



AUSTRALIAN CAPITAL TERRITORY

## **Tobacco Products (Health Warnings) (Amendment) Act 1993**

No. 85 of 1993

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### **An Act to amend the *Tobacco Products (Health Warnings) Act 1986***

*[Notified in ACT Gazette S244: 3 December 1993]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

**1.** This Act may be cited as the *Tobacco Products (Health Warnings) (Amendment) Act 1993*.

#### **Commencement**

**2. (1)** Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

**(2)** Subject to subsection (3), the remaining provisions commence on 1 April 1994.

**(3)** Paragraph 4 (1) (c) of the Principal Act as amended by this Act commences on 1 July 1994.

### **Principal Act**

3. In this Act, “Principal Act” means the *Tobacco Products (Health Warnings) Act 1986*.<sup>1</sup>

### **Repeal**

4. Section 2 of the Principal Act is repealed.

### **Interpretation**

5. Section 3 of the Principal Act is amended by—

(a) omitting from subsection (1) the definition of “tobacco product” and substituting the following definition:

“ ‘tobacco product’ means tobacco, a cigarette or cigar or any other product—

- (a) a substantial ingredient of which is tobacco; and
- (b) that is designed for human consumption or use;

but excludes nicotine and any product containing nicotine to which the *Poisons Act 1933* applies.”;

(b) by omitting from subsection (1) the definitions of “prescribed phrase” and “warning”;

(c) by inserting in subsection (1) the following definitions:

“ ‘package’, in relation to a tobacco product, means a package—

- (a) in which the product is packed by the manufacturer; and
- (b) that immediately contains the product;

‘prescribed information’ means the prescribed information in clause 1 of Schedule 3;

‘prescribed warning’ means a warning consisting of Parts A and B of an item in Schedule 2;

‘required labelling’ means the labelling described in, or determined under, section 4;

‘sell’ includes—

- (a) barter or exchange;
- (b) offer or expose for sale, barter or exchange;

- (c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
  - (d) supply, or offer to supply, gratuitously with a view to gaining or maintaining custom or otherwise with a view to commercial gain;” and
- (d) by omitting subsection (2) and substituting the following subsections:

“(2) A reference in this Act to the surface of a package is a reference to the external surface of the package.

“(3) If a package is individually wrapped in material that is not wholly transparent so as to allow the required labelling on the package to be readable, a reference in this Act (except section 7) to a package is to be taken to include a reference to that material.”.

### **Substitution**

6. Sections 4 to 8 (inclusive) of the Principal Act are repealed and the following sections and Schedules substituted:

### **Labelling of packages**

“4. (1) A package in a class specified in Column A of an item in Schedule 1 shall be labelled—

- (a) subject to section 6, with Part A of a prescribed warning—
  - (i) positioned in the manner, and filling the area on the package, specified in Column B of that item; and
  - (ii) bordered by a black line;
- (b) with Part B of that prescribed warning—
  - (i) positioned in the manner, and filling the area on the package, specified in Column C of that item; and
  - (ii) bordered by a black line; and
- (c) with the prescribed information—
  - (i) positioned in the manner, and filling the area on the package, specified in Column D of that item; and
  - (ii) bordered by a black line.

“(2) A class of package not specified in Column A of Schedule 1 shall be referred to the Minister for a determination under subsection (3).

“(3) The Minister shall, on referral, determine in writing—

- (a) whether the whole, specified portions, or none, of the prescribed warnings and the prescribed information shall be required labelling for the class of package; and
- (b) the position of the required labelling and the area to be occupied by it on a package in that class (being not less than 25% and not greater than 30% of the area of a package).

“(4) A package in a class that is the subject of a determination under subsection (3) shall be labelled in accordance with the determination.

### **Type and appearance of required labelling**

“(5. (1) The required labelling on a package shall be in black Helvetica type on a white background.

“(2) The size of the type shall be consistent within each of the following:

- (a) Part A of a prescribed warning;
- (b) Part B of a prescribed warning;
- (c) the prescribed information.

“(3) A word or number in a prescribed warning or the prescribed information that appears in this Act in bold type or upper case shall appear in the required labelling on a package similarly in bold type or upper case.

“(4) The area on a package required to be occupied by required labelling shall not contain any matter other than that required by this Act.

“(5) The black line bordering a Part of a prescribed warning or the prescribed information shall be not less than 0.3 millimetres and not greater than 0.5 millimetres thickness.

### **Rotation of warnings**

“6. Where the required labelling for a class of package includes the whole, a Part, or any other portion, of a prescribed warning, a person who manufactures or imports tobacco products in that class of package shall ensure that each prescribed warning or the required Part or portion of each prescribed warning, as the case may be, is used in labels on packages in that class with equal frequency during any 12 month period beginning on 1 July.

Penalty:

- (a) if the offender is a natural person—\$500;
- (b) if the offender is a body corporate—\$2,500.

### **Completing the prescribed information**

“7. (1) For the purpose of making the necessary insertions to complete the prescribed information on a package of cigarettes, the amount of tar, nicotine and carbon monoxide contained in the smoke from cigarettes in the package shall be determined in accordance with—

- (a) the following ISO standards:  
ISO 8243:1991; ISO 3402:1991; ISO 3308:1991; ISO 4387:1991;  
ISO 10315:1991; ISO 10362:1991; ISO 8454:1987; or
- (b) if the manufacturer notifies the Minister in writing of the standards proposed to be used—any other ISO standards for determining the tar, nicotine and carbon monoxide content of cigarette smoke.

“(2) The Minister shall publish the reference number of any standard notified under paragraph (1) (b) in the *Gazette*.

“(3) In this section—

‘ISO standard’ means a standard of the International Organization for Standardization;

‘reference number’, in relation to an ISO standard, means the letters ‘ISO’ followed by a number.

### **Required labelling not to be removable etc.**

“8. (1) No portion of the required labelling on a package shall be able to be removed from the package.

“(2) No portion of the required labelling on a package shall be destroyed or become unreadable when the package is opened in the normal way.

**Prohibited words**

“9. (1) In this section—

‘prohibited words’ means words that—

- (a) contradict or tend to contradict the content of any required labelling on a package;
- (b) comment on, refer to, or explain the content of or the requirement for any required labelling on a package; or
- (c) directly or indirectly attribute the content of Part A of a prescribed warning to any person.

“(2) A package shall not be labelled with or bear prohibited words.

“(3) A package shall not be sold containing anything on which there are prohibited words.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

**Containers without warnings**

“10. A person shall not sell a tobacco product unless it is in a package that complies with this Act.

Penalty:

- (a) if the offender is a natural person—\$5,000 or imprisonment for 6 months, or both;
  - (b) if the offender is a body corporate—\$25,000.
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## SCHEDULE 1

Section 4

## LABELLING REQUIREMENTS FOR PACKAGES

Column A	Column B	Column C	Column D
CLASS OF PACKAGE	POSITION OF PART A OF PRESCRIBED WARNING AND AREA TO BE OCCUPIED BY IT	POSITION OF PART B OF PRESCRIBED WARNING AND AREA TO BE OCCUPIED BY IT	POSITION OF PRESCRIBED INFORMATION AND AREA TO BE OCCUPIED BY IT
1. Box or packet with flip-top, or square or rectangular box or tin, containing cigarettes. (This class includes packages known in the trade as “shell and slide” and ones known as “hinge lid”.)	<b>Position:</b> On the front of the package at the top and across the full width of the package. <b>Area:</b> Not less than 25% of the whole of the front of the package.	<b>Position:</b> On the back of the package at the top and across the full width of the package. <b>Area:</b> Not less than $\frac{1}{3}$ of the whole of the back of the package.	<b>Position:</b> On one of the long sides of the package. <b>Area:</b> The whole of the long side of the package excluding the part that forms part of the lid (if any).
2. Soft packet (known in the trade as “soft cup”) containing cigarettes.	<b>Position:</b> On the front of the package not more than 15 mm below the top of the package and across the full width of the package. <b>Area:</b> Not less than 25% of the whole of the front of the package.	<b>Position:</b> On the back of the package not more than 15 mm below the top of the package and across the full width of the package. <b>Area:</b> Not less than $\frac{1}{3}$ of the whole of the back of the package.	<b>Position:</b> On one of the long sides of the package. <b>Area:</b> The whole of the long side of the package.

**SCHEDULE 1**—continued

3. Pouch or wallet containing loose tobacco.	<p><b>Position:</b> On the front of the package at the top and across the full width of the package.</p> <p><b>Area:</b> Not less than 25% of the whole of the front of the package.</p>	<p><b>Position:</b> On the back of the package but not on any flap that folds over the back.</p> <p><b>Area:</b> Not less than <math>\frac{1}{3}</math> of the whole of the back of the package.</p>	Not required.
4. Box or tin containing loose tobacco.	<p><b>Position:</b> On the lid of the package.</p> <p><b>Area:</b> Not less than 25% of the whole of the lid of the package.</p>	<p><b>Position:</b> On the back of the box or tin.</p> <p><b>Area:</b> Not less than <math>\frac{1}{3}</math> of the whole of the back of the package.</p>	Not required.
5. Box or tin containing cigars.	<p><b>Position:</b> On the front of the package.</p> <p><b>Area:</b> Not less than 25% of the whole of the front of the package.</p>	Not required.	Not required.
6. Individual cigars.	Not required.	Not required.	Not required.

**SCHEDULE 2**

Sections 4, 5 and 6

**PRESCRIBED WARNINGS**

**Part A**

**Part B**

**1. SMOKING CAUSES  
LUNG CANCER**

**HEALTH AUTHORITY WARNING**

**LUNG CANCER.** Tobacco smoke contains many cancer-causing chemicals. When the smoke is breathed in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer usually grows and spreads before it is noticed. In most cases, it kills rapidly.

**For help call the Quit Line: 13 1848**

**2. SMOKING CAUSES  
HEART DISEASE**

**HEALTH AUTHORITY WARNING**

**HEART DISEASE.** Tobacco smoking is a major cause of heart disease. It is a cause of blockages in the body's arteries, which can lead to chest pain and heart attack. Heart attack is the most common cause of death in Australia. Smokers have double the chance of a heart attack compared to people who don't smoke.

**For help call the Quit Line: 13 1848**

**3. SMOKING KILLS**

**HEALTH AUTHORITY WARNING**

**DEATH.** Tobacco smoking causes more illness and early death than the use of any other drug in Australia. It kills almost three times as many people as are killed by alcohol and all other drugs, combined. Six times more people die from the effects of smoking each year than from car accidents.

**For help call the Quit Line: 13 1848**

**4. YOUR SMOKING CAN  
HARM OTHERS**

**HEALTH AUTHORITY WARNING**

**HARM TO OTHERS.** Other people who breathe your tobacco smoke can be harmed. Your smoking can increase their risk of lung cancer and heart disease. Children who breathe your smoke are more likely to be taken to hospital with asthma, and chest illnesses.

**For help call the Quit Line: 13 1848**

**5. SMOKING IS  
ADDICTIVE**

**HEALTH AUTHORITY WARNING**

**ADDICTION.** Tobacco smoking is addictive. Nicotine, a drug in tobacco, makes smokers feel like they need to smoke. The more you smoke, the more your body will depend on getting nicotine, and you can find yourself hooked. Strong cravings for nicotine can make it difficult to give up.

**For help call the Quit Line: 13 1848**

**6. SMOKING WHEN  
PREGNANT  
HARMS YOUR BABY**

**HEALTH AUTHORITY WARNING**

**HARM TO UNBORN BABIES.** Tobacco smoking in pregnancy can harm the unborn child. Poisons in cigarette smoke reach the baby through the bloodstream. If you smoke when you are pregnant you double the chance of having a baby of low birth-weight. This risks the baby's health.

**For help call the Quit Line: 13 1848**

**SCHEDULE 3**

Section 4

**PRESCRIBED INFORMATION**

The following, with such insertions as are necessary due to the contents of the package, is the prescribed information:

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**The smoke from each cigarette\* contains:**

**...milligrams of tar** (condensed tobacco smoke containing many chemicals, including some that cause cancer);

**...milligrams of nicotine** (a poison and addictive drug);

**...milligrams of carbon monoxide** (a deadly gas which reduces the ability of blood to carry oxygen).

\*individual cigarettes may vary from this yield

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**First rotation period**

7. The first period to which section 6 of the Principal Act as amended by this Act applies is the period beginning on the day on which the provisions referred to in subsection 2 (2) of this Act commence and ending at the expiration of 30 June 1995.

**Transitional**

8. (1) It is a defence to a charge for an offence against the Principal Act alleged to have been committed on or after the day on which this Act is notified in the *Gazette* and before the day on which the provisions referred to in subsection 2 (2) of this Act commence to prove that the labelling on a package would have complied with the Principal Act as amended by this Act.

(2) It is a defence to a charge for an offence against the Principal Act as amended by this Act alleged to have been committed during the 3 month period beginning on the day on which the provisions referred to in subsection 2 (2) of this Act commence to prove that the labelling on a package would have complied with the Principal Act.

**NOTE**

1. Reprinted as at 31 July 1991.

*[Presentation speech made in Assembly on 17 June 1993]*