

1993—No. 249

**TOBACCO ADVERTISING PROHIBITION ACT 1991—
REGULATION**

(Tobacco Advertising Prohibition Regulation 1991)

NEW SOUTH WALES



[Published in Gazette No. 68 of 30 June 1993]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Tobacco Advertising Prohibition Act 1991, has been pleased to make the Regulation set forth hereunder.

RON PHILLIPS, M.P.,
Minister for Health.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Tobacco Advertising Prohibition Regulation 1993.

Commencement

2. This Regulation commences on 1 July 1993.

Definitions

3. In this Regulation:

“**dispensing unit**” means a container, structure or unit (other than a tobacco vending machine or a package or carton) designed or adapted to dispense or store tobacco products and situated in a shop or other retail outlet:

“health warning” means one of the following warnings:

- SMOKING CAUSES LUNG CANCER
- SMOKING CAUSES HEART DISEASE
- SMOKING DAMAGES YOUR LUNGS
- SMOKING REDUCES YOUR FITNESS

“the Act” means the Tobacco Advertising Prohibition Act 1991.

Notes

4. Matter appearing under the heading “Note” does not form part of this Regulation.

PART 2—LABELLING OF TOBACCO VENDING MACHINES

Form to be displayed on front of vending machines

5. For the purposes of section 9 (2) (b) of the Act, the prescribed form of statement to be conspicuously displayed on the front of a tobacco vending machine is a sign at least 15 cm in height and 21 cm in width, containing the following matter in black characters with a white background, and maintaining approximately the same proportions of the character size and empty spaces as in the following form:

<p style="text-align: center;">NOTICE</p> <p style="text-align: center;">Public Health Act 1991</p> <p style="text-align: center;">SELLING TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS A CRIMINAL OFFENCE MAXIMUM PENALTY \$5,000</p> <p style="text-align: center;">Report offences to the NSW Department of Health on (02) 391 9111 or your nearest police station.</p> <p style="text-align: center;">NSW Department of Health</p>
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Additional provision relating to labelling of tobacco vending machines

6. A person who owns or is the lessee of a tobacco vending machine in New South Wales must ensure that one of the following warnings is displayed on the front of the vending machine, in letters in Helvetica medium capitals of at least 0.7 cm in height:

- SMOKING CAUSES LUNG CANCER Health Authority Warning
- SMOKING CAUSES HEART DISEASE Health Authority Warning
- SMOKING DAMAGES YOUR LUNGS Health Authority Warning
- SMOKING REDUCES YOUR FITNESS Health Authority Warning

Maximum penalty: 10 penalty units.

NOTE: Advertising on vending machines is generally controlled by section 5 of the Act.

PART 3—ADVERTISING IN RETAIL OUTLETS

Date for prohibition of certain advertising

7. For the purposes of section 5 (3) of the Act, 1 July 1993 is the prescribed date for the following classes of tobacco advertisements:

- (a) tobacco advertisements displayed inside a shop or other retail outlet, other than any advertisement that is an illuminated sign custom built for the shop or outlet;
- (b) tobacco advertisements that form part of or are attached to or are directly adjacent to a shop or retail outlet, or are located in a shopping complex or shopping mall, other than any advertisement that is a billboard, or an illuminated sign, custom built for a shop or outlet.

NOTE: The effect of clause 7 is that section 5 of the Act will apply from 1 July 1993 to tobacco advertising carried out under a contract or arrangement entered into before 26 September 1991.

Advertisements inside shops etc.

8. For the purposes of sections 5 (4) (e) and 17 (3) of the Act, a tobacco advertisement that complies with the applicable provisions of clauses 10–13 is a tobacco advertisement that complies with the regulations.

Offence: advertisements which cannot be seen or heard from public places

9. (1) A person who operates a shop or other retail outlet must not display a tobacco advertisement inside the shop or other retail outlet that does not comply with the applicable provisions of clauses 10–13.

Maximum penalty: 10 penalty units.

(2) This clause applies to a tobacco advertisement that cannot be seen or heard from a public place.

Maximum dimensions of tobacco advertisements

10. (1) The area of a tobacco advertisement inside a shop or other retail outlet, when added to the area of any other tobacco advertisement inside the shop or outlet, is to be not more than 2000 square cm.

(2) The maximum width of a tobacco advertisement is to be not less than half and not more than 3 1/2 times the maximum height of that tobacco advertisement.

Electronic advertising

11. A tobacco advertisement is not to be constituted in whole or in part by, or use, an electronically generated moving image or electronically generated sound.

Areas of tobacco advertisements to be devoted to health warnings

12. (1) An area constituting at least 25% of the total area of each tobacco advertisement (other than a tobacco advertisement referred to in subclause (2)) is to be exclusively devoted to the display of a health warning, together with the statement “Health Authority Warning”.

(2) An area constituting at least 25% of the total area of a tobacco advertisement that is an illuminated sign is to be exclusively devoted to the display of a health warning, together with the statement “Health Authority Warning”. Both the health warning and the statement are to be illuminated in the same manner as the remainder of the sign.

(3) The letters in which a health warning in a tobacco advertisement (other than an illuminated sign) is written are to be:

- (a) in a combination of Helvetica medium capitals and lower case type; and
- (b) reproduced in black on a white background.

(4) The health warning and the statement “Health Authority Warning” are to occupy not less than 80% of that part of the total area of a tobacco

advertisement which is required to be devoted exclusively to the display of a health warning.

(5) The statement “Health Authority Warning” is to be positioned directly below each health warning and the letters of the statement are to appear in Helvetica medium capitals and Helvetica medium lower case type and are not to exceed half the height of the letters used for the health warning.

Price boards

13. Despite clauses 10–12, a price board may be displayed if:
- (a) it contains no information other than brand names and prices; and
 - (b) the lettering on the price board is in a combination of Helvetica medium capitals and lower case type, reproduced in black on a white background; and
 - (c) the area of the price board, when added to the area of any other price board displayed in connection with the shop or retail outlet concerned, is not more than 2000 square cm.

NOTE

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EXPLANATORY NOTE

This Regulation is made under the Tobacco Advertising Prohibition Act 1991. The Regulation sets out the notices which are to be displayed on tobacco vending machines, prohibits advertisements on tobacco vending machines and regulates the kind of tobacco advertisements which are permitted inside shops and other retail outlets where tobacco products are offered or exposed for sale.

In particular, the Regulation:

- requires a notice to be displayed on a tobacco vending machine stating that it is an offence to sell tobacco products to persons under 18 years of age (clause 5)
- requires a health warning to be displayed on the front of a tobacco vending machine (clause 6)
- prescribes 1 July 1993 as the date from which certain existing advertising that can be seen or heard from a public place will be prohibited (clause 7)
- enables a tobacco advertisement that is displayed inside a shop or retail outlet to be heard from a public place if it conforms to the requirements specified in clauses 10–13 of the proposed Regulation (clause 8)
- prevents any such advertisement from being able to be removed or obscured by order of a Local Court (clause 8)
- makes it an offence to display a tobacco advertisement that cannot be seen or heard from a public place inside a shop or other retail outlet unless the advertisement conforms to the requirements specified in clauses 10–13 of the proposed Regulation (clause 9)
- sets out certain requirements for tobacco advertisements displayed inside a shop or other retail outlet, including maximum dimensions (clause 10), a prohibition on electronic advertising (clause 11), specifications and requirements for health warnings (clause 12) and special requirements for price boards (clause 13).

This Regulation is made pursuant to powers conferred by sections 5, 9, 17 and 25 of the Act.
