

DRAFT FOR CONSULTATION

Smoke-Free (Standardisation of Tobacco Packaging and Tobacco Products) Regulations

Important note

These regulations are proposed to be made under sections 39 and 39A of the Smoke-Free Environments Act 1990, as amended by the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill (when enacted). It is intended that this draft form the basis of an amendment to the Smoke-free Environments Regulations 2007. Any consequential or necessary changes to the Smoke-free Environments Regulations 2007 are not reflected in this draft.

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Regulations

1 Title

These regulations are the Smoke-Free (Standardisation of Tobacco Packaging and Tobacco Products) Regulations 2016.

2 Commencement

These regulations come into force on the day on which the Smoke-free Environments (Tobacco Plain Packaging) Amendment Act **2016** comes into force.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Smoke-free Environments Act 1990

brand name, in relation to a particular tobacco product, means the primary name by which the product is marketed

cigar means a tobacco product comprising a roll of tobacco leaf or cut tobacco enclosed in tobacco leaf or the leaf of another plant

cigarette means a tobacco product comprising a roll of cut tobacco enclosed in paper

cigarette pack means a retail package containing cigarettes

insert means any thing that is placed inside the packaging of a tobacco product, other than—

- (a) the tobacco product; or
- (b) the lining of a cigarette pack that complies with regulation 25

loose tobacco pack means a tobacco package containing loose tobacco

principal regulations means the Smoke-free Environments Regulations 2007

regulations means any regulations made under the Act

required warning means any warning, explanatory message, or graphic required to be on a tobacco package by Schedule 2 of the principal regulations

tobacco package has the meaning given to it by regulation 4

variant name, in relation to a particular tobacco product, means the name used to distinguish that tobacco product from other tobacco products of the same brand name.

4 Meaning of tobacco package

- (1) In these regulations, unless the context otherwise requires, **tobacco package**—
 - (a) means a package containing 1 or more tobacco products; and
 - (b) includes a carton; and
 - (c) does not include a wrapper or container containing a single cigar.
- (2) A non-removable adhesive label or sticker attached to a tobacco package is part of a tobacco package.
- (3) A wrapper that contains a single tobacco package and is normally removed from the package when the package is opened is not part of a tobacco package.

5 Outline

- (1) These regulations set out requirements that apply to all—
 - (a) tobacco products (*see* subpart 1 of Part 1); and
 - (b) tobacco packages (*see* subpart 2 of Part 1); and
 - (c) cigarettes, cigarette packs, and cigarette cartons (*see* Part 2); and
 - (d) loose tobacco packs (*see* Part 3); and
 - (e) cigars (*see* Part 4).
- (2) This regulation is intended only as a guide to the general scheme and effect of these regulations.

6 Relationship between Part 1 and other Parts

If there is any inconsistency between a provision in Part 1 and a provision in another Part, the provision in the other Part prevails.

Part 1

Provisions that apply to all tobacco products and packages

Subpart 1—Tobacco products

7 Colour of tobacco

The colour of tobacco in any tobacco product must be the natural colour of dried tobacco.

8 Smell of tobacco

- (1) A tobacco product may, subject to subclause (2), smell only of manufactured tobacco.
- (2) The smell of manufactured tobacco may include the smell of an additive or flavouring that—
 - (a) is of a kind that was added or used to flavour tobacco products for sale in New Zealand on 31 May 2016; and
 - (b) has been declared in a tobacco return filed under section 35(1)(a)(i) of the Act.

Subpart 2—Tobacco packages

9 Text or alphanumeric marking on tobacco package

Any text or alphanumeric marking on a tobacco package must conform to the following requirements:

- (a) it must be coloured Pantone Cool Gray 2C;
- (b) it must be in Lucida Sans typeface using a normal weighted regular font:

- (c) only the following characters and symbols may be used:
 - (i) the lower-case letters of the English alphabet, except where the letter is the initial letter of a proper noun or the initial letter of a sentence, in which case the letter may be in upper-case; and
 - (ii) the numerals 0 to 9; and
 - (iii) the ampersand symbol (&); and
 - (iv) the at symbol (@), but only if the symbol is used in an email address.

10 Warning messages and other information on tobacco package

- (1) Any warning message on a tobacco package (other than a warning message in te reo Māori) must be in English in black letters on a yellow background.
- (2) All other messages (including the following) on a tobacco package must be in Pantone Cool Gray 2C letters on a Pantone 448C background:
 - (a) warning messages in te reo Māori;
 - (b) explanatory messages relating to quitting;
 - (c) other information messages.

11 Required warning on tobacco packages

Any required warning on a tobacco package must cover at least—

- (a) 75 percent of the front of the package; and
- (b) 75 percent of the back of the package.

12 Tobacco packages must not contain inserts

A tobacco package must not contain any inserts.

13 Tobacco package wrappers

- (1) A tobacco package may have a wrapper.
- (2) The wrapper must be transparent and must not be coloured, marked, textured, or embellished in any way.
- (3) To avoid doubt, subclause (2) does not apply to any tearstrip permitted by regulation 14.
- (4) If the wrapper covers more than one individually wrapped item,—
 - (a) it may have a rectangular barcode that is coloured Pantone 448C on a Pantone Cool Gray 2C background; and
 - (b) it may be marked with a Pantone 448C rectangle to conceal the barcode of each individually wrapped item but the size of the rectangle must be no larger than is necessary to conceal the barcode of each individually wrapped item.

14 Tear strip of tobacco package wrapper

The tear strip of a tobacco package wrapper must conform to the following requirements:

- (a) it must be no more than 3 mm wide:
- (b) it must be—
 - (i) transparent; or
 - (ii) partially or fully coloured Pantone 448C.
- (c) it must, if it is a cigarette pack wrapper, be located at the bottom edge of the lid:
- (d) it must not obscure any labelling required by the principal regulations.

15 Outer surfaces of tobacco package

The outer surfaces of a tobacco package (other than the wrapper) must have only Matt Pantone 448C as a background colour.

16 No noise or scent associated with tobacco package

- (1) A tobacco package must not—
 - (a) contain or make any scent that could have the effect of promoting the product:
 - (b) contain any feature designed to bring about any noise that could have the effect of promoting the product.
- (2) Subclause (1)(a) does not prohibit any smell that is normally associated with a tobacco package.

17 No feature in tobacco package that changes appearance after sale

- (1) A tobacco package must not have any feature that is designed to alter the package after sale.
- (2) A feature described in subclause (1) includes, without limitation, any of the following:
 - (a) heat activated inks:
 - (b) inks or embellishments designed to appear gradually over time:
 - (c) inks that appear fluorescent in certain light:
 - (d) panels designed to be scratched or rubbed to reveal an image or text:
 - (e) removable tabs:
 - (f) fold-out panels.

18 Manufacturers' details

The name, address, email address, and telephone number of the manufacturer—

- (a) may appear on the rear surface of a tobacco package or the surface on which a barcode is located; and
- (b) must appear in the same orientation as any required warning or other text on that surface; and
- (c) must be no larger than 10 point font size.

19 Printed code for tracking and tracing tobacco products

- (1) A tobacco package may have a printed code for the purposes of tracking and tracing tobacco products.
- (2) The printed code—
 - (a) must conform to the requirements of regulation 9 except that it must be no larger than 8 point font size; and
 - (b) must not convey any other information to the consumer.

Part 2
Cigarettes and cigarette packs*Cigarettes***20 Dimensions and features of cigarettes**

A cigarette must conform to the following requirements:

- (a) it must be cylindrical with flat ends;
- (b) it must be no less than 7 mm and no more than 9 mm in diameter;
- (c) it must be no longer than 95 mm;
- (d) its enclosing paper must be coloured plain white;
- (e) its filter tip, if any, must be coloured plain white or imitation cork.

21 Printed codes on cigarettes

- (1) A cigarette may have a printed code for the purposes of tracking and tracing tobacco products.
- (2) The printed code must—
 - (a) appear horizontally across the cigarette on one line; and
 - (b) be within 10 mm of the cigarette's filter, or one end of the cigarette, if no filter; and
 - (c) be coloured Pantone 448C; and
 - (d) be in Lucida Sans typeface no larger than 8 point font size; and
 - (e) conform to the requirements of regulation 9(c); and
 - (f) convey no other information to the consumer.

*Cigarette packs***22 Number of cigarettes in cigarette pack**

- (1) A cigarette pack must contain only 20 or 25 cigarettes.
- (2) A statement of the number of cigarettes in a cigarette pack—
 - (a) may appear on any surface of the pack on which there is a brand name or variant name; and
 - (b) must appear in the same orientation as any required warning or other text on that surface; and
 - (c) must be no larger than 10 point font size.

23 Dimensions and features of cigarette packs

- (1) The shape and size of a cigarette pack must conform to the following requirements:
 - (a) it must be rectangular:
 - (b) it must be no less than 85 mm and no more than 98 mm in height:
 - (c) it must be no less than 55 mm and no more than 70 mm wide:
 - (d) it must be no less than 20 mm and no more than 30 mm deep.
- (2) The construction of a cigarette pack must conform to the following requirements:
 - (a) it must be made of rigid cardboard:
 - (b) each surface must be flat with no irregularities:
 - (c) each surface must meet the adjoining surface with rigid straight edges:
 - (d) it must open and close only by way of a straight edged flip-top lid that is hinged at the back of the pack.

24 Required warnings on cigarette pack

Any required warning on a cigarette pack must cover at least—

- (a) 75 percent of the front of the pack; and
- (b) 90 percent of the back of the pack.

25 Lining on cigarette packs

A cigarette pack may be lined but only if the lining is—

- (a) made of foil that is no more than 0.5 mm thick; and
- (b) fully coloured in Pantone 448C; and
- (c) not textured; and
- (d) fixed to the inside of the pack and not easily detachable.

26 Bar code

A barcode may appear once on a cigarette pack in accordance with the following requirements:

- (a) it must be on a surface of the cigarette pack that does not have a required warning:
- (b) it must be rectangular:
- (c) it must be coloured—
 - (i) black on a Pantone Cool Gray 2C background; or
 - (ii) Pantone 448C on a Pantone Cool Gray 2C background.

27 Brand names and variant names on cigarette packs

- (1) A brand name on a cigarette pack must conform to the following requirements:
 - (a) it may appear only on the front surface and the 2 smallest surfaces of a cigarette pack:
 - (b) it must take up only one line on each surface on which it may appear:
 - (c) it must appear below, and in the same orientation as, any required warning:
 - (d) it must be no longer than 35 mm:
 - (e) it must not obscure any required warning.
- (2) A variant name must not appear on a cigarette pack unless—
 - (a) it appears below a brand name; and
 - (b) it conforms to the requirements in subclause (1)(a) to (e).
- (3) The font of a brand name on a cigarette pack must be no larger than 14 point font size.
- (4) The font of a variant name on a cigarette pack must be no larger than 10 point font size.

*Cigarette cartons***28 Cigarette cartons**

A cigarette carton—

- (a) must hold no more than 10 cigarette packs; and
- (b) may have serrations at the opening edges.

**Part 3
Loose tobacco****29 Weight of tobacco in loose tobacco pack**

A loose tobacco pack—

- (a) must contain only 30 or 50 grams of manufactured tobacco; and
- (b) may display the weight of the tobacco—
 - (i) on any surface of the pack on which there is a brand name; and
 - (ii) in the same orientation as any required warning or other text on that surface; and
 - (iii) in a font that is no larger than 10 point font size.

30 Dimensions and features of loose tobacco packs

- (1) A loose tobacco pack must conform to the following requirements:
 - (a) it must be a rectangular pouch made from soft plastic:
 - (b) each surface must be flat with no irregularities:
 - (c) its lining (if any) must—
 - (i) be transparent and not coloured; and
 - (ii) be made of plastic.
- (2) The opening flap of a loose tobacco pack may be sealed by a re-sealable transparent tab.

31 Barcode

A barcode may appear once on a loose tobacco pack in accordance with the following requirements:

- (a) it may appear on any surface of the loose tobacco pack:
- (b) it must be rectangular:
- (c) it must be coloured—
 - (i) black on a Pantone Cool Gray 2C background; or
 - (ii) Pantone 448C on a Pantone Cool Gray 2C background.

32 Non-removeable adhesive labels

- (1) A loose tobacco pack may have one or more non-removeable adhesive labels affixed to it in order to display any required warning.
- (2) In subclause (1), an adhesive label is non-removeable if it is fastened firmly to the tobacco pack so as not to be easily removable without significant destruction of the pack.

33 Appearance of brand name and variant name on loose tobacco pack

- (1) A brand name—
 - (a) may appear on the front and back surface of a loose tobacco pack; and
 - (b) must take up only one line of each surface on which it may appear; and
 - (c) must appear below, and in the same orientation as, any required warning; and

- (d) must be no longer than 35 mm; and
 - (e) must not obscure any required warning.
- (2) A variant name must not appear on a loose tobacco pack unless—
- (a) it appears below a brand name; and
 - (b) it conforms to the requirements of subclause (1)(a) to (e).
- (3) The font of a brand name on a loose tobacco pack must be no larger than 14 point font size.
- (4) The font of a variant name on a loose tobacco pack must no be larger than 10 point font size.

Part 4

Cigars

34 Cigars

Cigars may be sold only—

- (a) in a cigar tube containing a single cigar; or
- (b) in a pack containing only 5 or 10 cigars.

35 Surface of cigar packs

Each surface of a cigar pack must be flat with no irregularities.

36 Statement of number of cigars in pack

A statement of the number of cigars in a cigar pack—

- (a) may appear on any surface of the cigar pack on which there is a brand name; and
- (b) must be in a font that is no larger than 10 point font size.

37 Bar code

- (1) A bar code may appear once on a cigar pack.
- (2) Its appearance must conform to the following requirements:
 - (a) it must be on a surface of the cigar pack that does not have a required warning:
 - (b) it must be rectangular:
 - (c) it must be coloured—
 - (i) black on a Pantone Cool Gray 2C background; or
 - (ii) Pantone 448C on a Pantone Cool Gray 2C background.

38 Brand or variant names on cigar packs

- (1) A brand name—

- (a) may appear on the front and back surface of a cigar pack; and
 - (b) must take up only one line on each surface on which it may appear; and
 - (c) must appear below, and in the same orientation as, any required warning; and
 - (d) must be no longer than 35 mm; and
 - (e) must not obscure any required warning.
- (2) A variant name must not appear on a cigar pack unless—
- (a) it appears below a brand name; and
 - (b) it conforms to the requirements in subclause (1)(a) to (e).
- (3) The font of a brand name on a cigar pack must be no larger than 14 point font size.
- (4) The font of a variant name on a cigar pack must be no larger than 10 point font size.

39 Required warning on cigar tubes

Any required warning on a cigar tube must cover at least—

- (a) 95 percent of the length of the tube; and
- (b) 60 percent of the circumference of the tube.

40 Coverings on cigar packs or tubes

- (1) If a marking on a cigar pack or cigar tube does not comply with the Act or the regulations, the marking must, to the extent it does not comply, be concealed by a firmly fixed adhesive covering.
- (2) The covering described in subclause (1) must not convey any information to the consumer other than a printed code for the purposes of tracking and tracing tobacco products.

41 Bands on cigars

- (1) A single band may appear around the circumference of a cigar.
- (2) The band must be coloured Pantone 448C.
- (3) The band may be an adhesive band that—
- (a) completely covers another band or bands; and
 - (b) is fastened firmly to, and not easily removable from, the band or bands it covers.
- (4) The following marks may appear once on the band:
- (a) the brand name and variant name of the cigar;
 - (b) the name of the country in which the cigar was made or produced;
 - (c) an alphanumeric code.

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- (5) The marks described in subclause (4) must conform to the requirements of regulation 9(a) to (c).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Health.