

2010-2011

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Trade Marks Amendment (Tobacco  
Plain Packaging) Bill 2011**

**No.     , 2011**

*(Innovation, Industry, Science and Research)*

**A Bill for an Act to amend the *Trade Marks Act  
1995*, and for related purposes**



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1     **A Bill for an Act to amend the *Trade Marks Act***  
2     ***1995, and for related purposes***

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Trade Marks Amendment (Tobacco*  
6                     *Plain Packaging) Act 2011*.

7     **2 Commencement**

8                     (1) Each provision of this Act specified in column 1 of the table  
9                     commences, or is taken to have commenced, in accordance with  
10                    column 2 of the table. Any other statement in column 2 has effect  
11                    according to its terms.  
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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	At the same time as section 28 of the <i>Tobacco Plain Packaging Act 2011</i> commences. However, if that section does not commence, the provision(s) do not commence at all.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.  
5 Information may be inserted in this column, or information in it  
6 may be edited, in any published version of this Act.

### 7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.  
12

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1  
2 **Schedule 1—Trade Marks Act 1995**  
3

4 ***Trade Marks Act 1995***

5 **1 At the end of subsection 231(2)**

6 Add:

7 Note: Regulations can also be made in relation to the *Tobacco Plain*  
8 *Packaging Act 2011* under section 231A.

9 **2 At the end of Division 3 of Part 21**

10 Add:

11 **231A Regulations may make provision in relation to the *Tobacco***  
12 ***Plain Packaging Act 2011***

13 (1) The regulations may make provision in relation to the effect of the  
14 operation of the *Tobacco Plain Packaging Act 2011*, and any  
15 regulations made under that Act, on:

16 (a) a provision of this Act; or

17 (b) a regulation made under this Act, including:

18 (i) a regulation that applies a provision of this Act; or

19 (ii) a regulation that applies a provision of this Act in  
20 modified form.

21 Note: Section 28 of the *Tobacco Plain Packaging Act 2011* also sets out the  
22 effect of the operation of that Act on certain provisions of, and  
23 regulations made under, this Act.

24 (2) Without limiting subsection (1), regulations made for the purposes  
25 of that subsection may clarify or state the effect of the operation of  
26 the *Tobacco Plain Packaging Act 2011*, and any regulations made  
27 under that Act, on a provision of this Act or a regulation made  
28 under this Act, including by taking or deeming:

29 (a) something to have (or not to have) happened; or

30 (b) something to be (or not to be) the case; or

31 (c) something to have (or not to have) a particular effect.

32 (3) Regulations made for the purposes of subsection (1):

33 (a) may be inconsistent with this Act; and

- 1 (b) prevail over this Act (including any other regulations or other  
2 instruments made under this Act), to the extent of any  
3 inconsistency.