**Plain Packaging of Tobacco Products**

**Bill / Regulations /Decree**

**(Draft text)**

# **(Preamble or explanatory notes)**

# **Objects of the Act**

(1) The objects of this Act are to regulate the features of the packaging of tobacco products, the appearance and flavour of tobacco products in order to:

(a) improve public health by:

(i) discouraging people from taking up smoking, or using tobacco products; and

(ii) encouraging people to give up smoking, and to stop using tobacco products; and

(iii) discouraging people who have given up smoking, or who have stopped using tobacco products, from relapsing; and

(iv) reducing people’s exposure to smoke from tobacco products; and

(b) give effect to certain obligations under the Framework Convention on Tobacco Control.

(2) It is the intention of [the Parliament] to contribute to achieving the objects in paragraph (1) by regulating the packaging and the appearance [and flavour] of tobacco products in order to:

(a) reduce the [appeal/attractiveness] of tobacco products to consumers; and

(b) increase the effectiveness of health warnings on the packaging of tobacco products; and

(c) reduce the ability of the packaging of tobacco products to mislead consumers about the harmful effects of smoking or using tobacco products.

[(d) eliminating the ability of tobacco packaging to promote tobacco consumption]

[(e) have a positive effect on smoking-related attitudes, beliefs, intentions and behaviours]

# **Article 1**

# **Definitions**

(1) In [this Act] [these Regulations] [this decree]-

*Brand name –*in relation to a particular tobacco product, means the primary name by which the product is known

*Calibration mark –* means a mark used only for the purpose of the automated manufacture of packaging

*Carton ­–* means any container that contains a smaller container or containers, or an individual packet or packets, in which the tobacco product is directly placed.

*Characterising flavour -* in relation to a tobacco product, means a clearly noticeable smell or

taste, other than one of tobacco, which—

(a) results from an additive or a combination of additives, including (but not limited to) fruit, spice, herbs, alcohol, candy, menthol or vanilla, and

(b) is noticeable before or during the consumption of the tobacco product

*Cigar / cigarillo -* [to be aligned with existing legislation]

*Cigarette -* [to be aligned with existing legislation]

*Flip top lid –* means the opening for a cuboid individual pack of tobacco that is the most common international opening for cigarette packets and which hinges at the top of the back surface of the packet. A diagram of this opening is given in schedule 1.

*Hand – rolling – tobacco -* [to be aligned with existing legislation]

*Health warnings* - means any message, information, graphic or other thing that is required to appear on the packaging of tobacco products

*Individual packet –* Any container or packet in which the tobacco product is directly placed.

*Loose Tobacco* – mean hold-rolling-tobacco or pipe tobacco or shisha tobacco or any other form of tobacco using loose leafs or cut tobacco that is not rolled.

*Packaging ­­*– means—

1. any pack, carton, box, tin, packet, bag, pouch, tube or other container which contains tobacco products’
2. any wrapper used on a tobacco product
3. any other material attached to or included with that product or with anything within paragraphs (a) and (b).

*Pouch -*  means an individual packet of loose tobacco, composed of a flexible material, [either] in the form of a rectangular pocket with a flap that covers the opening [or a standing pouch].

*Tobacco product –* means a product entirely or partly made of leaf tobacco as raw material which is manufactured to be used for smoking, sucking, chewing, snuffing or otherwise consumed.

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

*Wrapper -* means a cellophane or plastic wrapper which encloses the packaging of a tobacco product.

(2) The “external surfaces” of tobacco packaging means any surface of the packaging that is visible before the packet is open. In relation to an individual packet in the form of a pouch, it also includes the surface of the pouch hidden by the flap that covers the opening but does not include the underside of the flap. The “internal surfaces” of tobacco packaging are any surfaces that do not comprise the exterior surfaces.

# **Article 2**

# **Powers**

(1) [The Minister] may by regulations make provisions about any feature or element of the packaging of tobacco products.

(2) Regulations made under paragraph (1) may, in particular, make provision in respect of specific terms or marks, including trademarks, that the Minister considers are liable to mislead consumers or otherwise contravene Article 13(2).

(3) [The Minister] may by regulations make provisions about any feature or element of the appearance or flavour of tobacco products

(4) [The Minister] may create offences which may be committed by persons who import, produce or supply tobacco products in breach of [this Act] [these regulations] [regulations made under this Act] and provide for exceptions and defences. The Minister may make provisions about the liability of persons to be convicted of such offences if committed by a body corporate.

# **Article 3**

# **Packaging of tobacco products**

(1) [This Act][These regulations] [only] apply to packaging in which tobacco products are sold, supplied or distributed [at wholesale or] at retail.

(2) No person shall manufacture for sale [in X state], import or sell a tobacco product unless–

(a) it is packaged in the prescribed manner,

(b) its appearance is as prescribed; and

(c) its packaging contains the prescribed quantity, or weight, of the tobacco product.

# **Article 4**

# **Color of packaging**

(1) The color of the external surfaces of all packaging of tobacco products shall be Pantone 448C with a matt finish.

(2) The color of the internal surfaces of all packaging of tobacco products shall be white [or Pantone 448C] with a matt finish, save for the packaging described in paragraph (3).

(3) In the case of packaging that is in the form of a cylinder, tin or tube, the internal surfaces may be the natural colour of the raw material the packaging is made from.

(4) This section does not apply to:

1. Health warnings as provided for in [X Act ]
2. Any permitted text, as provided for in Article 5;
3. Barcodes and Calibration marks, as provided for in Article 5;
4. Linings and foils, as provided for in Article 7;
5. Wrappers, as provided for in Article 8;
6. Any other text or marking required or permitted under [this act / these Regulations]
7. Any text or markings required by any other enactment [or legislative provision]

# **Article 5**

# **Permitted marks and text**

(1) The external surfaces of an individual packet or a carton of tobacco products may have the following text printed on it if, and only if, the conditions in paragraphs (2) and (3) on the nature and location of the text, are met:

1. The brand name and variant name of the product;
2. The name and address, email address and telephone number of the [producer/manufacturer];
3. For packets of cigarettes, cigars or cigarillos, the number of products contained in the packet using numeric characters followed by the word “cigarettes”, “cigars” or “cigarillos” as appropriate;
4. For other tobacco, the weight of the tobacco in numeric characters followed by the letter “g” and a description of the type of the words “hand-rolling-tobacco” or “pipe tobacco” as appropriate;
5. [other text considered a necessary requirement]

(2)The conditions as to the nature of the text in accordance with paragraph (1) are:

1. The text must not contain any character which is not alphabetic, numeric or an ampersand, or on the case of the manufacturer’s email address, the @ symbol;
2. The first letter of any word may be upper case and all other letters must be lower case;
3. The text is in [Helvetica / Lucida Sans] using a normal, weighted regular typeface;
4. The color of the text is Pantone Cool Grey 2C with a matt finish;
5. The brand name is no larger than point 14;
6. The variant name is no larger than point 10;
7. The text of the number or weight of the tobacco products is no larger than point 10 on an individual packet or point 14 on a carton;
8. The manufacturer’s name and address is no larger than point 10;

(3) The conditions as to the location of the text in accordance with paragraph (1) are

1. The brand and variant name may take up no more than one line each;
2. The variant name appears directly below the brand name;
3. The brand and variant name are located at the centre of any surface on which they are printed, and when printed on the same surface as a health warning, are oriented in accordance with the warning;
4. The brand and variant name may appear:
5. in the case of an individual packet or carton that is cuboid, only on the front external surface and both the two smallest external surfaces; and
6. in the case of a packet that is other than cuboid in shape, twice on the external surfaces of the packet,

but must appear only once on any surface it is printed on;

1. The manufacturer’s name and address may appear only on the [back or side] surface and must only appear once;
2. The text of the number or weight of the tobacco product may appear only on the front surface and must only appear once;
3. Any text permitted by this Article must not obscure or interfere with health warnings, duty marks or any other text or marks required by any enactment.

(4) The external surfaces of an individual packet or carton of tobacco products may contain a barcode but only if:

1. The sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
2. The colour is black and white,
3. The bar code appears only once and
4. The bar code does not appear on the front exterior surface of the individual packet or carton
5. The barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a bar code.

(5) The external or internal surfaces of the packaging of an individual packet or carton of tobacco products may contain a calibration mark on it but only if it is as inconspicuous as possible and is not on the front surface.

**Article 6**

**Surfaces, sounds, scent and inserts**

(1) The packaging of tobacco products shall —

1. have surfaces that are smooth and flat and not have any decorative ridges, embossing or irregularities of shape or texture;
2. not contain an adhesive that is coloured or non-transparent;
3. not contain any inserted items, affixed items or additional materials. This subparagraph does not apply:
4. [to the inclusion of rolling papers and filters individual packets or cartons of hand rolling tobacco;]
5. to barcodes that are affixed as stickers and that are otherwise in compliance with [this Act] [these regulations]; or
6. as otherwise as provided for by law.
7. not include any element or feature that is designed to change after the retail sale of the product, including but not limited to:
8. Heat-reactive inks
9. Inks designed to appear over time;
10. Fluorescent inks or inks that appear under certain lighting;
11. Detachable tongues or tabs;
12. Folding or sliding elements.
13. not create or contain any sounds or scent other than those normally associated with the packaging of the tobacco product contained in that packet.

# **Article 7**

# **Linings, foils and seals**

(1) If an individual packet of cigarettes contains a lining it must be a single sheet of silver coloured foil with a white paper backing with no variation in the tone or shade of the foil.

(2) The lining of an individual packet of cigarettes must not be capable of acting as a separate removable container.

(3) If an individual packet of loose tobacco contains a foil seal as part of its internal packaging, the foil seal must be silver colored with no variation in tone or shade.

(4) The foil of any lining or seal referred to in paragraph (1) or (3) may have texture or embossed dots over its entire surface only if it is necessary for the purposes of automated manufacturing or packaging processes and only if the texture or embossed dots are uniform in size, shape and distance from each other, and do not form an image or pattern.

(5) If an individual packet of hand rolling tobacco has a tab for resealing the packet, the tab must be clear and transparent and not coloured or marked.

# **Article 8**

# **Wrappers**

(1) An individual packet, multiple individual packets or a carton of tobacco products may be enclosed by a wrapper if each of the following conditions is met:

1. the wrapper is clear and transparent;
2. the wrapper is not coloured or marked; and
3. the surface of the wrapper is smooth, flat and does not contain any ridges or embossing.

(2) A bar code may appear once on the wrapper of an individual packet or carton, including in the form of an adhesive label, if it is not on the part of the wrapper that covers the front of the individual packet or carton and otherwise complies with paragraph 4 of Article 5.

(3) A black square or rectangle may appear on a wrapper containing more than one individual packet where it is required to cover the barcodes of the individual packets contained in it.

(4) The wrapper may incorporate a single tear strip provided that it is clear and transparent or entirely black and forms a continuous straight line of a constant width not exceeding three millimetres.

# **Article 9**

# **Material, shape, size and opening of packaging**

## **Cigarettes**

(1) The packaging of an individual packet of cigarettes, other than any lining and wrapper, must be made only from rigid cardboard.

(2) The packaging of a carton of cigarettes must be made from either paper or rigid cardboard.

(3) The packaging of an individual packet or a carton of cigarettes must be a cuboid, with rectangular surfaces and straight sides. The edges may not be bevelled or rounded.

(4) The dimensions of an individual packet of cigarettes must comply with the following requirements:

i. height – more than 85mm and less than 125mm

ii. width – more than 55mm and less than 82mm

iii. depth – more than 20mm and less than 42mm

(5) The opening of an individual packet of cigarettes must be a flip-top lid that is of a type described by the diagram in schedule 1. The opening must be hinged at the top and back of the packet and have straight edges.

## **Hand Rolled Tobacco**

(6) The packaging of an individual packet of hand rolled tobacco may only be in the shape of a cuboid, a pouch or a cylinder. In the case of an individual cuboid packet it must have rectangular surfaces with straight sides and the edges may not be bevelled or rounded.

**Cigars**

(7) A cigar tube must be rigid and in the shape of a cylinder which may have one or both ends tapered or rounded.

(8) The opening to a cigar tube must be at least 15 mm in diameter.

# **Article 10**

# **Contents of individual packets**

(1) Cigarettes and hand rolled tobacco must not be sold to a consumer or presented for retail sale otherwise that in packaging that is in accordance with [this Act/ these Regulations].

(2) An individual packet of cigarettes must contain not less than 20 cigarette sticks.

(3) An individual packet of hand rolled tobacco must contain not less than 30g of tobacco.

# **Article 11**

# **Appearance of cigarettes**

(1) The colour or shade of the paper, casing, filter or other material forming a cigarette (apart from the tobacco contained in it) shall be white with a matt finish.

(2) The paper or covering around the end of a cigarette not intended to be lit may be the colour of imitation cork.

(3) A cigarette may have text printed on it identifying the brand and variant name of the tobacco product but only if the text is:

a) parallel to the end of the cigarette not intended to be lit, at a distance of at least 38 millimetres from this end;

b) in normal, regular, weighted Helvetica characters, in black, in a maximum of 8-point text;

c) in lower case; the initial letter of a word may be in upper case;

d) in alphabetic or numeric characters or an ampersand where applicable.

# **Article 12**

# **Appearance of Cigars**

(1) A single band may appear around the circumference of a cigar. That band shall be in colour Pantone reference 448 C with a matt finish.

(2) The band may be an adhesive band that completely covers another band or bands and is fastened firmly to, and not easily removable from, the band or bands it covers.

(3) The following marks may appear on the band:

1. the brand name and variant name of the cigar in accordance;
2. the name of the country in which the cigar was made or produced;
3. [any other country specific requirement]

(4) The marks mentioned in paragraph (3) must be:

1. in the colour known as Pantone Cool Gray 2C with a matt finish
2. in the typeface known as [Helvetica / Lucida Sans] in normal weighted regular font;
3. no larger than 10 points in size;

and must appear only once on the band;

(5) The brand name and variant name must be placed horizontally along the length of the band so that they run around the circumference of the cigar.

# **Article 13**

**Prohibition on the use of marks, trademarks and of certain terms**

(1) The packaging of tobacco products shall not bear any mark, logo or trade mark other than in accordance with this [law/Act/Regulation/Decree].

(2) The packaging of tobacco products, including the product brand and variant name or any other text, shall not:

1. create a misleading impression about the product’s characteristics, health effects, risks or emissions nor shall it suggest that a particular tobacco product is less harmful than others.
2. suggest economic advantages by including printed vouchers, offering discounts, free distribution, additional free or loose products, two-for-one or other similar offers.

# **Article 14**

# **Trade mark registration**

Nothing in this Act shall operate to—

1. prohibit the registration of a trademark under the [Trade Marks Act xx], or
2. be grounds for the revocation of the registration of a trademark under that Act.

**Article 15**

**Transitional provision**

These Regulations do not apply to the sale or supply before [coming into force date + 3/6 months transition period for sell through] of a tobacco product produced before [coming into force date].

**Schedule 1**

**Flip Top Lid**

(1) An individual packet of cigarettes that is required to have a flip-top-lid shall have an opening that is equivalent to the opening described in the following diagram –

