
Select Legislative Instrument 2008 No. 195

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Trade Practices Act 1974.

Dated 18 September 2008

QUENTIN BRYCE
Governor-General

By Her Excellency’s Command

CHRISS BOWEN
Minister for Competition Policy and Consumer Affairs
Part 1 Preliminary

1 Name of Regulations

These Regulations are the Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008.

2 Commencement

These Regulations commence on the day after they are registered.

3 Purpose

These Regulations prescribe a consumer product safety standard for cigarettes.

4 Application

(1) On and after the day that occurs 18 months after the commencement of these Regulations, these Regulations apply to cigarettes that are:
   (a) manufactured in Australia on or after that day; or
   (b) imported into Australia on or after that day.

(2) On and after the day that occurs 30 months after the commencement of these Regulations:
   (a) these Regulations apply to all cigarettes manufactured in Australia, no matter when they were manufactured; and
   (b) these Regulations apply to all cigarettes imported into Australia, no matter when they were imported.
5 Interpretation

In these Regulations:


*cigarette* means a roll of cut tobacco for smoking, enclosed in paper.

*full-length burn* has the same meaning as in AS 4830-2007.

*lowered permeability band*, in relation to a cigarette, means a concentric band of paper or other material that is included in, or applied to, cigarette paper in order to inhibit the burning of the cigarette.

*retail package* has the meaning given by regulation 7.

6 Different kinds of cigarettes

(1) For these Regulations, a cigarette is of a different kind to another cigarette if they are sold under different brand names.

(2) For these Regulations, a cigarette is of a different kind to another cigarette if:

(a) they are sold under the same brand name; and

(b) they are distinguished in 1 or more of the following ways:

(i) they contain or do not contain menthol;

(ii) they are flavoured differently in another way;

(iii) they have different contents of tar;

(iv) they allegedly differ in ‘mildness’;

(v) they have or do not have a filter tip or cork tip;

(vi) they are of different lengths or mass.

7 Retail package

(1) A retail package is a package in which cigarettes are sold at retail.
(2) If:
   (a) 1 or more packages are contained inside a larger package; or
   (b) 2 or more packages are combined to form a larger package;
   and the whole package is offered for retail sale as 1 unit:
   (c) the larger package is a retail package; and
   (d) each smaller package is a retail package.

   Example
   Packets of cigarettes in a carton.

(3) However:
   (a) a display case that is not sold with cigarettes displayed in it is not a retail package; and
   (b) if:
      (i) a retail package is normally sold wrapped in a wrapper (including, but not limited to, a transparent wrapper) that is normally removed from the package when the package is opened; and
      (ii) the wrapper is not a larger package described in subregulation (2);
   the wrapper is not part of the retail package.
Part 2  Safety standard for cigarettes

Division 1  Safety standard

8  Safety standard
(1) For subsection 65C (2) of the Act, this Part prescribes a consumer product safety standard for cigarettes.

(2) The standard consists of the following requirements:
(a) the performance requirements set out in Division 2;
(b) the testing requirements set out in Division 3;
(c) the packaging and marking requirements set out in Division 4.

9  Compliance with safety standard
(1) Cigarettes must comply with the performance requirements set out in Division 2.

(2) For the purpose of determining compliance with the performance requirements set out in Division 2, cigarettes must be tested in accordance with the testing requirements set out in Division 3.

(3) Cigarettes must be packaged in accordance with the packaging and marking requirements set out in Division 4.

Division 2  Performance requirements

10  Performance requirements
At least 75% of the cigarettes that are tested in a test trial described in regulation 12 must fail to achieve full-length burns.
Part 2  Safety standard for cigarettes
Division 3  Testing requirements

Division 3  Testing requirements

11  Testing standard
Subject to regulations 12 and 13, cigarettes must be tested in accordance with AS 4830—2007.

12  Testing requirements
(1) Cigarettes must be tested as part of a test trial.
(2) Each test of a cigarette in a test trial must be conducted on 10 layers of filter paper.
(3) Each test trial must consist of 40 replicated tests.
(4) Each different kind of cigarette must be tested in a separate test trial.
(5) Cigarettes that use lowered permeability bands must also comply with the requirements in regulation 13.

13  Lowered permeability bands
(1) For subregulation 12 (5), cigarettes that use lowered permeability bands must have at least 2 identical bands surrounding the tobacco column.
(2) At least 1 complete band must be located not less than 15 mm from the lighting end of the cigarette.
(3) For filter cigarettes, if the bands are positioned on the cigarette by design:
   (a) at least 1 band must be located not less than 15 mm from the lighting end of the cigarette; and
   (b) at least 1 band must be located not less than 10 mm from the filter end of the tobacco column.
(4) For non-filter cigarettes, if the bands are positioned on the cigarette by design:
   (a) at least 1 band must be located not less than 15 mm from the lighting end of the cigarette; and
(b) at least 1 band must be located not less than 10 mm from the labelled end of the tobacco column.

Division 4 Packaging and marking requirements

14 Packaging and marking requirements

(1) Retail packages must not contain cigarettes that do not meet the performance requirements set out in Division 2.

(2) Each retail package must bear the following statement:

‘AUSTRALIAN FIRE RISK STANDARD COMPLIANT. USE CARE IN DISPOSAL’.

(3) The statement must be clearly legible and must not obscure any warning message, explanatory message or graphic required under the Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 2004.

(4) The statement may be printed on an adhesive label that is affixed to the retail package.

(5) The adhesive label must be fastened firmly to the retail package so as not to be easily removable.

(6) For subregulation (5), in determining whether an adhesive label can easily be removed, regard must be had to:

(a) the expected life-span of the package; and

(b) whether the label can be removed without damaging either the label or the packaging.

Note