

AUSTRALIAN CAPITAL TERRITORY

Tobacco Products (Health Warnings) Ordinance 1986

No. 49 of 1986

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 20 August 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to provide for the printing of health warnings on containers in which certain tobacco products are packaged

Short title

1. This Ordinance may be cited as the *Tobacco Products (Health Warnings) Ordinance 1986*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Interpretation

3. (1) In this Ordinance, unless the contrary intention appears—

“brand name”, in relation to a container or a carton, or a label on a carton, means the brand name of the tobacco product in the container or carton;

“carton” means a carton or outer wrapping referred to in sub-section 5 (1);

“container” means a container or wrapping referred to in sub-section 4 (1);

“prescribed phrase” means the phrase referred to in sub-section 4 (1);

“tobacco product” means pipe tobacco, roll-your-own tobacco, or cigarettes or cigars containing tobacco;

“warning” means a warning specified in sub-section 4 (1).

(2) In this Ordinance—

- (a) a reference to a container or a carton shall not be read as including a reference to—
 - (i) a carton or wrapping in which are packed 2 or more cartons or outer wrappings referred to in sub-section 5 (1); or
 - (ii) any transparent outer wrapping; and
- (b) a reference to a tobacco product shall not be read as including a reference to a cigar sold individually or to snuff or plug tobacco.

Tobacco product containers

4. (1) The phrase “Health Authority warning”, and one of the following warnings, shall appear on every container or wrapping in which a tobacco product is packaged:

“SMOKING CAUSES LUNG CANCER”

“SMOKING CAUSES HEART DISEASE”

“SMOKING DAMAGES YOUR LUNGS”

“SMOKING IS ADDICTIVE”.

(2) A warning shall be printed, within a bordered panel of which the area is at least 15 per cent of the area of the face of the container on which the warning appears, in 4mm/14pt Helvetica Bold condensed type.

(3) The prescribed phrase shall be printed within the same bordered panel as a warning, in 2mm/7pt Helvetica Roman type.

(4) Notwithstanding sub-sections (2) and (3), where a bordered panel occupying 15 per cent of a face of a container, being a face on which a warning and the prescribed phrase are required to be printed, is too small to accommodate the warning and prescribed phrase printed in the respective types specified in those sub-sections, the warning shall be printed in the maximum size of type practicable within the space available, and the prescribed phrase shall be printed in a type that is half the size of the type in which the warning is printed.

(5) A warning and the prescribed phrase shall be printed in a colour that makes a distinct contrast with the colour of the background on which they appear, but may be printed in a colour that appears elsewhere on the container.

(6) A warning and the prescribed phrase shall be printed on each of 2 faces of a container, being the faces greatest in area on which the brand name appears.

Cartons

5. (1) Subject to sub-sections (2), (3) and (4), section 4 applies in relation to a carton, or outer wrapping, in which 2 or more containers are packed as if the references in that section to a container were references to the carton or outer wrapping.

(2) Where—

- (a) a carton is sealed by means of a label or labels affixed to it; and
- (b) the brand name appears on one or more of the labels but not on the carton,

the carton shall be taken to comply with sub-section 4 (6) if—

- (c) where the brand name appears on one label—a warning and the prescribed phrase appear, as otherwise required by this Ordinance—
 - (i) on the label; and
 - (ii) on the face of the carton opposite the face on which the label is affixed; and
- (d) where the brand name appears on 2 or more labels—a warning and the prescribed phrase appear, as otherwise required by this Ordinance, on at least 2 labels on which the brand name appears.

(3) The area of a bordered panel referred to in sub-section 4 (2) may be less than 15 per cent of the area of the face of the carton, or the label, on which the bordered panel appears.

(4) A warning and the prescribed phrase shall appear on a face of a carton, or on a label, in a position as prominent as the position in which the brand name appears on the face, or the label, and may be printed in a type larger than the types specified in sub-sections 4 (2) and (3) respectively.

Rotation of warnings

6. A person who imports tobacco products into the Territory, or who packs tobacco products, for sale or for advertising purposes, shall ensure that, within each calendar year, each warning specified in sub-section 4 (1) appears on 25 per cent of the containers and of any cartons in which each brand of each type of tobacco product is packaged.

- Penalty: (a) in the case of a body corporate—\$2,500; and
(b) in the case of a natural person—\$500.

Offences

7. (1) A person shall not—

- (a) sell a tobacco product, or expose a tobacco product for sale; or
- (b) for advertising purposes, give a tobacco product, or cause a tobacco product to be given, to another person,

unless—

- (c) the tobacco product is in a container;
- (d) the container complies with section 4; and
- (e) any carton on which the container is packed complies with sections 4 and 5.

- Penalty: (a) in the case of a body corporate—\$2,500; and
(b) in the case of a natural person—\$500.

(2) A person shall not—

- (a) sell a tobacco product, or expose a tobacco product for sale; or
- (b) for advertising purposes, give a tobacco product, or cause a tobacco product to be given, to another person,

if the tobacco product is in a container on which the words “non-injurious”, “non-hazardous”, or any other words that convey, or tend to convey, an indication that smoking is not a hazard to health, or on which any words which expressly or by implication contradict, qualify or modify a warning appearing on the container, appear.

- Penalty: (a) in the case of a body corporate—\$5,000; and
(b) in the case of a natural person—\$1,000.

Repeal

8. The *Cigarette Containers (Labelling) Ordinance 1972* is repealed.

Transition

9. (1) This Ordinance does not apply in relation to a tobacco product manufactured in Australia if the tobacco product is delivered to a retailer before the date of commencement of this Ordinance and sold by retail within the period of 2 months beginning on that date.

(2) This Ordinance does not apply during the period of 2 months beginning on the date of commencement of the Ordinance in relation to a tobacco product manufactured outside Australia.

(3) The *Cigarette Containers (Labelling) Ordinance 1972* continues to apply in relation to cigarettes sold, or given for advertising purposes, during the period of 2 months beginning on the date of commencement of this Ordinance as if the first-mentioned Ordinance had not been repealed.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 28 August 1986.