

South Australia

## **Tobacco Products Regulations 2004**

under the *Tobacco Products Regulation Act 1997*

---

### **Contents**

- 1 Short title
- 3 Interpretation
- 4 Licence fee (section 10(3))
- 4A Tobacco product packages
- 5 Sale or supply of tobacco products to children (section 38A)
- 6 Certain advertising prohibited (section 40)
- 7 Provisions relating to designation of smoking areas
- 8 Requirement that certain signs be displayed in areas where smoking not permitted

Schedule 1—Sign under section 38A(5) of the Act (regulation 5(2))

Schedule 2—Sign under regulation 8(3)

Legislative history

---

#### **1—Short title**

These regulations may be cited as the *Tobacco Products Regulations 2004*.

#### **3—Interpretation**

In these regulations, unless the contrary intention appears—

*Act* means the *Tobacco Products Regulation Act 1997*.

#### **4—Licence fee (section 10(3))**

For the purposes of section 10(3) of the Act, the fee for the issue or renewal of a licence is \$208.

#### **4A—Tobacco product packages**

For the purposes of section 30(1) of the Act, a package in which cigarettes are sold by retail must be designed to hold not less than 20 cigarettes and must not be designed to be, or be readily able to be, divided into portions that contain less than 20 cigarettes each.

#### **5—Sale or supply of tobacco products to children (section 38A)**

- (1) For the purposes of section 38A(2) of the Act, the following kinds of identification are prescribed:

- (a) a current photographic driver's licence issued under the *Motor Vehicles Act 1959* or under a corresponding law of another State or a Territory;

- (b) a current photographic Proof of Age card issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;
  - (c) a current passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person and enabling the age of the person to be determined;
  - (d) a current photographic Keypass identification card issued by Alfa Omega Nominees Pty Ltd, trading as Commonwealth Key and Property Register.
- (2) For the purposes of section 38A(5) of the Act—the form of sign set out in Schedule 1 is prescribed.
- (3) The following requirements apply to a sign referred to in subregulation (2):
- (a) the dimensions of the sign and of the letters, figures and symbols comprised in the signs must be the same as those set out in the relevant form;
  - (b) the following parts of the sign must be printed in red:
    - (i) the passages "18 years" and "proof of age";
    - (ii) the circle and diagonal of the no smoking symbol;
    - (iii) the lines under the headings "SALE OF TOBACCO PRODUCTS" and "PENALTIES".

## **6—Certain advertising prohibited (section 40)**

- (1) For the purposes of section 40(3)(a) of the Act, a person is permitted to display the following signs outside premises where tobacco products are sold by retail:
- (a) a sign or signs displaying—
    - (i) the company name or trading name; or
    - (ii) the company name or trading name and the corporate logo,of the business, erected or displayed in accordance with any other Act or law relating to such signage;
  - (b) either—
    - (i) not more than one prescribed tobacco notice on each external wall of the premises that is visible to the public, or on a window in such a wall; or
    - (ii) a sign displaying not more than one prescribed tobacco notice, erected or displayed in accordance with any other Act or law relating to such signage.
- (2) For the purposes of section 40(3)(c) of the Act, the following kinds of action are prescribed:
- (a) the advertisement of a tobacco product in or on a periodical—
    - (i) that is printed outside Australia; and
    - (ii) that is not principally intended for distribution or use in Australia; and

- (iii) in relation to which there is no notice in force under section 17(2) of the *Tobacco Advertising Prohibition Act 1992* of the Commonwealth;
  - (b) the advertisement of a tobacco product that is an accidental or incidental accompaniment to the publication of other matter;
  - (c) the advertisement of a tobacco product in or on a package containing the tobacco product (being a package in which the tobacco product is offered for sale in the ordinary course of business);
  - (d) the sale or delivery of a product containing an advertisement of a kind referred to in the preceding paragraphs;
  - (e) the advertisement of a tobacco product in or on a button or other device used to select the tobacco product to be dispensed from a vending machine;
  - (f) the advertisement of tobacco products in premises where tobacco products are sold by retail consisting of a price board for tobacco products attached to or adjacent to a point of sale;
  - (g) the advertisement of tobacco products in premises where tobacco products are sold by retail consisting of price tickets attached to or adjacent to displayed tobacco products;
  - (h) the advertisement of a tobacco product on the premises of a distributor or manufacturer of tobacco products consisting of a sign or signs displaying—
    - (i) the company name or trading name; or
    - (ii) the company name or trading name and the corporate logo,of the distributor or manufacturer, erected or displayed in accordance with any other Act or law relating to such signage;
  - (i) the advertisement of a tobacco product to a group of people all of whom are involved in the manufacture, distribution or sale of tobacco products.
- (3) In this regulation—

**sign** means every painted sign, mural or other sign, signboard, visual display screen, visual display image, visual display or projection device, other advertising device, lamp, globe, floodlight, banner, bunting, and streamer, including any background as well as any lettering and any advertising structure;

**periodical** means an issue (however described) of a newspaper, magazine, journal, newsletter, or other similar publication, issues of which are published at regular or irregular intervals;

**prescribed tobacco notice** means a sign containing only, in black text no larger than 40 mm high on a white background, the words—

- (a) tobacco products sold here; or
- (b) cigarette cartons sold here; or
- (c) cigarettes sold here.

## **7—Provisions relating to designation of smoking areas**

- (1) This regulation applies for the purposes of section 47 of the Act and for the purposes of the conditions of any exemption that require the designation of a smoking area.
- (2) An area is designated by the licensee as a smoking area if the licensee—
  - (a) displays signs at each point of public entry to the area indicating clearly that smoking is permitted beyond that point; and
  - (b) indicates clearly in each sign any of the following areas that do not form part of the smoking area:
    - (i) if a prescribed area or area within 1 metre of a service area is required to be excluded—that area;
    - (ii) in the case of a bar to which section 47(1)(b) of the Act applies—the portion of the bar in which smoking is not to be permitted;
    - (iii) in the case of a gaming area in which gaming machines may be operated (not being the casino)—the gaming machines and adjacent areas at which smoking is not to be permitted;
    - (iv) in the case of a gaming area in the casino—any portion of the gaming area in which smoking is not to be permitted.
- (3) An area is excluded by the licensee from a designated smoking area if signs are displayed in accordance with regulation 8(2) so as to clearly indicate the area excluded.
- (4) A sign required to be displayed under this regulation must be displayed in such a way that a person (other than the licensee or an employee of the licensee) cannot readily remove or relocate the sign.
- (5) A term used in this regulation that is defined in section 47 of the Act has the same meaning as in that section.

## **8—Requirement that certain signs be displayed in areas where smoking not permitted**

- (1) An occupier of an enclosed public place (not being licensed premises) must display signs that contain—
  - (a) the phrase "no smoking", "smoking prohibited" or "smoke-free zone" in letters that are at least 20 mm in height and the smoking prohibited symbol with a diameter of at least 70 millimetres; or
  - (b) other words or symbols that indicate clearly that smoking is not permitted,in such numbers and in positions of such prominence that the signs are likely to be seen by persons at any public entrance to the place and within the place.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) Subject to subregulation (3), a licensee of licensed premises must, in each area in which smoking is not permitted, display signs that contain—
- (a) the phrase "no smoking", "smoking prohibited" or "smoke-free zone" in letters that are at least 20 mm in height and the smoking prohibited symbol with a diameter of at least 70 millimetres; or
  - (b) other words or symbols that indicate clearly that smoking is not permitted, in such numbers and in positions of such prominence that the signs are likely to be seen by persons within the area.
- Maximum penalty: \$1 250.  
Expiation fee: \$160.
- (3) Subregulation (2) does not apply in relation to a gaming machine at which smoking is not permitted in a gaming area in which gaming machines may be operated (not being the casino) and instead the licensee must affix to the side of each such gaming machine (but not so as to obscure an identification plate or manufacturing plate of the gaming machine) the sign set out in Schedule 2.
- Maximum penalty: \$1 250.  
Expiation fee: \$160.
- (4) The following requirements apply to the sign referred to in subregulation (3):
- (a) the dimensions of the sign must not exceed 150 mm x 105 mm;
  - (b) the following parts of the sign must be printed in red:
    - (i) the circle and diagonal of the no smoking symbol must be printed in red;
    - (ii) the words "Within 1 metre of this machine".
- (5) A sign required to be displayed under this regulation must be displayed in such a way that a person (other than the occupier or licensee or an employee of the occupier or licensee) cannot readily remove or relocate the sign.
- (6) A term used in this regulation that is defined in section 47 of the Act has the same meaning as in that section.

## Schedule 1—Sign under section 38A(5) of the Act (regulation 5(2))

### **SALE OF TOBACCO PRODUCTS**

---

It is an offence to sell or supply cigarettes or other tobacco products to any person under the age of **18 years**.

Retailers may require **proof of age** for purchase of tobacco products.

### **PENALTIES**

---

Penalties for retailers can be a fine of up to \$5,000 and possible disqualification from applying for or holding a tobacco merchant's licence for up to six months.



Section 38A Tobacco Products Regulation Act, 1997.  
Offences may be reported to the Department of Health.

**Schedule 2—Sign under regulation 8(3)**

**SA'S NEW NON-SMOKING LAWS**



**NO SMOKING**

**Within 1 metre of  
this machine**

**Tobacco Products Regulation Act 1997**



Department  
of Health

## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Tobacco Products Regulations 2004* revoked the following:

*Tobacco Products Regulations 1997*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2004	243	<i>Gazette 2.12.2004 p4452</i>	6.12.2004 except r 5—31.3.2005: r 2
2006	245	<i>Gazette 9.11.2006 p3956</i>	1.1.2007: r 2
2006	249	<i>Gazette 9.11.2006 p3970</i>	10.11.2006: r 2
2006	273	<i>Gazette 14.12.2006 p4393</i>	1.11.2007: r 2
<b>2007</b>	<b>149</b>	<b><i>Gazette 7.6.2007 p2541</i></b>	<b>1.7.2007: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>10.11.2006</i>
r 4	varied by 245/2006 r 4 <b>varied by 149/2007 r 4</b>	1.1.2007 <b>1.7.2007</b>
r 4A	inserted by 249/2006 r 4	10.11.2006
r 6		
r 6(2)	varied by 273/2006 r 4(1), (2)	1.11.2007—not incorporated
r 6(2a)—(2l)	inserted by 273/2006 r 4(3)	1.11.2007—not incorporated
r 6(3)		
packet	inserted by 273/2006 r 4(4)	1.11.2007—not incorporated
prescribed shop	inserted by 273/2006 r 4(5)	1.11.2007—not incorporated



product line	inserted by 273/2006 r 4(6)	1.11.2007—not incorporated
retail display	inserted by 273/2006 r 4(6)	1.11.2007—not incorporated
sign	substituted by 273/2006 r 4(6)	1.11.2007—not incorporated
<i>Sch 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>10.11.2006</i>

## Historical versions

10.11.2006

1.1.2007