

SOUTH AUSTRALIA

TOBACCO PRODUCTS REGULATIONS 1997

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SCHEDULE 1

*Notice under s. 23 of the Act
(reg. 7)*

SCHEDULE 2

*Notice under s. 38(4) of the Act
(reg. 11)*

SCHEDULE 3

*Notice under s. 45(2) of the Act
(reg. 12)*

REGULATIONS UNDER THE TOBACCO PRODUCTS REGULATION ACT 1997

Tobacco Products Regulations 1997

being

No. 145 of 1997: *Gaz.* 5 June 1997, p. 2925¹

¹ Came into operation 5 June 1997: reg. 2.

Citation

1. These regulations may be cited as the *Tobacco Products Regulations 1997*.

Commencement

2. These regulations will come into operation on the day on which the *Tobacco Products Regulation Act 1997* comes into operation.

Revocation

3. All regulations made under the *Tobacco Products (Control) Act 1986* and the *Tobacco Products (Licensing) Act 1986* are revoked.

Interpretation

4. In these regulations—

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

Corresponding laws (s. 4(1))

5. For the purposes of the definition of "**corresponding law**" in section 4(1) of the Act, the following laws, as amended or substituted from time to time, are declared to be laws corresponding to the Act:

The *Business Franchise Licences (Tobacco) Act 1987* of New South Wales

The *Tobacco Products (Licensing) Act 1988* of Queensland

The *Tobacco Business Franchise Licences Act 1980* of Tasmania

The *Business Franchise (Tobacco) Act 1974* of Victoria

The *Business Franchise (Tobacco) Act 1975* of Western Australia

The *Business Franchise (Tobacco and Petroleum Products) Act 1984* of the Australian Capital Territory

The *Business Franchise Act 1981* of the Northern Territory.

Returns by class B licensees (s. 21(a)(iii))

6. (1) A return referred to in section 21(a) of the Act must contain the following particulars:

(a) in relation to each purchase of tobacco products by the holder of the class B tobacco merchant's licence:

(i) the full name, address and licence number of the supplier or suppliers;

(ii) the date of the purchase;

(iii) the date on which delivery took place;

(iv) the date on which collection took place;

(v) the type and quantity of tobacco products purchased;

(vi) the price at which the tobacco products were purchased;

(vii) the address to which the tobacco products were delivered;

3.

- (viii) the address at which the tobacco products were collected by the purchaser;
- (b) in relation to each sale by wholesale of tobacco products by the holder of the class B tobacco merchant's licence:
 - (i) the full name, address and tobacco merchant's licence number of the purchaser;
 - (ii) the date of the sale;
 - (iii) the date on which delivery took place;
 - (iv) the date on which collection took place;
 - (v) the type and quantity of tobacco products sold;
 - (vi) the price at which the tobacco products were sold;
 - (vii) the address to which the tobacco products were delivered;
 - (viii) the address at which the tobacco products were collected by the purchaser.

Notice to be displayed for the information of prospective purchasers from class B licensees (s. 23(3))

7. (1) A notice referred to in section 23 of the Act must conform with the following requirements:

- (a) the notice must be in the form of a rectangle at least 297 mm in width and at least 210 mm in height;
- (b) the notice must contain the information set out in schedule 1;
- (c) the notice must be printed on a white background;
- (d) the words, figures and underlining in bold type in schedule 1 must be printed in the notice in red and all other words and figures must be printed in black;
- (e) every letter and figure in the notice must be at least 4 mm in height.

Notice to be given to Commissioner (s. 24(1))

8. The notice referred to in section 24(1) of the Act—

- (a) must contain—
 - (i) in the case of a notice given on behalf of a company—
 - (A) the full name of the company; and
 - (B) the address of the company's registered office; and

4.

- (C) the address of each place to be used by the company for tobacco merchandising in the State; and
 - (D) the date on which the company commenced or intends to commence tobacco merchandising in the State; or
- (ii) in any other case—
- (A) the full name and address of the person or persons who intend to act as a tobacco merchant in the State; and
 - (B) the address of each place to be used by the person or persons for tobacco merchandising in the State; and
 - (C) the date on which the person or persons commenced or intends to commence tobacco merchandising in the State; and
- (b) must be posted to or lodged at the office of the Commissioner.

Records to be kept by tobacco merchants (s. 25)

9. (1) A record referred to in section 25(1) of the Act must contain the following particulars in relation to each transaction involving the sale or purchase of tobacco products by the tobacco merchant:

- (a) the date of each transaction;
- (b) the full name and address of each party to the transaction;
- (c) the type and quantity of the products the subject of the transaction;
- (d) the price at which the products were sold or purchased by the tobacco merchant.

(2) Particulars are only required under subregulation (1) in relation to transactions between tobacco merchants.

(3) A record referred to in section 25(2) of the Act must contain the following particulars in relation to each occasion on which tobacco products are transported by the person prior to their sale by retail:

- (a) the date on which transportation of the products commenced;
- (b) the type and quantity of the products being transported;
- (c) the full name and address of the person or persons on whose behalf the products are being transported;
- (d) the full name and address of the owner of the products;
- (e) the address from which the products were collected for transportation;

5.

- (f) the full name and address of each person (if any) to whom the products are being transported;
- (g) the address or addresses to which the person is transporting the products;
- (h) the full name and address of each person (if any) who has agreed to purchase the products.

Invoice to be prepared for sale by wholesale (s. 26)

10. An invoice referred to in section 26 of the Act must contain the following particulars:

- (a) the date of the sale;
- (b) the full name and address of each party to the sale;
- (c) the type and quantity of the products being sold;
- (d) the date on which delivery is to take place;
- (e) the price at which the tobacco products are being sold.

Sale of tobacco products to children (s. 38(4))

11. For the purposes of section 38(4) of the Act—

- (a) the form of notice set out in schedule 2 is prescribed; and
- (b) the dimensions of the notice and of the letters, figures and symbols comprised in the notice must be the same as those of the notice set out in schedule 2; and
- (c) the following parts of the notice must be printed in red:
 - (i) the passages "18 years" and "proof of age"; and
 - (ii) the lines under the headings "SALE OF TOBACCO PRODUCTS" and "PENALTIES"; and
 - (iii) the circle and diagonal of the no smoking symbol.

Smoking in lifts (s. 45(2))

12. For the purposes of section 45(2) of the Act—

- (a) the form of notice set out in schedule 3 is prescribed; and
- (b) the dimensions of the notice and of the letters, figures and symbols comprised in the notice must be the same as those of the notice set out in schedule 3; and
- (c) the notice must be made of metal or plastic.

Evidence—prescribed quantity of tobacco products (s. 85(3))

13. For the purposes of section 85(3) of the Act, the prescribed quantity of tobacco products is—

- (a) in the case of cigarettes—3 500 cigarettes; or
- (b) in any other case—5 kilograms of tobacco products.

Amendment of Act—licence fees (s. 87(4))

14. Pursuant to section 87(4) of the Act, the Act is amended by inserting after subsection (1) of section 15 the following subsection:

- (1A) Despite the definition of "**prescribed percentage**" in section 7, for the purposes of assessing the fee for an unrestricted class A licence that is to take effect before 1 September 1997, the prescribed percentage is 100 per cent.

7.

SCHEDULE 1

*Notice under s. 23 of the Act
(reg. 7)*

NOTICE

Tobacco Products Regulation Act 1997

ALL PROSPECTIVE PURCHASERS OF TOBACCO PRODUCTS ARE ADVISED:—

1. THAT THE TOBACCO MERCHANT OPERATING IN THESE PREMISES IS THE HOLDER OF A CLASS B TOBACCO MERCHANT'S LICENCE.
2. THAT ANY PURCHASER OF TOBACCO PRODUCTS WILL BE REQUIRED TO SIGN A DECLARATION UNDER THE ACT.
3. THAT THE TOBACCO PRODUCTS PURCHASED AT THESE PREMISES CANNOT BE LAWFULLY CONSUMED WITHOUT A CONSUMPTION LICENCE.

PENALTY FOR UNLAWFUL CONSUMPTION: \$5 000 (EXPIATION: \$315)

8.

SCHEDULE 2

*Notice under s. 38(4) of the Act
(reg. 11)*

[Schedule appears in Gaz. 5.6.97, p. 2925]

SCHEDULE 3

*Notice under s. 45(2) of the Act
(reg. 12)*

[Schedule appears in Gaz. 5.6.97, p. 2925]