



TOBACCO PLAIN PACKAGING

FREQUENTLY ASKED QUESTIONS

PLAIN PACKAGING OF TOBACCO PRODUCTS IN AUSTRALIA

OVERVIEW

Since 1 December 2012, all tobacco products sold, offered for sale, or otherwise supplied in Australia must be in plain packaging and labelled with the updated and expanded health warnings. *The Tobacco Plain Packaging Act 2011* (the Act) and the *Tobacco Plain Packaging Regulations 2011* (the Regulations) set out the full specifications for plain packaging of tobacco products. *The Competition and Consumer (Tobacco) Information Standard 2011* (the Standard) sets out the requirements for the health warnings on tobacco products.

TOBACCO PLAIN PACKAGING LEGISLATION

Q1. WHY HAS THE AUSTRALIAN GOVERNMENT INTRODUCED TOBACCO PLAIN PACKAGING?

Smoking remains one of the leading causes of preventable death and disease among Australians, killing an estimated 15,000 Australians every year. Smoking-related disease costs the Australian economy and society approximately \$31.5 billion a year. The Australian Government is committed to helping smokers quit, as well as reducing the number of Australians taking up the habit.

Research shows that industry branding and packaging design on tobacco products can mislead consumers about the harms of smoking, make smoking more appealing, particularly among young people, and reduce the effectiveness of health warnings on tobacco products.

Q2. WHAT ARE THE TOBACCO PLAIN PACKAGING REQUIREMENTS?

The Act and the Regulations set out the detailed plain packaging requirements, including, but not limited to:

- a requirement that all outer surfaces of tobacco retail packaging are in the specified drab dark brown colour in a matt finish;
- a prohibition on tobacco industry logos, brand imagery, colours and promotional text on tobacco products and retail packaging other than the brand and variant names which must appear in a standard colour, position, font style and size;
- restrictions on the marks permitted to appear on tobacco products and retail packaging;
- restrictions on the size of tobacco retail packaging;
- restrictions on packaging format and materials for cigarette retail packaging; and
- restrictions on inserts and onsets, including adhesive labels, permitted on retail packaging.

Q3. WHO IS AFFECTED BY PLAIN PACKAGING AND THE HEALTH WARNING REQUIREMENTS?

Anyone who manufactures, purchases or supplies (including wholesale and retail) tobacco products in Australia must ensure the tobacco products comply with the plain packaging and new health warning requirements, unless the tobacco products are for export out of Australia.

Q4. WHAT PRODUCTS ARE AFFECTED BY PLAIN PACKAGING AND THE HEALTH WARNING REQUIREMENTS?

The plain packaging and health warning requirements apply to **all** tobacco products, including but not limited to cigarettes, loose leaf tobacco, cigars, shisha/waterpipe tobacco and bidis.

Products that contain **any** tobacco **must** comply with the Act, the Regulations and the Standard.

OBLIGATIONS OF RETAILERS AND SUPPLIERS

Q5. WHAT ARE MY RESPONSIBILITIES AS A RETAILER OR OTHER SUPPLIER OF TOBACCO PRODUCTS?

It is your responsibility to ensure that all of the tobacco products that you buy (such as the purchase of wholesale tobacco products intended for retail sale), sell, offer for sale or otherwise supply in Australia meet the tobacco plain packaging and health warning requirements.

You should not rely on your manufacturer or supplier to provide you with tobacco products that comply with the legislation. It is essential that you fully understand all of the tobacco plain packaging and health warning requirements so that you can meet your obligations under the Act, the Regulations and the Standard.

Q6. ARE THERE PENALTIES FOR BUYING, SELLING, OFFERING FOR SALE OR OTHERWISE SUPPLYING TOBACCO PRODUCTS THAT DO NOT COMPLY WITH THE PLAIN PACKAGING AND HEALTH WARNING REQUIREMENTS?

Yes. If you buy (such as the purchase of wholesale tobacco products intended for retail sale), sell, offer for sale or otherwise supply tobacco products in Australia that do not comply with the plain packaging or health warning requirements, significant criminal or civil penalties may apply.

The sale, offer for sale, or supply of tobacco products in Australia in non-compliant packaging is an offence under the Act. The purchase of tobacco products in Australia in non-compliant packaging (such as the purchase of wholesale tobacco products intended for retail sale) is also an offence under the Act. You should ensure that any tobacco products you purchase, that you intend to sell or offer for sale in Australia, are compliant with the Act and the Regulations.

NOTE: This information has been provided as a guide only, and should not be relied upon as a source of legal advice. It is not a complete summary of the tobacco plain packaging and health warning requirements. You should obtain your own professional and legal advice in relation to the plain packaging and health warning requirements. All information in this publication is correct as at October 2015.

The content in this publication is copyright. Apart from any use as permitted under the *Copyright Act 1968* no part may be reproduced without prior written permission from the Commonwealth.

Penalties can apply to both an individual and a corporation that buys, sells, offers for sale, or otherwise supplies non-compliant tobacco product. As at August 2015, the maximum penalty for a fault-based criminal offence under the Act is 2,000 penalty units or \$360,000 for an individual, and 10,000 penalty units or \$1.8 million for a corporation.

Separate penalties of up to \$220,000 for an individual and \$1.1 million for a corporation apply for breaches of the health warning requirements under the Standard.

IMPORTATION AND REPACKAGING

Q7. THE TOBACCO PRODUCTS THAT I SELL ARE MANUFACTURED OVERSEAS, AND MY MANUFACTURER OR SUPPLIER DOES NOT MANUFACTURE OR SUPPLY THEM IN PLAIN PACKAGING AND/OR WITH THE HEALTH WARNINGS. WHAT CAN I DO?

You can import tobacco products into Australia in non-compliant packaging, provided that the products and their packaging are made compliant *before* they are sold, offered for sale or otherwise supplied (whether by wholesale or retail sale) in Australia.

This may involve repackaging tobacco products into compliant packaging, and/or the alteration of the tobacco product itself (for example, by removing or covering non-compliant cigar bands) to comply with the product requirements in the plain packaging legislation. The sale, offer for sale, or supply of tobacco products in Australia in non-compliant packaging is an offence under the Act.

You are responsible for sourcing any equipment, materials or other resources you need to ensure that all of your tobacco products and their packaging meet the plain packaging and health warning requirements prior to being sold, offered for sale or otherwise supplied (whether by wholesale or retail sale) in Australia.

Q8. CAN I USE GENERIC PLAIN PACKAGING AND APPLY ADHESIVE LABELS FOR THE BRANDS AND VARIANT NAMES AND THE HEALTH WARNINGS TO REPACKAGE IMPORTED NON-COMPLIANT TOBACCO PRODUCTS?

Yes, but only for *non-cigarette tobacco products*, such as cigars, loose leaf tobacco and shisha/waterpipe tobacco. The use of adhesive labels for the appearance of brand and variant names and health warnings on cigarette retail packaging is not permitted.

Retail packaging for all tobacco products should be **purpose-made** to comply with the plain packaging requirements. For *non-cigarette tobacco products* only, this can be by using generic plain packaged retail packaging and applying the brand and variant names using an adhesive label that complies with the Regulations.

The Regulations stipulate the specifications for use of adhesive labels, including the requirements for the label's size, colour and font, and the permitted location and orientation. Hand written labels are not permitted.

The health warnings can also be applied to non-cigarette tobacco products using an adhesive label so long as they comply with the Regulations and the Standard.

(Important note: if you repackage tobacco products, it becomes your responsibility to ensure the rotation requirements of the tobacco health warnings are met. For further information on the health warning rotation requirements, refer to the Standard.)

OTHER GOVERNMENT TOBACCO CONTROL MEASURES

Q9. WHAT OTHER REFORMS IS THE AUSTRALIAN GOVERNMENT IMPLEMENTING TO REDUCE SMOKING AND ITS HARMFUL EFFECTS?

Tobacco plain packaging is part of Australia's comprehensive package of tobacco control measures, which include:

- updated and expanded health warnings: the *Competition and Consumer (Tobacco) Information Standard 2011*, requires health warnings to cover at least 75 per cent of the front of most tobacco packaging, 90 per cent of the back of cigarette packaging and 75 per cent of the back of most other tobacco product packaging;
- record investments in anti-smoking social marketing campaigns;
- legislation to restrict internet advertising of tobacco products in Australia, effective from 6 September 2012;
- the 25 per cent tobacco excise increase in April 2010;
- four staged increases in excise and excise-equivalent customs duty of 12.5 per cent on tobacco and tobacco-related products on 1 December 2013, 1 September 2014, 1 September 2015 and 1 September 2016;
- a reduction in the duty free allowance for tobacco products;
- stronger penalties for tobacco smuggling offences; and
- listing of nicotine replacement therapies on the Pharmaceutical Benefits Scheme.

Q10. WHAT IS THE ROLE OF STATE AND TERRITORY GOVERNMENTS IN TOBACCO PLAIN PACKAGING?

Tobacco plain packaging has been implemented nationally by the Australian Government and complements state and territory tobacco control measures.

Some state and territory tobacco control measures include:

- minimum age restrictions on the purchase of tobacco products;
- retail display bans; and
- bans on smoking in offices, bars, restaurants and other public spaces.

Further information is available from the responsible agency in your state or territory.

NOTE: This information has been provided as a guide only, and should not be relied upon as a source of legal advice. It is not a complete summary of the tobacco plain packaging and health warning requirements. You should obtain your own professional and legal advice in relation to the plain packaging and health warning requirements. All information in this publication is correct as at October 2015.

The content in this publication is copyright. Apart from any use as permitted under the Copyright Act 1968 no part may be reproduced without prior written permission from the Commonwealth.

FURTHER INFORMATION

Q11. WHERE CAN I FIND FURTHER INFORMATION ON THE TOBACCO PLAIN PACKAGING REQUIREMENTS?

For further information on the packaging requirements refer to sections 18 to 26 of the *Tobacco Plain Packaging Act 2011* and to the *Tobacco Plain Packaging Regulations 2011*, available at www.comlaw.gov.au.

For more information on requirements for particular tobacco products, you can also refer to:

- Tobacco Plain Packaging: Your Guide
- Tobacco Plain Packaging: Your Guide – Supplement: Non-Cigarette Tobacco Products
- Plain Packaging of Cigarettes – Frequently Asked Questions
- Plain Packaging of Cigars – Frequently Asked Questions
- Plain Packaging of Shisha and Molasses Tobacco Products – Frequently Asked Questions

These resources and further information on tobacco plain packaging are available at www.health.gov.au/tobaccopp. The materials at this website have been translated into several languages.

Q12. WHERE CAN I FIND FURTHER INFORMATION ON THE GRAPHIC HEALTH WARNING REQUIREMENTS?

For further information on health warnings refer to the *Competition and Consumer (Tobacco) Information Standard 2011*, available at www.comlaw.gov.au. You can also find further information on health warnings at www.productsafety.gov.au.

Q13. ENGLISH IS NOT MY PREFERRED LANGUAGE – CAN I GET TRANSLATIONS OF THIS INFORMATION?

Yes. Translations of these questions and answers and other resources on plain packaging of tobacco products are available at www.health.gov.au/tobaccopp.

INFORMATION FOR TOBACCO SUPPLIERS

As a supplier of tobacco products, it is your responsibility to gain and maintain an understanding of what is required of you under the relevant legislation. Further information is available from:

- Websites: www.health.gov.au/tobaccopp and www.productsafety.gov.au
- *The Tobacco Plain Packaging Act 2011*, available at www.comlaw.gov.au/Details/C2013C00190
- *The Tobacco Plain Packaging Regulations 2011*, available at www.comlaw.gov.au/Details/F2013C00801
- *The Competition and Consumer (Tobacco) Information Standard 2011*, available at www.comlaw.gov.au/Details/F2013C00598
- For enquiries specific to tobacco plain packaging (other than graphics and health warnings) - the Tobacco Plain Packaging complaints line - 1800 062 971 or by email at ppcomplaints@health.gov.au
- For enquiries specific to graphics and health warnings - the Australian Competition and Consumer (ACCC) Info Centre - 1300 302 502

www.health.gov.au/tobaccopp