a plastic or other wrapper.

Note 1: An example of such packaging is a cigar tube or a cigar bag.

Note 2: The band permitted around the circumference of a cigar under section 115 is not retail packaging.

- (4) The requirements in this Part relating to the display of health warnings do not apply to retail packaging that is a plastic or other wrapper that directly covers a single cigar if the wrapper is totally transparent and not coloured.
- (5) For the purposes of subsection (4), a wrapper is taken to be totally transparent and not coloured even if it contains a tear strip that complies with section 100.

EXPOSURE DRAFT

Tobacco product requirements **Chapter 3**
Plain packaging—health warnings **Part 3.7**
Displaying health warnings on outer surfaces **Division 4**

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Division 4—Displaying health warnings on outer surfaces

Subdivision A—General rules

72 Display of health warnings on outer surfaces of retail packaging of tobacco products

Outer surfaces for display of health warnings

- (1) For the retail packaging of tobacco products described in column 1 of an item in the following table, the outer surfaces of the retail packaging described in columns 2 and 3 of the item must display the health warnings specified for the product in whichever of Schedules 2 to 7 is applicable to the product.

	Column 1	Column 2	Column 3
Item	Retail packaging of tobacco products	Outer surface	Description of outer surface
1	Cigarette pack	Front	The outer surface that includes the front of the flip-top lid
		Back	The outer surface directly opposite the front surface
		Side	One of the 2 longest of the outer surfaces other than the front surface or the back surface
2	Cigarette carton	Front	One of the largest outer surfaces
		Back	The outer surface directly opposite the front surface
		Side	One of the 2 longest of the outer surfaces other than the front surface or the back surface
3	Pouch	Front	The largest outer surface that is not overlapped by the flap of the pouch
		Back	The outer surfaces directly opposite the front surface, being: (a) the outer surface of the flap of the pouch; and (b) the part of the outer surface of the pouch that is covered by the flap when the flap is closed

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Chapter 3 Tobacco product requirements

Part 3.7 Plain packaging—health warnings

Division 4 Displaying health warnings on outer surfaces

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	Column 1	Column 2	Column 3
Item	Retail packaging of tobacco products	Outer surface	Description of outer surface
		Hidden flap	The surface of the flap of the pouch that faces the back outer surface of the pouch mentioned in paragraph (b) when the flap is closed
4	Large cylinder	Front	A part of the curved outer surface that extends one-third of the circumference of the cylinder
		Back	The part of the curved outer surface that extends one-third of the circumference of the cylinder directly opposite the front surface
		Base	The outer surface of the base
5	Small cylinder	Front	The outer surface of the lid
		Back	The outer surface of the base
6	Retail packaging for cigars, other than a cigar tube: (a) if the packaging is not cylindrical (b) if the packaging is cylindrical	Front	One of the largest outer surfaces
		Back	The outer surface directly opposite the front surface
		Front	A part of the curved outer surface that extends one-third of the circumference of the cylinder
		Back	The part of the curved outer surface that extends one-third of the circumference of the cylinder directly opposite the front surface
7	Cigar tube	Front	The outer surface of the tube
8	Retail packaging for bidis	Front	One of the largest outer surfaces
9	Other retail packaging not mentioned in this table if: (a) the retail packaging has more than 2 outer surfaces; and	Front	One of the largest outer surfaces
		Back	The outer surface directly opposite the front surface
		Side	The second largest outer surface

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Tobacco product requirements **Chapter 3**
Plain packaging—health warnings **Part 3.7**
Displaying health warnings on outer surfaces **Division 4**

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	Column 1	Column 2	Column 3
Item	Retail packaging of tobacco products	Outer surface	Description of outer surface

(b) the second largest outer surface has a minimum surface area of 2400 mm²

Layout of health warnings

- (2) For images in Schedules 2 to 7 showing the layout for the display of a health warning on an outer surface, the outer edges of the image are the edges of the outer surface, unless the retail packaging is a small cylinder.

Subdivision B—Front outer surfaces

73 Front outer surface of cigarette packs and general vertical retail packaging

- (1) A health warning displayed on the front outer surface of the following retail packaging of tobacco products must cover at least 75% of the total surface area:
- (a) a cigarette pack;
 - (b) a vertical cigarette carton;
 - (c) vertical retail packaging for cigars (other than a cigar tube);
 - (d) vertical retail packaging for bidis;
 - (e) a vertical pouch;
 - (f) a large cylinder;
 - (g) any other vertical retail packaging that is not dealt with in another section of this Subdivision.
- (2) However, if:
- (a) the retail packaging is vertical retail packaging for cigars (other than a cigar tube); and
 - (b) the area of the front outer surface is at least 250 cm²;
- the health warning must cover at least 188 cm².
- (3) The health warning must cover the whole of the flip-top lid (if any).

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Chapter 3 Tobacco product requirements

Part 3.7 Plain packaging—health warnings

Division 4 Displaying health warnings on outer surfaces

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- (4) No part of the health warning is to be obscured when the flip-top lid (if any) is closed.

74 Front outer surface of general horizontal retail packaging

- (1) A health warning displayed on the front outer surface of the following retail packaging of tobacco products must cover at least 75% of the total surface area:
- (a) a horizontal cigarette carton;
 - (b) horizontal retail packaging for cigars (other than a cigar tube);
 - (c) horizontal retail packaging for bidis;
 - (d) a horizontal pouch;
 - (e) any other horizontal retail packaging that is not dealt with in another section of this Subdivision.
- (2) However, if:
- (a) the retail packaging is horizontal retail packaging for cigars (other than a cigar tube); and
 - (b) the area of the front outer surface is at least 250 cm²;
- the health warning must cover at least 188 cm².

75 Front outer surface of small cylinders

A health warning displayed on the front outer surface of a small cylinder must cover at least 60% of the total surface area.

76 Front outer surface of cigar tubes

A health warning displayed on the front outer surface of a cigar tube must:

- (a) cover at least 95% of the total length of the outer surface; and
- (b) be positioned lengthwise along the cigar tube; and
- (c) extend to at least 60% of the circumference of the outer surface.

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Tobacco product requirements **Chapter 3**
Plain packaging—health warnings **Part 3.7**
Displaying health warnings on outer surfaces **Division 4**

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Subdivision C—Back outer surfaces

77 Back outer surface of cigarette packs and cigarette cartons

A health warning displayed on the back outer surface of the following retail packaging of tobacco products must cover at least 90% of the total surface area:

- (a) a cigarette pack;
- (b) a vertical cigarette carton;
- (c) a horizontal cigarette carton.

78 Back outer surface of pouches

A health warning displayed on a back outer surface of a pouch must cover at least 75% of the total surface area.

Note: Both the outside of the flap, and the outer surface of the pouch that is covered by the flap when closed, are back outer surfaces (see subsection 72(1)).

79 Back outer surface of large cylinders

A health warning displayed on the back outer surface of a large cylinder (other than retail packaging for cigars) must cover at least 75% of the total surface area.

Note: See section 81 for retail packaging for cigars.

80 Back outer surface of small cylinders

A health warning displayed on the back outer surface of a small cylinder (other than retail packaging for cigars) must cover at least 60% of the total surface area.

Note: See section 81 for retail packaging for cigars.

81 Back outer surface of retail packaging for cigars (other than cigar tubes) and other general retail packaging

- (1) A health warning displayed on the back outer surface of the retail packaging of the following tobacco products must cover at least 75% of the total surface area:
 - (a) retail packaging for cigars (other than a cigar tube);
 - (b) retail packaging that is not dealt with in another section of this Subdivision.

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Chapter 3 Tobacco product requirements

Part 3.7 Plain packaging—health warnings

Division 4 Displaying health warnings on outer surfaces

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- (2) However, if:
 - (a) the retail packaging is retail packaging for cigars (other than a cigar tube); and
 - (b) the area of the back outer surface is at least 250 cm²; the health warning must cover at least 188 cm².

Subdivision D—Other surfaces

82 Side outer surface of cigarette packs

- (1) A health warning displayed on a side outer surface of a cigarette pack must cover the total area of the side outer surface from the base of the pack to a notional line that is:
 - (a) parallel to the top edge of the side outer surface; and
 - (b) a continuation of the line of the bottom of the flip-top lid on the front outer surface.
- (2) The health warning must be displayed on at least one side outer surface.

83 Side outer surface of cigarette cartons

- (1) A health warning displayed on a side outer surface of a cigarette carton must cover at least 25% of the total surface area.
- (2) The health warning must be displayed on at least one side outer surface.

84 Side outer surface of other retail packaging

- (1) A health warning displayed on a side outer surface of retail packaging of tobacco products not dealt with in another section of this Subdivision must cover at least 50% of the total surface area.
- (2) The health warning must be displayed on at least one side outer surface.

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Tobacco product requirements **Chapter 3**

Plain packaging—health warnings **Part 3.7**

Displaying health warnings on outer surfaces **Division 4**

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85 Hidden flap of pouches

A health warning displayed on the hidden flap of a pouch must be printed within a rectangle measuring at least 80 mm by 25 mm that is positioned in the centre of the surface of the hidden flap.

86 Base of large cylinder

A health warning displayed on the base of a large cylinder must cover at least 50% of the total surface area.

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Chapter 3 Tobacco product requirements

Part 3.8 Plain packaging—mandatory markings

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Part 3.8—Plain packaging—mandatory markings

87 Purpose of this Part

- (1) This Part prescribes the markings that must appear on the retail packaging of tobacco products for the purposes of subsection 79(1) of the Act.
- (2) The following markings are prescribed:
 - (a) a brand name and variant name (if any) that complies with Part 3.6;
 - (b) a country of origin statement (see section 89);
 - (c) a manufacturer's date mark (see section 90);
 - (d) a measurement mark (see section 91);
 - (e) a trade description (see section 92);
 - (f) a bar code (see section 93);
 - (g) the fire risk statement (see section 94);
 - (h) the name and address of the entity in Australia who packaged the product or on whose behalf it was packaged (see section 95);
 - (i) a consumer contact telephone number (see section 96).

Note: For requirements in relation to the display of health warnings on retail packaging, see Part 3.7.

- (3) Each of the markings mentioned in subsection (2) is a *mandatory marking*.

88 Scope—exception for certain retail packaging of single cigars

This Part does not apply to the retail packaging of a tobacco product if:

- (a) the tobacco product is a single cigar; and
- (b) the cigar is packaged by a person who is ordinarily engaged in the business of selling tobacco products by way of retail sale in Australia.

89 Mandatory marking—country of origin statement

- (1) The primary packaging of a tobacco product must state the product's country of origin using the format 'made in ...'.

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Tobacco product requirements **Chapter 3**
Plain packaging—mandatory markings **Part 3.8**

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Example: ‘Made in Cuba’.

- (2) A statement mentioned in subsection (1) is a *country of origin statement*.
- (3) The secondary packaging of a tobacco product may include a country of origin statement.
- (4) The retail packaging of a tobacco product must not otherwise describe:
 - (a) the origin of the tobacco product; or
 - (b) the components of the product.

Examples: ‘Product of Cuba’ or ‘Made in Cuba from premium tobacco’ are not permitted.

Requirements for country of origin statement

- (5) A country of origin statement must:
 - (a) appear only once on the retail packaging of the tobacco product; and
 - (b) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 3 mm in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C; and
 - (c) for a cigarette pack or cigarette carton—appear only on the side outer surface of the pack or carton on which a health warning is not displayed.

90 Mandatory marking—manufacturer’s date mark

- (1) The primary packaging of a tobacco product must display the date (the *manufacturer’s date mark*) on which the product was packaged.

Requirements for manufacturer’s date mark

- (2) The manufacturer’s date mark must:
 - (a) appear only once on the retail packaging of the tobacco product; and
 - (b) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 3 mm in size; and

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Chapter 3 Tobacco product requirements

Part 3.8 Plain packaging—mandatory markings

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- (iii) in a normal weighted regular font; and
- (iv) in the colour known as Pantone Cool Gray 2C; and
- (c) for a cigarette pack—appear only on the side outer surface of the pack or carton on which a health warning is not displayed.

Alphanumeric code

- (3) The manufacturer's date mark must be represented using the following alphanumeric code:
 - (a) a letter representing the month (where 'A' represents January, 'B' represents February and the remaining months are represented in a continuation of that sequence);
 - (b) a number representing the year (where '0' represents a year ending in 0, '1' represents a year ending in 1 and other years are represented in a continuation of that sequence).

Example: April 2025 is represented by D5.

91 Mandatory marking—measurement marks

- (1) The primary packaging, and the secondary packaging, of a tobacco product must be marked with a statement (the *measurement mark*) of the measurement of the product.

Requirements for measurement mark

- (2) The measurement mark must be printed:
 - (a) in the typeface known as Lucida Sans; and
 - (b) no larger than 3 mm in size; and
 - (c) in normal weighted regular font; and
 - (d) in the colour known as Pantone Cool Gray 2C.
- (3) The measurement mark must be:
 - (a) printed in the same orientation as the brand name; and
 - (b) at least 2 mm from the edges of the retail packaging; and
 - (c) in a form in which units of measurement under the metric system are ordinarily written in the English language.

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Tobacco product requirements **Chapter 3**
Plain packaging—mandatory markings **Part 3.8**

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Wrappers

- (4) A measurement mark on a plastic or other wrapper that covers more than one item of primary packaging of a tobacco product must be printed:
 - (a) in white; and
 - (b) on a black rectangular background.

Cigarette packs or cigarette cartons

- (5) A measurement mark on a cigarette pack or a cigarette carton:
 - (a) must appear once on the front outer surface of the pack or carton; and
 - (b) may appear once on either the top or the bottom outer surfaces of the pack or carton.

Retail packaging of other tobacco products

- (6) A measurement mark on the retail packaging of tobacco products other than a cigarette pack or cigarette carton:
 - (a) must appear once on an outer surface of the packaging; and
 - (b) may appear on no more than 2 outer surfaces.

Interaction with National Trade Measurement Regulations 2009

- (7) The requirements of this section apply only to the extent that Division 4.4 of the *National Trade Measurement Regulations 2009* does not require the primary packaging, or the secondary packaging, of a tobacco product to be marked with a statement of measurement.

92 Mandatory marking—trade description

- (1) The primary packaging and secondary packaging of a tobacco product must be marked with a trade description.

Requirements for trade descriptions

- (2) The trade description must be printed:
 - (a) in the typeface known as Lucida Sans; and
 - (b) no larger than 3 mm in size; and

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Chapter 3 Tobacco product requirements

Part 3.8 Plain packaging—mandatory markings

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- (c) in normal weighted regular font; and
- (d) in the colour known as Pantone Cool Gray 2C.

Wrappers

- (3) A 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.

Cigarette packs or cigarette cartons

- (4) A trade description on a cigarette pack or cigarette carton must:
 - (a) appear only on the side outer surface of the pack or carton on which a health warning is not displayed; and
 - (b) appear only once on that surface.

Retail packaging of other tobacco products

- (5) A trade description on the retail packaging of tobacco products other than a cigarette pack or cigarette carton must:
 - (a) appear only on one outer surface of the packaging; and
 - (b) appear only once on that surface.

93 Mandatory marking—bar code

- (1) The primary packaging of a tobacco product must display a bar code.
- (2) The secondary packaging of a tobacco product may display a bar code.

Requirements for bar codes

- (3) A bar code on the retail packaging of a tobacco product must:
 - (a) appear only once on the packaging; and
 - (b) be printed in either:
 - (i) black and white; or
 - (ii) the colour known as Pantone 448C and white; and

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Tobacco product requirements **Chapter 3**
Plain packaging—mandatory markings **Part 3.8**

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- (c) be rectangular in shape; and
 - (d) for a cigarette pack or cigarette carton—appear only on the side outer surface of the pack or carton on which a health warning is not displayed.
- (4) The bar code must not:
- (a) form a symbol or design; or
 - (b) represent, or be suggestive of, the brand name or variant name (if any) of the tobacco product.

Barcodes on wrappers

- (5) A bar code on a plastic or other wrapper covering more than one item of primary packaging may:
- (a) be included on an adhesive label attached firmly to the wrapper so as not to be easily removable; or
 - (b) be printed on the wrapper.

94 Mandatory marking—fire risk statement

Content of fire risk statement

- (1) The following statement (the **fire risk statement**) must be displayed on each cigarette pack and cigarette carton:
- AUSTRALIAN FIRE RISK STANDARD COMPLIANT. USE CARE IN DISPOSAL.

Requirements for fire risk statement

- (2) The text of the fire risk statement must be printed:
- (a) in the typeface known as Lucida Sans; and
 - (b) no larger than 3 mm in size; and
 - (c) in upper case, normal weighted regular font; and
 - (d) in the colour known as Pantone Cool Gray 2C.
- (3) The fire risk statement on a cigarette pack must be placed beneath the health warning displayed on the back outer surface of the pack.

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Chapter 3 Tobacco product requirements

Part 3.8 Plain packaging—mandatory markings

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- (4) The fire risk statement on a cigarette carton must be placed on the back outer surface of the carton.

Wrappers around cigarette packs

- (5) The fire risk statement may also appear on a plastic or other wrapper that covers more than one cigarette pack.
- (6) If the fire risk statement is printed on such a plastic or other wrapper, it must be printed:
- (a) in white; and
 - (b) on a black rectangular background.

Adhesive labels

- (7) The fire risk statement may be printed on an adhesive label that is attached to the retail packaging of a tobacco product if:
- (a) for a plastic or other wrapper that covers more than one cigarette pack—the background of the adhesive label is black, white or grey; or
 - (b) in any other case—the adhesive label is the colour known as Pantone 448C.
- (8) An adhesive label mentioned in subsection (7) must be attached firmly to the retail packaging so as not to be easily removable.

95 Mandatory marking—name and address

- (1) The primary packaging, and the secondary packaging, of a tobacco product must display the name and address of the entity in Australia:
- (a) who packaged the product; or
 - (b) on whose behalf it was packaged.

Requirements for name and address of Australian entity

- (2) The name of the entity must be one of the following:
- (a) if the entity has a business name registered to it under the *Business Names Registration Act 2011*—that business name;
 - (b) if the entity is a company registered under the *Corporations Act 2001*—that company name.

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Tobacco product requirements **Chapter 3**
Plain packaging—mandatory markings **Part 3.8**

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- (3) The address of the entity must be one of the following:
- (a) if the entity has a business name registered to it under the *Business Names Registration Act 2011*—the address of the entity’s principal place of business in Australia registered under that Act;
 - (b) if the entity is a company registered under the *Corporations Act 2001*—the address of the entity’s principal place of business in Australia registered under that Act.
- (4) The name and address must:
- (a) appear on only one outer surface of the retail packaging of the tobacco product; and
 - (b) appear only once on that surface; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 3 mm in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C; and
 - (d) for a cigarette pack or cigarette carton—appear only on the side outer surface of the pack or carton on which a health warning is not displayed.

Interaction with National Trade Measurement Regulations 2009

- (5) The requirements of this section apply in addition to any requirements to mark a name and address on the primary packaging, or secondary packaging, of a tobacco product under regulation 4.7 of the *National Trade Measurement Regulations 2009*.
- (6) Any such marking under that regulation must be printed in the colour known as Pantone Cool Gray 2C.
- (7) To avoid doubt, nothing in this section requires a name and address to be displayed more than once on the retail packaging of a tobacco product.

96 Mandatory marking—consumer contact telephone number

- (1) The primary packaging of a tobacco product must display a consumer contact telephone number for the entity in Australia:

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Chapter 3 Tobacco product requirements

Part 3.8 Plain packaging—mandatory markings

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- (a) who packaged the product; or
 - (b) on whose behalf it was packaged.
- (2) The secondary packaging of the tobacco product may display a consumer contact telephone number for the entity in Australia:
- (a) who packaged the product; or
 - (b) on whose behalf it was packaged.

Requirements for consumer contact telephone numbers

- (3) The consumer contact telephone number:
- (a) must be an Australian telephone number that is in service; and
 - (b) must be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 3 mm in size; and
 - (iii) in normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C; and
 - (c) must:
 - (i) appear only once on the packaging; and
 - (ii) appear only as numerals or as any combination of numerals, hyphens and brackets; and
 - (iii) be prefaced with the abbreviation ‘Phone:’ or ‘Ph:’, exactly in one of those formats; and
 - (iv) for a cigarette pack—appear on the side outer surface of the pack on which a health warning is not displayed; and
 - (v) for other retail packaging that is marked with a name and address that complies with section 95—appear on the same surface as that name and address; and
 - (d) must not:
 - (i) form a symbol or design; or
 - (ii) represent, or be suggestive of, the brand name or variant name (if any) of the tobacco product.

Part 3.9—Plain packaging—wrappers

97 Purpose of this Part

This Part prescribes requirements in relation to plastic or other wrappers that form part of the retail packaging of tobacco products for the purposes of section 80 of the Act.

Note: See section 71 of this instrument for rules relating to the display of health warnings on wrappers.

98 Basic requirements for wrappers

Scope

- (1) This section applies to a plastic or other wrapper that covers:
 - (a) the primary packaging of a tobacco product; or
 - (b) the secondary packaging of a tobacco product; or
 - (c) a tobacco product that is for retail sale.

Requirements

- (2) The wrapper must:
 - (a) be transparent; and
 - (b) not be coloured, marked, textured or embellished in any way, other than as permitted by this instrument.

99 Mark on wrapper to conceal bar codes

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

100 Tear strips on wrappers

- (1) A plastic or other wrapper that covers:

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Chapter 3 Tobacco product requirements

Part 3.9 Plain packaging—wrappers

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- (a) the primary packaging of a tobacco product; or
 - (b) the secondary packaging of a tobacco product; or
 - (c) a tobacco product that is for retail sale;
- may include one tear strip.

Tear strips—generally

- (2) The tear strip must:
 - (a) be either:
 - (i) entirely black; or
 - (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, or the tobacco product, 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.

Tear strips—cigarette packs and cigarette cartons

- (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 the cigarette packs, as the case requires.

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Tobacco product requirements **Chapter 3**
Plain packaging—inserts (other than health promotion inserts) and onserts **Part 3.10**
Preliminary **Division 1**

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Part 3.10—Plain packaging—inserts (other than health promotion inserts) and onserts

Division 1—Preliminary

101 Purpose of this Part

This Part prescribes inserts and onserts that may be included in or on the retail packaging of tobacco products for the purposes of subsection 82(2) of the Act.

Note 1: For health promotion inserts, see Part 3.11 of this instrument.

Note 2: The lining of a cigarette pack is not an insert. For the requirements in relation to linings, see the following provisions of this instrument:

- (a) section 35 (about physical features of linings);
- (b) section 43 (about colour and finish of retail packaging).

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Chapter 3 Tobacco product requirements

Part 3.10 Plain packaging—inserts (other than health promotion inserts) and onserts

Division 2 Permitted inserts and onserts

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Division 2—Permitted inserts and onserts

102 Inserts to avoid damage to tobacco products

- (1) The retail packaging of a tobacco product, other than a cigarette pack or a cigarette carton, may include an insert if the insert is used to avoid damage to the tobacco product during transportation or storage.
- (2) The insert must be either:
 - (a) the colour known as Pantone 448C; or
 - (b) transparent and not coloured.
- (3) The insert must not display any mark.

103 Adhesive labels

The retail packaging of a tobacco product may include the following adhesive labels if permitted by this instrument:

- (a) a track and trace identifier that complies with Part 3.5;
- (b) a brand name or variant name that complies with Part 3.6;
- (c) a health warning that complies with Part 3.7;
- (d) a bar code or fire risk statement that complies with Part 3.8.

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Tobacco product requirements **Chapter 3**
Plain packaging—health promotion inserts **Part 3.11**
Preliminary **Division 1**

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Part 3.11—Plain packaging—health promotion inserts

Division 1—Preliminary

104 Purpose of this Part

This Part prescribes requirements for the health promotion inserts that must be included in the retail packaging of tobacco products for the purposes of paragraph 82(1)(a) of the Act.

Note: For requirements in relation to other inserts in retail packaging, see Part 3.10 of this instrument.

105 Definition of *health promotion insert*

Each numbered image in a clause of Schedule 8 is a *health promotion insert*.

106 Secretary may approve file containing images for health promotion inserts

- (1) The Secretary may approve one or more electronic files containing images for use in printing health promotion inserts for inclusion in the retail packaging of tobacco products for the purposes of this Part.
- (2) If such a file has been approved, the health promotion inserts that are included in the retail packaging of tobacco products must:
 - (a) be sourced from the file; and
 - (b) use the same resolution as the file.
- (3) The Secretary must make a file approved under subsection (1) available to a person on request, free of charge, if the Secretary is reasonably satisfied that the person is involved in packaging tobacco products in retail packaging.

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Chapter 3 Tobacco product requirements

Part 3.11 Plain packaging—health promotion inserts

Division 2 Including health promotion inserts in retail packaging

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Division 2—Including health promotion inserts in retail packaging

107 Including health promotion inserts in retail packaging of tobacco products

Scope

- (1) This Part applies to the primary packaging of the following tobacco products:
 - (a) cigarettes;
 - (b) pipe tobacco;
 - (c) loose processed tobacco other than pipe tobacco.
- (2) This Part does not apply to the retail packaging of:
 - (a) cigars; or
 - (b) shisha tobacco products.

Inclusion of health promotion inserts

- (3) The primary packaging of a tobacco product sold or supplied, or offered for sale or supply, must include one health promotion insert in accordance with this Part.

108 Health promotion inserts to be included equally

- (1) Health promotion inserts are to be included in the retail packaging of tobacco products as nearly as possible in equal numbers.
- (2) Without limiting subsection (1), retail packaging of cigarettes is taken to comply with subsection (1) if, in any random sample of 4 cigarette cartons, the same health promotion insert is included in no more than 2 cigarette packs in any carton.

109 Health promotion inserts not to be obscured, folded etc.

- (1) A health promotion insert in the retail packaging of a tobacco product must not be obscured or obliterated in any way at the time of the sale or supply of the tobacco product.

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Tobacco product requirements **Chapter 3**
Plain packaging—health promotion inserts **Part 3.11**
Including health promotion inserts in retail packaging **Division 2**

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- (2) A health promotion insert must be easily removable from the retail packaging without damaging the insert, the packaging or the tobacco product when the retail packaging is opened in the normal way.

Folding of health promotion inserts

- (3) Health promotion inserts in the retail packaging of the following tobacco products must not be folded:
- (a) cigarette packs;
 - (b) pouches containing pipe tobacco or other loose processed tobacco.
- (4) Health promotion inserts in other retail packaging may be folded once if the dimensions of the packaging are such that the insert cannot otherwise be included in the packaging.

Example: A health promotion insert may be folded once for inclusion in a small cylinder of loose processed tobacco.

110 Images on health promotion inserts

The image on a health promotion insert must:

- (a) appear only in portrait orientation; and
- (b) fill the surface area of the insert; and
- (c) not be distorted in any way.

111 Placement of health promotion inserts

Cigarette packs

- (1) A health promotion insert in a cigarette pack must:
- (a) be inserted in the front of the flip-top pack; and
 - (b) be located in front of the cigarettes and the lining (if any) of the pack; and
 - (c) be visible upon opening the pack in the normal way; and
 - (d) be easily removable so as to permit reading of both sides of the insert.

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Chapter 3 Tobacco product requirements

Part 3.11 Plain packaging—health promotion inserts

Division 2 Including health promotion inserts in retail packaging

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Retail packaging of pipe tobacco or other loose processed tobacco

- (2) The placement of a health promotion insert in the retail packaging of pipe tobacco or other loose processed tobacco must comply with either subsection (3) or (4).
- (3) The placement of a health promotion insert in retail packaging complies with this subsection if the health promotion insert is:
 - (a) inserted inside the packaging; and
 - (b) located in front of, or on top of, the tobacco product and any other permitted insert; and
 - (c) visible upon opening the packaging in the normal way; and
 - (d) easily removable so as to permit reading of both sides of the insert.
- (4) The placement of a health promotion insert in retail packaging complies with this subsection if the health promotion insert is:
 - (a) fixed with soft adhesive:
 - (i) in the case of retail packaging that is a pouch—to the hidden flap of the pouch; or
 - (ii) in the case of retail packaging that is a cylinder—to the inner surface of the lid of the cylinder; and
 - (b) visible upon opening the packaging in the normal way; and
 - (c) easily removable so as to permit reading of both sides of the insert.

112 Technical requirements for health promotion inserts

Paper

- (1) A health promotion insert must be printed on recycled paper.
- (2) The weight of the paper must be at least 150 grams per square metre but not more than 200 grams per square metre.

Dimensions

- (3) The dimensions of a health promotion insert must comply with the following requirements:

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Tobacco product requirements **Chapter 3**
Plain packaging—health promotion inserts **Part 3.11**
Including health promotion inserts in retail packaging **Division 2**

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- (a) height—be at least 82 mm but not more than 85 mm;
- (b) width:
 - (i) at the top—be at least 50 mm but not more than 55 mm;
 - (ii) at the bottom—be at least 49 mm but not more than 55 mm.
- (4) A health promotion insert for primary packaging other than a cigarette pack must be rectangular.
- (5) A health promotion insert for a cigarette pack must be:
 - (a) rectangular; or
 - (b) tapered so that it is wider at the top than at the bottom.

Format and finish

- (6) A health promotion insert may have rounded edges but must not be bevelled or otherwise shaped or embellished in any way.
- (7) A health promotion insert must be coated with a clear, protective matt finish.
- (8) The inks and the coating used on a health promotion insert must not prevent it from being recycled.

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Chapter 3 Tobacco product requirements

Part 3.12 Tobacco products—appearance, physical features and contents

Division 1 Appearance and physical features requirements

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Part 3.12—Tobacco products—appearance, physical features and contents

Division 1—Appearance and physical features requirements

113 Purpose of this Division

This Division prescribes requirements in relation to the appearance and physical features of tobacco products for the purposes of the following provisions of the Act:

- (a) subsection 86(2) (about other marks that may, or are required to, appear on tobacco products);
- (b) subsection 86(3) (about the appearance of tobacco products);
- (c) subsection 86(4) (about the physical features of tobacco products).

114 Alphanumeric code on cigarettes

- (1) A cigarette may be marked with an alphanumeric code.

Requirements

- (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 an English sans serif typeface; and
 - (iii) no larger than 2.5 mm in size; and
 - (iv) in normal weighted regular font; and
 - (v) in black.

Restrictions

- (3) The alphanumeric code must not:

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Tobacco product requirements **Chapter 3**
Tobacco products—appearance, physical features and contents **Part 3.12**
Appearance and physical features requirements **Division 1**

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- (a) form a symbol or design; or
- (b) represent, or be suggestive of, the brand name or variant name (if any) of the cigarette.

115 Appearance of cigars

- (1) A single band may appear around the circumference of a cigar if:
 - (a) it is the colour known as Pantone 448C; and
 - (b) it is the only band around the circumference of the cigar; and
 - (c) it complies with this section.

Note: The band permitted under this subsection is not retail packaging of the cigar.

Permitted marks

- (2) The following marks may appear on the band:
 - (a) the brand name and variant name (if any) of the cigar;
 - (b) the country of origin statement;
 - (c) an alphanumeric code.
- (3) The band may also contain an origin mark that is a covert mark that is not visible to the naked eye.
- (4) The marks mentioned in subsection (2) must:
 - (a) appear only once on the band; and
 - (b) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 3 mm in size; and
 - (iii) in normal weighted regular font; and
 - (iv) in the colour known as Pantone Cool Gray 2C.
- (5) The brand name and variant name (if any) must be placed horizontally along the length of the band so that they run around the circumference of the cigar.

116 Appearance of bidis

A bidi may include a single black thread around the circumference of the bidi.

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Chapter 3 Tobacco product requirements

Part 3.12 Tobacco products—appearance, physical features and contents

Division 1 Appearance and physical features requirements

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117 Paper casing for cigarettes

The paper casing of cigarettes must:

- (a) for those parts of the cigarette other than the filter (if any)—be white; and
- (b) if the cigarette contains a filter—contain an imitation cork tip; and
- (c) have a matt finish; and
- (d) be free from any mark (other than as permitted under this Part).

118 Lowered permeability bands

- (1) A lowered permeability band (if any) on a cigarette must be white.

Note: For *lowered permeability band*, see section 5.

- (2) Cigarettes that use lowered permeability bands must have at least 2 identical bands surrounding the tobacco column.

Filter cigarettes

- (3) For permeability bands on cigarettes with filter tips:
 - (a) at least one band must be located not less than 15 mm from the lighting end of the cigarette; and
 - (b) at least one band must be located not less than 10 mm from the filter tip end of the tobacco column.

Non-filter cigarettes

- (4) For permeability bands on cigarettes without filter tips:
 - (a) at least one band must be located not less than 15 mm from the lighting end of the cigarette; and
 - (b) at least one band must be located not less than 10 mm from the other end of the tobacco column.

119 Standardised cigarette dimensions

The dimensions of a cigarette must comply with the following requirements:

- (a) for the diameter—at least 7.65 mm but not more than 8 mm;
- (b) for the length—at least 82 mm but not more than 85 mm.

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Tobacco product requirements **Chapter 3**
Tobacco products—appearance, physical features and contents **Part 3.12**
Appearance and physical features requirements **Division 1**

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120 Filter tips

Scope

- (1) This section applies to a filter tip, whether the filter tip is:
 - (a) part of a processed tobacco product; or
 - (b) a tobacco product accessory.

Requirements

- (2) The filter tip must:
 - (a) on the outside—be covered by imitation cork filter paper; and
 - (b) on the inside—be coloured white; and
 - (c) be solid and smooth without any recessing, hollowing, raised features, embossing, decorative designs, ridges, bulges or other irregularities.

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Chapter 3 Tobacco product requirements

Part 3.12 Tobacco products—appearance, physical features and contents

Division 2 Content requirements

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Division 2—Content requirements

121 Tobacco products—prohibited ingredients

For the purposes of subsection 87(1) of the Act, a tobacco product must not contain any ingredient set out in the following table.

Tobacco products—prohibited ingredients	
Item	Ingredient
1	Additives that have flavouring properties or that enhance flavour (except an ingredient listed in the table in section 122) An additive is covered by this table item whether the additive: (a) acts naturally or only upon combustion; or (b) acts independently or only in combination with one or more other ingredients; or (c) acts by independently enhancing flavour or by masking other flavours
2	Amino acids that have been added to the product
3	Caffeine
4	Cloves, clove oil, clove extract and eugenol
5	Colouring agents, except those required to: (a) for cigarettes—whiten the paper or to imitate a cork pattern; or (b) for cigarettes—apply the alphanumeric code permitted by section 114; or (c) for cigars—colour a single band around the circumference of a cigar in the colour known as Pantone 448C, or create marks on the band in the colour known as Pantone Cool Gray 2C; or (d) for all tobacco products—meet the requirements for any health warning under Part 3.7 or mandatory marking under Part 3.8
6	Essential fatty acids
7	Fruits, vegetables or any product obtained from the processing of fruit or vegetable, except activated charcoal or starch
8	Glucuronolactone
9	Menthol and menthol derivatives, including but not limited to: (a) I-menthol; and

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Tobacco product requirements **Chapter 3**
Tobacco products—appearance, physical features and contents **Part 3.12**
Content requirements **Division 2**

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Tobacco products—prohibited ingredients

Item	Ingredient
	(b) I-menthone
10	Mineral nutrients, except those necessary to manufacture the tobacco product
11	Probiotics
12	Spices, seasonings or herbs
13	Sugars or sweeteners (except starch) that have been added to the product
14	Synthetic cooling or masking agents, including but not limited to: (a) 2-Isopropyl-N,2,3-trimethylbutanamide (WS-23); and (b) N-Ethyl-p-menthane-3-carboxamide (WS-3)
15	Taurine
16	Vitamins

122 Tobacco products—permitted ingredients

For the purposes of subsection 87(3) of the Act, a tobacco product may contain an ingredient set out in the following table.

Note: Subject to section 121 of this instrument, a tobacco product may contain ingredients in addition to those listed in the following table.

Tobacco products—permitted ingredients

Item	Ingredient
1	Benzoic acid
2	Butylated hydroxytoluene
3	Carboxymethyl cellulose
4	Citric acid
5	Ethanol
6	Fumaric acid
7	Glycerol
8	Glycerol esters of wood rosin
9	Guar gum
10	n-Propyl acetate

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Chapter 3 Tobacco product requirements

Part 3.12 Tobacco products—appearance, physical features and contents

Division 2 Content requirements

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Tobacco products—permitted ingredients

Item	Ingredient
11	Paraffin wax
12	Polyoxyethylene sorbitan monolaurate
13	Propylene glycol
14	Sodium acetate anhydrous
15	Sodium alginate
16	Sorbic acid
17	Triacetin
18	Tributyl acetylcitrate

123 Tobacco products—prohibited devices

For the purposes of section 88 of the Act, a tobacco product must not contain any device that is capable of altering the flavour, smell or intensity of the product, including any card, capsule, bead or mouthpiece.

Example: A ‘crush ball’ or ‘flavour bead’ in a cigarette that is designed or intended to impart a flavour when crushed is not permitted.

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Tobacco product requirements **Chapter 3**
Tobacco products—standards **Part 3.13**

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Part 3.13—Tobacco products—standards

124 Purpose of this Part

This Part prescribes the following requirements in relation to tobacco products:

- (a) performance requirements for the purposes of section 89 of the Act;
- (b) testing requirements for the purposes of section 90 of the Act.

125 Cigarettes—performance requirements

At least 75% of the cigarettes that are tested in a test trial described in section 126 must fail to achieve full-length burns.

126 Cigarettes—testing requirements

- (1) Cigarettes must be tested as part of a test trial in accordance with AS 4830-2007.
- (2) Each test of a cigarette in a test trial must be conducted on 10 layers of filter paper.
- (3) Each test trial must consist of 40 replicated tests.
- (4) Each different kind of cigarette must be tested in a separate test trial.

Note: Cigarettes that use lowered permeability bands must also comply with the requirements in section 118 (lowered permeability bands).

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Chapter 4 Reporting and information disclosure
Part 4.1 Introduction

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Chapter 4—Reporting and information disclosure

Part 4.1—Introduction

127 Simplified outline of this Chapter

The Act requires certain manufacturers and importers of tobacco products (collectively known as reporting entities) to regularly give to the Secretary a number of different reports.

This Chapter prescribes details about the information that is to be included in the tobacco product volumes report.

It also prescribes matters to which the Minister must have regard in deciding whether to publish a report, or part of a report.

Part 4.2—Information to be included in reports

128 Purpose of this Part

This Part prescribes:

- (a) for the purposes of paragraph 144(a) of the Act, details about the information to be included in reports under Chapter 5 of the Act; and
- (b) for the purposes of subsection 145(2) of the Act, matters to which the Minister must have regard in deciding whether to publish a report, or part of a report.

129 Tobacco product volumes report—scope

A tobacco product volumes report required under section 132 of the Act must separately identify the information in the report by reference to each of the following kinds of tobacco products:

- (a) cigarettes;
- (b) cigars;
- (c) loose processed tobacco (including pipe tobacco);
- (d) shisha tobacco products;
- (e) other tobacco products.

130 Tobacco product volumes report—product information

A tobacco product volumes report required under section 132 of the Act must include the following information for each kind of tobacco product:

- (a) the brand name and variant name (if any);
- (b) whether the brand or variant has, at any time before the period covered by the report, been previously sold or supplied in Australia;
- (c) the number of units, mass or volume of the product included in the retail packaging of the product;
- (d) the European Article Number or Universal Product Code for the product;
- (e) the recommended retail price of the product;

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Chapter 4 Reporting and information disclosure

Part 4.2 Information to be included in reports

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- (f) the product's country of origin;
- (g) for the period covered by the report, details of the following amounts (by units of primary packaging and kilograms):
 - (i) the amount imported by the reporting entity;
 - (ii) the amount purchased in Australia by the reporting entity;
 - (iii) the amount returned to the reporting entity;
 - (iv) the amount exported by the reporting entity;
 - (v) the amount sold or supplied by the reporting entity;
 - (vi) the amount destroyed by the reporting entity.

131 Tobacco product volumes report—distribution information

A tobacco product volumes report required under section 132 of the Act must include the following information for each kind of tobacco product:

- (a) the brand name and variant name (if any);
- (b) for the period covered by the report, the amount sold or supplied by the reporting entity (by units of primary packaging and kilograms) in relation to each postcode to which the reporting entity distributed the product.

132 Publication of reports—matters to which Minister must have regard

In making a decision under subsection 145(2) of the Act, the Minister must have regard to the following matters:

- (a) whether the Minister considers that publication would advance the objects of the Act;
- (b) whether publication would involve the publication of personal information (within the meaning of the *Privacy Act 1988*);
- (c) whether publication would involve the publication of a document that is an exempt document, or a conditionally exempt document, within the meaning of the *Freedom of Information Act 1982*;
- (d) whether the Minister considers information in the report to be false, misleading or deceptive.

EXPOSURE DRAFT

Online tobacco advertisement warnings **Schedule 1**
Information to be included in reports **Part 4.2**

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Schedule 1—Online tobacco advertisement warnings

Note: See section 17.

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EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 2 Health warning series—cigarettes and tobacco products other than cigars, pipe tobacco, shisha tobacco and bidis

Part 1 Vertical retail packaging

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Schedule 2—Health warning series—cigarettes and tobacco products other than cigars, pipe tobacco, shisha tobacco and bidis

Note: See Part 3.7.

Part 1—Vertical retail packaging

Health warning 2.1.1

Health warning 2.1.2

Health warning 2.1.3 etc.

EXPOSURE DRAFT

Health warning series—cigarettes and tobacco products other than cigars, pipe tobacco, shisha tobacco
and bidis **Schedule 2**
Horizontal retail packaging **Part 2**

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Part 2—Horizontal retail packaging

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EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 2 Health warning series—cigarettes and tobacco products other than cigars, pipe tobacco, shisha tobacco and bidis

Part 3 Square retail packaging, and square images used on other retail packaging

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Part 3—Square retail packaging, and square images used on other retail packaging

EXPOSURE DRAFT

Health warning series—cigars packaged in cigar tubes **Schedule 3**
Square retail packaging, and square images used on other retail packaging **Part 3**

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Schedule 3—Health warning series—cigars packaged in cigar tubes

Note: See Part 3.7.

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EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 4 Health warning series—cigars other than those packaged in cigar tubes

Part 3 Square retail packaging, and square images used on other retail packaging

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Schedule 4—Health warning series—cigars other than those packaged in cigar tubes

Note: See Part 3.7.

EXPOSURE DRAFT

Health warning series—pipe tobacco **Schedule 5**
Square retail packaging, and square images used on other retail packaging **Part 3**

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Schedule 5—Health warning series—pipe tobacco

Note: See Part 3.7.

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EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 6 Health warning series—shisha tobacco

Part 3 Square retail packaging, and square images used on other retail packaging

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Schedule 6—Health warning series—shisha tobacco

Note: See Part 3.7.

EXPOSURE DRAFT

Health warning series—bidis **Schedule 7**
Square retail packaging, and square images used on other retail packaging **Part 3**

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Schedule 7—Health warning series—bidis

Note: See Part 3.7.

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EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 8 Health promotion inserts—cigarettes and loose tobacco products

Part 3 Square retail packaging, and square images used on other retail packaging

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Schedule 8—Health promotion inserts—cigarettes and loose tobacco products

Note: See Part 3.11.

Health promotion insert 8.1

Health promotion insert 8.2

Health promotion insert 8.3 etc.

EXPOSURE DRAFT

Online e-cigarette advertisement message **Schedule 9**
Square retail packaging, and square images used on other retail packaging **Part 3**

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Schedule 9—Online e-cigarette advertisement message

Note: See section 25.

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EXPOSURE DRAFT