

1993

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY**

**TOBACCO PRODUCTS (HEALTH WARNINGS)  
(AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

**Circulated by Authority of the Minister for Health**

**Wayne Berry MLA**

## TOBACCO PRODUCTS (HEALTH WARNINGS) (AMENDMENT) BILL 1993

The *Tobacco Products (Health Warnings) Act 1986* ('the Principal Act') provides for the printing of health warnings on containers in which certain tobacco products are packaged.

The Tobacco Products (Health Warnings) (Amendment) Bill 1993 ('the Bill') amends the Principal Act to give effect to a national agreement on a new health warnings labelling system for tobacco products.

The Bill amends the Principal Act to:

- increase the types of tobacco products that are covered by the legislation;
- require a more comprehensive and larger number of health warnings on the effects of smoking tobacco products to be printed on the packaging of those products;
- increase the portion of the area of the packaging that is to be covered by the health warnings;
- require rotation of the 12 different warnings so that the warnings appear on the packaging of tobacco products with equal frequency during any 12 month period; and
- insert offences as appropriate to ensure that the intent of the Act in requiring health warnings on packaging is not hindered or thwarted.

The Bill has no financial implications.

Details of the Bill are as follows.

**TOBACCO PRODUCTS (HEALTH WARNINGS) (AMENDMENT) BILL 1993****Formal clauses**

*Clause 1* provides for the citation of the Bill, when enacted, as the *Tobacco Products (Health Warnings) (Amendment) Act 1993*.

*Clause 2* provides for the commencement of the Bill. The commencement of the substantive amendments is not the usual 6 month automatic commencement but is to be on a day fixed by the Minister by notice in the Gazette. If the Minister does not fix such a day before 1 April 1994 then the amendments will commence automatically on that day. The commencement is in this form to allow time for the other States to enact similar legislation. It is anticipated that the States and Territories will have a common commencement day for their respective legislation. Subclause 2(4) sets a special commencement day for new paragraph 4(1)(c) of the Act. New paragraph 4(1)(c) provides for the labelling of packages with prescribed information on the tar, nicotine and carbon monoxide content of cigarettes. The commencement of this paragraph is delayed in order to allow adequate time for cigarette manufacturers to develop the necessary measuring techniques to determine these contents.

*Clause 3* identifies the Principal Act.

*Clause 4* amends the Principal Act by removing the historic commencement in section 2 of the Principal Act.

**Main amendments**

*Clause 5* amends the interpretation section of the Principal Act. In particular, the definition of "tobacco product" is expanded to cover a wider range of products. The definition of "tobacco product" in the Principal Act is at present restricted to cigarettes, roll-your-own tobacco and pipe tobacco. The new definition will cover all products that contain tobacco as a substantial ingredient and that are designed for human consumption or use. Nicotine and any product that contains nicotine to which the *Poisons Act 1933* applies are expressly excluded from this definition as they are controlled under other legislation. "Prescribed warning" is defined to mean the warnings specified in new Schedule 2 and "prescribed information" is defined to mean

the prescribed information on the tar, nicotine and carbon monoxide content of cigarettes as set out in new Schedule 3.

*Clause 6* provides for the repeal of sections 4 to 8 (inclusive) of the Principal Act and the substitution of 6 new sections. These sections set out the new labelling requirements for tobacco products.

New section 4 provides that packages containing tobacco products must be labelled in accordance with new Schedule 1 of the Act. Schedule 1 specifies the type of package and the position and area of the package that is to be covered by the prescribed warnings that are specified in new Schedule 2 and, where applicable, the prescribed information in new Schedule 3. Most significantly, the area that must be covered by the prescribed warnings has been increased. Under the amended Act the whole of the back of the package that contains the tobacco product will be covered by the detailed explanatory material in Part B of new Schedule 2.

There are no labelling requirements specified for single cigars in Schedule 2 and this will be determined by the Minister under new subsections 4(2) and (3) after further consultation. Other tobacco products that are packaged in a type of packaging that is not specified in Schedule 1 will also be dealt with by determinations of the Minister under new subsections 4(2) and (3). It is intended that any such a determination of the Minister will be made in consultation with the States and the Northern Territory so that the labelling requirements will be nationally consistent.

New section 5 specifies the technical manner in which the prescribed warnings are to appear on the packaging of tobacco products.

New section 6 requires the prescribed warnings to be rotated so that the 12 warnings are used with equal frequency during any 12 month period. The first period of rotation has been set, in *clause 7* of the Bill, so that it expires on 30 June 1995.

New section 7 ensures that the required labelling remains readable for the life-span of the package.

New section 8 provides that it is an offence to print words on, or place anything in, a package that contains a tobacco product that would detract from the prescribed warning.

New section 9 provides that it is an offence to sell a tobacco product in a package that does not comply with the Act. This offence is intended to prohibit the switching of packaging at the point of sale of tobacco products.

### **Transitional provisions**

*Clause 7* provides that the first rotation period for the prescribed warnings begins on the date of commencement of the substantive amendments (other than prescribed information requirements) and ends on the expiration of 30 June 1995. This provision is necessary to ensure that manufacturers do not face an unnecessary burden through having to rotate the full 12 prescribed warnings over a short period of time. For example, if the Minister did not fix a day for the commencement of the amendments so that 1 April 1994 automatic commencement provision applied, new section 6 would, but for clause 7 of the Bill, require manufacturers to use a full rotation of the 12 different prescribed warnings within a 3 month period.

*Clause 8* is a transitional provision that permits a phase in period for the prescribed warnings. Subclause 8(1) permits the labelling of packaging with the new prescribed warnings between the notification of the amendments and the commencement of the substantive provisions. Subclause 8(2) permits the sale of stock for a period of 3 months after the commencement of the Act where the packaging would have complied with the Principal Act as in force immediately before the commencement of the amendments.