



# **Tobacco Plain Packaging Regulations 2011**

**Select Legislative Instrument No. 263, 2011**

made under the

*Tobacco Plain Packaging Act 2011*

## **Compilation No. 3**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Tobacco Plain Packaging Regulations 2011* that shows the text of the law as amended and in force on 8 December 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1.1.1 Name of Regulations

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

### 1.1.3 Definitions

Note: A number of expressions used in these Regulations are defined in the Act, including the following:

- (a) health warning;
- (b) relevant legislative requirement;
- (c) retail packaging;
- (d) tobacco advertising and promotion;
- (e) tobacco product.

In these Regulations:

*Act* means the *Tobacco Plain Packaging Act 2011*.

*bar code* means a mark containing information about a product in the form of a series of 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 retail packaging.

*cigar* means a roll of cut tobacco for smoking, enclosed in tobacco leaf or the leaf of another plant.

*cigar tube* means a tube for packaging one cigar.

*lowered permeability band*—see subregulation 3.1.1(2).

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

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

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

## Regulation 1.1.4

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

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

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

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

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

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

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

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

### 1.1.4 Purpose

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

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

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

Note 1: The *Tobacco Plain Packaging Act 2011* and these Regulations were temporarily exempted from the operation of the *Trans-Tasman Mutual Recognition Act 1997* under section 46 of that Act and section 109 of the *Tobacco Plain Packaging Act 2011*. The temporary exemption operated from 1 October 2012 until the commencement of the *Trans-Tasman Mutual Recognition Legislation Amendment (Tobacco Plain Packaging) Regulation 2013*.

Note 2: The *Tobacco Plain Packaging Act 2011* and these Regulations are permanently exempted from the operation of the *Trans-Tasman Mutual Recognition Act 1997* under subsection 4(2) and section 45 of that Act, and clause 3 to Part 2 of Schedule 2 to that Act. The permanent exemption began on the commencement of the *Trans-Tasman Mutual Recognition Legislation Amendment (Tobacco Plain Packaging) Regulation 2013*.

## **Part 2—Requirements for retail packaging of tobacco products**

### **Division 2.1—Physical features of retail packaging**

#### **2.1.1 Physical features of cigarette packs**

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

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

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

#### **2.1.2 Physical features of cigarette cartons**

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

#### **2.1.3 Physical features of lining of primary packaging of tobacco products**

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

**Part 2** Requirements for retail packaging of tobacco products

**Division 2.1** Physical features of retail packaging

Regulation 2.1.4

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**2.1.4 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.

**2.1.5 Physical features of other primary packaging**

Primary packaging of tobacco products, other than a cigarette pack or a 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.

**2.1.6 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.



## **Division 2.2—Colour and finish of retail packaging**

### **2.2.1 Colour and finish of primary packaging and secondary packaging**

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

#### *Surfaces of pouches*

- (6) In this regulation:
  - (a) a reference to inner surface of a pouch is a reference to the part of the surface of the pouch that, when the pouch is closed:
    - (i) is in direct contact with, or could come into direct contact with, the tobacco product; or
    - (ii) could come into direct contact with the tobacco product but for a lining or other insert in the pouch; and
  - (b) any other surface of a pouch is taken to be an outer surface.

Note 1: **Pouch** is defined in regulation 1.1.3.

Note 2: Section 19 of the Act sets out other requirements relating to the colour and finish of retail packaging.

## **Division 2.3—Trade marks or marks on retail packaging**

### **2.3.1 Trade marks or marks appearing on retail packaging**

- (1) The following are permitted to appear on primary packaging and secondary packaging:
  - (a) one or more origin marks in accordance with regulation 2.3.2;
  - (b) one or more calibration marks in accordance with regulation 2.3.3;
  - (c) a measurement mark and trade description in accordance with regulation 2.3.4;
  - (d) a bar code in accordance with regulation 2.3.5;
  - (e) a fire risk statement in accordance with regulation 2.3.6;
  - (f) a locally made product statement in accordance with regulation 2.3.7;
  - (g) a name and address in accordance with regulation 2.3.8.
- (2) In addition to subregulation (1), a consumer contact telephone number in accordance with regulation 2.3.9 may appear on primary packaging.
- (2A) In addition to subregulation (1):
  - (a) a primary packaging track and trace identifier in accordance with regulation 2.3.10 may appear on primary packaging; and
  - (b) a secondary packaging track and trace identifier in accordance with regulation 2.3.11 may appear on secondary packaging.
- (3) One or more calibration marks in accordance with regulation 2.3.3 may appear on a plastic or other wrapper that covers primary packaging or secondary packaging or that covers a tobacco product that is for retail sale.
- (4) In addition to subregulation (3):
  - (a) one or more origin marks in accordance with regulation 2.3.2 may appear on a plastic or other wrapper that covers a tobacco product that is for retail sale; and
  - (b) the following marks may appear on a plastic or other wrapper that covers more than one item of primary packaging:
    - (i) a measurement mark and trade description in accordance with regulation 2.3.4;
    - (ii) a bar code in accordance with regulation 2.3.5;
    - (iii) a fire risk statement in accordance with regulation 2.3.6;
    - (iv) one or more marks to conceal bar codes in accordance with regulation 2.5.1.
- (5) The trade mark or mark mentioned in subregulation (1), (2), (2A), (3) or (4) must not:
  - (a) obscure any relevant legislative requirement; or
  - (b) constitute tobacco advertising and promotion; or
  - (c) provide access to tobacco advertising and promotion.

### 2.3.2 Origin mark

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

### 2.3.3 Calibration mark

A calibration mark on retail packaging of tobacco products:

- (a) must appear only as necessary for the automated manufacture of the packaging; and
- (b) if visible or otherwise detectable on the packaging—must be as inconspicuous as possible consistent with the calibration mark's function in the manufacturing process.

### 2.3.4 Measurement mark and trade description

- (1) A measurement mark or trade description on primary packaging or secondary packaging must be printed:
  - (a) in the typeface known as Lucida Sans; and
  - (b) for the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009*—no larger than the minimum size required by those Regulations; and
  - (c) for any other measurement mark or trade description—no larger than 10 points in size; and
  - (d) in normal weighted regular font; and
  - (e) in the colour known as Pantone Cool Gray 2C.
- (2) A measurement mark or trade description on a plastic or other wrapper that covers more than one item of primary packaging must be printed:
  - (a) in white; and
  - (b) on a black rectangular background.

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- (3) For a cigarette pack or cigarette carton:
  - (a) the name and address required by Division 4.3 of the *National Trade Measurement Regulations 2009* must:
    - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
    - (ii) appear only once on that surface; and
  - (b) the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* may appear once on no more than 2 of the front, top and bottom outer surfaces of the pack or carton; and
  - (c) the trade description must:
    - (i) appear only on the side outer surface of the pack or carton that does not bear a health warning; and
    - (ii) appear only once on that surface.
- (4) For retail packaging of tobacco products other than a cigarette pack or cigarette carton:
  - (a) the name and address required by Division 4.3 of the *National Trade Measurement Regulations 2009* must appear only once on the packaging; and
  - (b) the statement of measurement required by Division 4.4 of the *National Trade Measurement Regulations 2009* may appear once on no more than 2 surfaces of the packaging; and
  - (c) the trade description must appear only once on the packaging.

### 2.3.5 Bar code

- (1) A bar code must:
  - (a) appear only once on the retail packaging; and
  - (b) for a cigarette pack or cigarette carton—appear only on the side outer surface of the pack or carton that does not bear a health warning; and
  - (c) be printed in either:
    - (i) black and white; or
    - (ii) the colour known as Pantone 448C and white; and
  - (d) be rectangular in shape.
- (2) The bar code must not form a picture, symbol or design.
- (3) For a plastic or other wrapper covering more than one item of primary packaging, the bar code may be:
  - (a) included on an adhesive label fastened firmly to the wrapper so as not to be easily removable; or
  - (b) printed on the wrapper.
- (4) For paragraph (3)(a), an adhesive label is easily removable if:
  - (a) it is not likely to stay fastened during the expected life of the wrapper; or
  - (b) it can be removed without damaging the label or the wrapper.

### 2.3.6 Fire risk statement

- (1) The following requirements apply to a fire risk statement on primary packaging or secondary packaging:
  - (a) the text of the statement must be printed:
    - (i) in the typeface known as Lucida Sans; and
    - (ii) no larger than 10 points in size; and
    - (iii) in normal weighted regular font; and
    - (iv) in the colour known as Pantone Cool Gray 2C;
  - (b) for a cigarette pack—the statement must be placed beneath the health warning on the back outer surface of the pack;
  - (c) for a cigarette carton—the statement must be placed on the back outer surface of the carton.
- (2) A fire risk statement on a plastic or other wrapper that covers more than one item of primary packaging must be printed:
  - (a) in white; and
  - (b) on a black rectangular background.
- (3) The fire risk statement may be included on an adhesive label on retail packaging of tobacco products (other than an insert or onsert) if the background of the adhesive label is the colour known as Pantone 448C and the adhesive label is permitted by:
  - (a) regulation 14 of the *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*; or
  - (b) a safety standard made under section 104, or declared under section 105, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk; or
  - (c) an information standard made under section 134, or declared under section 135, of Schedule 2 to the *Competition and Consumer Act 2010*, to the extent that the standard relates to fire risk.
- (4) However, if an adhesive label mentioned in subregulation (3) is on a plastic or other wrapper covering more than one item of primary packaging, the background of the adhesive label must be black.

### 2.3.7 Locally made product statement

- (1) If a tobacco product is made or produced in Australia, the primary packaging and secondary packaging of the product may include one sentence to that effect stating any of the following:
  - (a) the product's country of origin;
  - (b) the country of origin for components of the product;
  - (c) that components of the product are imported;but must not otherwise describe the product or the components of the product.

**Part 2** Requirements for retail packaging of tobacco products

**Division 2.3** Trade marks or marks on retail packaging

**Regulation 2.3.8**

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Example

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

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

**2.3.8 Marking of name and address on packaging**

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

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

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

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

**2.3.9 Consumer contact telephone number**

- (1) A consumer contact telephone number:
- (a) must be printed:
    - (i) in the typeface known as Lucida Sans; and
    - (ii) no larger than 10 points in size; and
    - (iii) in normal weighted regular font; and
    - (iv) in the colour known as Pantone Cool Gray 2C; and
  - (b) must only:

- (i) appear as numerals or as any combination of numerals, hyphens and brackets; and
  - (ii) be prefaced with the abbreviation “Phone:” or “Ph:”, exactly in one of those forms; and
  - (iii) appear once on the primary packaging; and
  - (iv) for a cigarette pack—appear on the side outer surface of the pack that does not bear a health warning; and
  - (v) for other retail packaging that is marked with a name and address in accordance with regulation 2.3.4 or 2.3.8—appear on the same surface as the name and address; and
- (c) must not:
- (i) be false, misleading, deceptive or likely to create an erroneous impression about the characteristics, health effects, hazards or emissions of the tobacco product; or
  - (ii) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or
  - (iii) represent, or be linked or related in any way to, the emission yields of the tobacco product, such as tar, nicotine or carbon monoxide; or
  - (iv) represent, or be related in any way to, the brand or variant name of the tobacco product.

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

### **2.3.10 Primary packaging track and trace identifiers**

#### *Cigarette packs*

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

#### *Retail packaging of tobacco products other than cigarette packs*

- (2) A primary packaging track and trace identifier on primary packaging of tobacco products other than a cigarette pack:
  - (a) must appear only once on the packaging; and

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

*Adhesive labels*

- (3) An adhesive label mentioned in subparagraph (2)(b)(i) must:
  - (a) be transparent and not coloured; or
  - (b) be the colour known as Pantone 448C.
- (4) For the purposes of subparagraph (2)(b)(i), an adhesive label is easily removable if:
  - (a) the adhesive label is not likely to stay fastened during the expected life of the packaging; or
  - (b) the adhesive label can be removed without damaging the label or the packaging.

**2.3.11 Secondary packaging track and trace identifiers**

*Cigarette cartons*

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



(f) be printed on a background that is the colour known as Pantone 448C.

*Retail packaging of tobacco products other than cigarette cartons*

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

*Adhesive labels*

- (3) An adhesive label mentioned in subparagraph (1)(c)(i) or (2)(b)(i) must:
- (a) be transparent and not coloured; or
  - (b) be the colour known as Pantone 448C.
- (4) For the purposes of subparagraphs (1)(c)(i) and (2)(b)(i), an adhesive label is easily removable if:
- (a) the adhesive label is not likely to stay fastened during the expected life of the packaging; or
  - (b) the adhesive label can be removed without damaging the label or the packaging.

## **Division 2.4—Brand, business, company and variant names**

### **2.4.1 Appearance of names on retail packaging of cigarettes**

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

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

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

### **2.4.2 Appearance of names on other retail packaging**

- (1) This regulation applies to retail packaging of tobacco products other than:
  - (a) retail packaging of cigarettes; and
  - (b) a plastic or other wrapper that covers primary packaging, secondary packaging or a tobacco product that is for retail sale.
- (2) Any brand, business or company name, or any variant name, appearing on the retail packaging, must be printed on the packaging, or on an adhesive label fixed to the packaging in accordance with subregulation (3), in accordance with the following requirements:
  - (a) in the typeface known as Lucida Sans;
  - (b) for a brand, business or company name—no larger than 14 points in size;
  - (c) for a variant name—no larger than 10 points in size;
  - (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.
- (3) For subregulation (2), the adhesive label:
  - (a) must be in the colour known as Pantone 448C; and
  - (b) must be no larger than reasonably necessary to print the brand, business or company name, and any variant name, in the typeface and size mentioned in paragraphs (2)(a) to (c); and
  - (c) must be fastened firmly to the retail packaging so as not to be easily removable; and
  - (d) must not obscure any relevant legislative requirement.

- (4) For paragraph (3)(c), an adhesive label is easily removable if:
- (a) it is not likely to stay fastened during the expected life of the retail packaging; or
  - (b) it can be removed without damaging the label or the retail packaging.

### **2.4.3 Location of names on cigar tubes**

- (1) Any brand, business or company name, or any variant name, appearing on a cigar tube:
- (a) must not obscure any relevant legislative requirement; and
  - (b) must appear only once on the cigar tube; and
  - (c) must appear across one line only.
- (2) The orientation of the names must appear as follows:
- (a) if the cigar tube contains a brand, business or company name but no variant name—the name must appear in the same orientation as, and immediately below, the health warnings on the surface;
  - (b) if the cigar tube contains a variant name only—the variant name must appear in the same orientation as, and immediately below, the health warnings on the surface;
  - (c) if the cigar tube contains a variant name and the brand, business or company name:
    - (i) the brand, business or company name must appear in the same orientation as, and immediately below, the health warnings on the surface; and
    - (ii) the variant name must appear parallel to, in the same orientation as, and immediately below the brand, business or company name.

### **2.4.4 Location of names on other retail packaging**

- (1) This regulation applies to retail packaging of tobacco products other than cigarette packs, cigarette cartons and cigar tubes.
- Note: The location of names on cigarette packs and cigarette cartons is set out in section 21 of the Act.
- (2) Any brand, business or company name, or any variant name, appearing on the retail packaging:
- (a) must not obscure any relevant legislative requirement; and
  - (b) must appear across one line only; and
  - (c) must not appear more than once on each surface identified as a front outer surface or back outer surface by the *Competition and Consumer (Tobacco) Information Standard 2011*; and
  - (d) may appear only on the surfaces mentioned in paragraph (c); and
  - (e) must appear in the same orientation as, and not above, the health warnings on the surface; and
  - (f) for a variant name—must appear parallel to, in the same orientation as and immediately below the brand, business or company name.

## **Division 2.5—Wrappers**

### **2.5.1 Mark on wrapper to conceal bar codes**

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

### **2.5.2 Tear strips on wrappers**

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

## **Division 2.6—Inserts and onserts**

### **2.6.1 Adhesive label health warnings**

Retail packaging of tobacco products may include an adhesive label bearing a health warning that complies with either of the following:

- (a) the *Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 2004* (before 1 December 2012);
- (b) the *Competition and Consumer (Tobacco) Information Standard 2011*.

### **2.6.2 Inserts to avoid damage to tobacco products**

- (1) Retail packaging of tobacco products, other than cigarette packs or cigarette cartons, 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) white; or
  - (b) the colour of the packaging material in its natural state.

Note: A lining in the retail packaging of a tobacco product, other than a cigarette pack, is an insert.

### **2.6.3 Tabs for resealing tobacco products**

- (1) Primary packaging of tobacco products, other than cigarette packs, may include a tab for resealing the packaging.
- (2) The tab must be entirely:
  - (a) black; or
  - (b) transparent and not coloured; or
  - (c) the colour known as Pantone 448C.
- (3) The tab must not obscure any relevant legislative requirement.

## Part 3—Requirements for appearance of tobacco products

### Division 3.1—Appearance of cigarettes

#### 3.1.1 Paper casing for cigarettes

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

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

#### 3.1.2 Alphanumeric code on cigarettes

- (1) A cigarette may be marked with an alphanumeric code.
- (2) The alphanumeric code must:
  - (a) appear only once on the cigarette; and
  - (b) be printed:
    - (i) parallel to, and not more than 38 mm from, the end of the cigarette that is not designed to be lit; and
    - (ii) in the typeface known as Lucida Sans; and
    - (iii) no larger than 8 points in size; and
    - (iv) in normal weighted regular font; and
    - (v) in black.
- (3) The alphanumeric code must not:
  - (a) constitute tobacco advertising and promotion; or
  - (b) provide access to tobacco advertising and promotion; or
  - (c) be false, misleading, deceptive or likely to create an erroneous impression about the cigarette's characteristics, health effects, hazards or emissions; or
  - (d) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or
  - (e) represent, or be linked or related in any way to, the emission yields of the cigarette, such as tar, nicotine or carbon monoxide; or
  - (f) represent, or be related in any way to, the brand or variant name of the cigarette.

#### 3.1.3 Colour of filter tip of cigarettes

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

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**Division 3.2—Appearance of other tobacco products****3.2.1 Appearance of cigars**

- (1) A single band may appear around the circumference of a cigar if it is the colour known as Pantone 448C and it complies with this regulation.
- (2) The band may be an adhesive band:
  - (a) that completely covers another band or bands; and
  - (b) that is fastened firmly to, and not easily removable from, the band or bands it covers.
- (3) The following marks may appear on the band:
  - (a) the brand, company or business name and variant name of the cigar in accordance with subregulations (5) and (6);
  - (b) the name of the country in which the cigar was made or produced in accordance with subregulation (5);
  - (c) an alphanumeric code in accordance with subregulations (5) and (7).
- (4) The band may also contain a covert mark:
  - (a) that is not visible to the naked eye; and
  - (b) that does not provide access to tobacco advertising and promotion.
- (5) The marks mentioned in subregulation (3) 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 10 points in size; and
    - (iii) in normal weighted regular font; and
    - (iv) in the colour known as Pantone Cool Gray 2C.
- (6) The brand, business or company name and variant name must be placed horizontally along the length of the band so that they run around the circumference of the cigar.
- (7) The alphanumeric code must not:
  - (a) constitute tobacco advertising and promotion; or
  - (b) provide access to tobacco advertising and promotion; or
  - (c) be false, misleading, deceptive or likely to create an erroneous impression about the cigar's characteristics, health effects, hazards or emissions; or
  - (d) directly or indirectly create a false impression that a particular tobacco product is less harmful than other tobacco products; or
  - (e) represent, or be linked or related in any way to, the emission yields of the cigar, such as tar, nicotine or carbon monoxide.
- (8) To avoid doubt, if a band (a **non-compliant band**) is completely covered by an adhesive band that complies with subregulation (2) so that the non-compliant

**Part 3** Requirements for appearance of tobacco products

**Division 3.2** Appearance of other tobacco products

**Regulation 3.2.2**

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band is not visible on the cigar, the requirements for bands in this regulation do not apply to the non-compliant band.

**3.2.2 Threads on bidis**

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



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Number and year</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
263, 2011	12 Dec 2011 (F2011L02644)	1 Oct 2012 (r 1.1.2)	
29, 2012	13 Mar 2012 (F2012L00563)	1 Oct 2012 (s 2)	—
225, 2013	7 Aug 2013 (F2013L01527)	Sch 1 (item 1): 8 Aug 2013 (s 2)	—

  

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Tobacco Plain Packaging Amendment (Track and Trace Identifiers) Regulations 2018	7 Dec 2018 (F2018L01706)	8 Dec 2018 (s 2(1) item 1)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
r 1.1.2 .....	rep LA s 48D
r 1.1.3 .....	am No 29, 2012; F2018L01706
r 1.1.5 .....	am No 225, 2013
r 1.1.6 .....	rep No 29, 2012
<b>Part 2</b>	
<b>Division 2.1</b>	
r 2.1.3 .....	am No 29, 2012
r 2.1.4 .....	ad No 29, 2012
r 2.1.5 .....	ad No 29, 2012
r 2.1.6 .....	ad No 29, 2012
<b>Division 2.2</b>	
r 2.2.1 .....	am No 29, 2012
<b>Division 2.3</b>	
r 2.3.1 .....	am F2018L01706
r 2.3.4 .....	am No 29, 2012
r 2.3.5 .....	am No 29, 2012
r 2.3.9 .....	am No 29, 2012
r 2.3.10 .....	ad F2018L01706
r 2.3.11 .....	ad F2018L01706
<b>Division 2.4</b>	
r 2.4.2 .....	ad No 29, 2012
r 2.4.3 .....	ad No 29, 2012
r 2.4.4 .....	ad No 29, 2012
<b>Division 2.6</b>	
Division 2.6 .....	ad No 29, 2012
r 2.6.1 .....	ad No 29, 2012
r 2.6.2 .....	ad No 29, 2012
r 2.6.3 .....	ad No 29, 2012
<b>Part 3</b>	
<b>Division 3.2</b>	
Division 3.2 .....	ad No 29, 2012
r 3.2.1 .....	ad No 29, 2012
r 3.2.2 .....	ad No 29, 2012