

S.I. No. 326 of 1991.
**TOBACCO PRODUCTS (CONTROL OF ADVERTISING, SPONSORSHIP AND SALES
PROMOTION) REGULATIONS, 1991.**

The Minister for Health in exercise of the powers conferred on her by section 2 of the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act, 1978 (No. 27 of 1978) hereby makes the following Regulations:—

PART I.

General.

1. These Regulations may be cited as the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Regulations, 1991.
2. These Regulations shall come into operation on the 31st day of December, 1991.
3. The Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) (No. 2) Regulations, 1986 (S.I. No. 107 of 1986) are hereby revoked.
4. In these Regulations—
"the Act" means the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act, 1978;
"the Minister" means the Minister for Health;
"cigarettes" include save where otherwise indicated hand rolling tobacco;
"package" includes any packet, container, wrapper or other form of packaging;
"public road" has the meaning assigned to it by section 3 (1) the Road Traffic Act, 1961 (No. 24 of 1961).
5. These Regulations may be enforced by officers of the Minister and by officers of health boards established under the Health Act, 1970 (No. 1 of 1970).
6. A person engaged in the importation, manufacture, sale, advertising, sponsorship, promotion or distribution of tobacco products shall furnish to the Minister such information as the Minister considers necessary for the enforcement of these Regulations, and such information shall include the provision of information on expenditure on advertising and on sponsorship.
7. (1) Following the publication of the appropriate notice referred to in sub-article (3) of this article a person shall not accept an advertisement for a tobacco product for display or publication from a person whose expenditure upon advertising of tobacco products has not been approved by the Minister in accordance with the provisions of article 19 of these Regulations.
(2) Following the publication of the appropriate notice referred to in sub-article (3) of this article a person shall not accept any sponsorship as defined in the Act, from a person whose expenditure upon sponsorship has not been approved by the Minister in accordance with the provisions of article 21 of these Regulations.
(3) The Minister shall in the month of December, 1991, and in the month of December in each subsequent year cause a notice to be published in *Iris Oifigiúil* and in two or more daily newspapers containing a list of persons whose expenditure upon advertising of tobacco products has been approved in pursuance of the provisions of article 19 of these Regulations and of persons whose expenditure on sponsorship has been approved in accordance with the provisions of article 21 of these Regulations.

PART II.

Advertising and Promotion of Tobacco Products and Labelling of Packages.

8. (1) No person shall advertise tobacco products save in accordance with this part of these Regulations.
(2) Subject to the provisions of articles 10, 11, 12,13, 14, and 15 of these Regulations tobacco products may be advertised only:—

- (a) in newspapers, magazines or other similar publications, other than comics, comic supplements or any other publications directed primarily to persons under the age of eighteen years;
- (b) internally in premises which are points of retail sale of tobacco products, provided that such advertising is not by means of visual electronic media or by sound;
- (c) in duty free zones at airports and ferryports by means of permanent signs; and
- (d) on packages of tobacco products.

9. (1) Notwithstanding article 8 of these Regulations, nothing in these Regulations shall operate to restrict or prohibit the importation for sale of any newspaper, magazine or publication containing an advertisement for a tobacco product where—

- (i) the advertisement for the tobacco product conforms generally with the intent of the requirements of these Regulations and where the country of publication so requires it, contain a statement indicating the risk associated with the use of tobacco products to the health of persons, or
- (ii) the advertisement will not significantly increase the consumption of tobacco products in the State.

(2) Where the Minister determines that an advertisement for a tobacco product does not conform with the requirements of sub-article (1) of this article, he may restrict or prohibit the importation for sale of the newspaper, magazine, or publication containing the advertisement.

10. Advertisements of tobacco products referred to in sub-article 8(2)(a), 8(2)(b) and 8(2)(c) shall not contain anything other than the following:—

- (a) a brand name, brand emblem, corporate name and emblem,
- (b) one single representation of the tobacco product and package, either opened or unopened,
- (c) an indication of the place of manufacture, type, size, quantity and price,
- (d) an approved statement as specified under article 14, and,
- (e) a plain background consisting of one even colour.

11. (1) (a) Subject to the provisions of sub-article 11(1)(b), advertisements of tobacco products referred to in sub-article 8(2)(d) shall not contain any statement or term which claims or implies that smoking is free from risk to health or that it is less harmful to smoke one brand of tobacco product than another. Accordingly, any reference to tar or nicotine yields in such advertisements shall be prohibited save as expressly required by sub-article 11(4).

- (b) Nothing in these Regulations shall be construed so as to prohibit the use, in advertisements of tobacco products referred to in sub-article (8) (2)(d), of descriptive or traditional terms relating to the properties or qualities of such tobacco products.

(2) Every package of tobacco products, other than cigarettes, supplied for retail sale by a person engaged in the manufacture, packaging or importation of tobacco products shall bear an approved statement, in a conspicuous place, indicating the risk to the health of persons which is associated with the use of tobacco products which statement shall comply with the requirements set out in Part 6 of the Schedule to these Regulations.

(3) Every package of cigarettes supplied for retail sale by a person engaged in the manufacture, packaging or importation of tobacco products shall bear an approved statement on the front and back of the package, as specified in Part 2 of the Schedule to these Regulations, indicating the risk to the health of persons which is associated with the use of tobacco products, which statements shall comply with the requirements set out in Part 4, Part 7, and Part 8 of the said Schedule.

(4) Every package of cigarettes (excluding hand rolling tobacco) supplied for retail sale by a person engaged in the manufacture, packaging or importation of tobacco products shall bear an indication of tar and nicotine yields on the side of the package in accordance with the requirements of Part 3 of the Schedule to these Regulations.

(5) In the distribution of cigarettes, a person engaged in the manufacture, importation or distribution of such tobacco products shall ensure that an approximately equal number of packages of a brand of cigarettes shall bear one of five of the approved statements as specified in paragraph 2 of Part 2 of the Schedule to these Regulations and that such packages shall be released with equal frequency generally throughout the retail market yearly in accordance with a plan submitted by the person and approved by the Minister.

12. Advertisements of tobacco products shall not:—

- (a) claim or imply that smoking is free from risk to health or that it is less harmful to smoke one brand of tobacco products than another,
- (b) describe filters, additives, tobacco substitutes, other components of tobacco products or manufacturing processes so as to suggest that they render the product less harmful to health, or
- (c) include or imply any personal testimonial for, or recommendation of, a tobacco product, or claim or imply directly, or indirectly, the recommendation of a particular brand by any group or class of people.

13. Advertisements of tobacco products shall not contain:—

- (a) any representation of the tobacco product during or after combustion, or
- (b) any representation of smoke or any other tobacco by-product.

14. (1) Every advertisement of tobacco products referred to in sub-articles 8(2)(a), 8(2)(b) and 8(2)(c) shall include a statement, in one of the forms prescribed in Part I of the Schedule to these Regulations, indicating the risk to health of persons associated with the use of tobacco products, which statement, in the case of the advertisements referred to in sub-articles 8(2)(B) and 8(2)(b) shall comply with the requirements set out in Part 4 and Part 5 of the Schedule to these Regulations.

In the case of the advertisement referred to in sub-article 8(2)(c) shall comply with the requirements set out in Part 4 (1) of the Schedule to these Regulations and shall be at least 4 per cent of the size of the total advertisement space.

(2) In the advertising of tobacco products referred to in sub-articles 8(2)(a) and 8(2)(b), a person engaged in the manufacture, importation, distribution or sale of tobacco products shall ensure that each of any five of the approved statements in Part I of the Schedule to these Regulations is shown in an approximately equal number of advertisements in a period of twelve months in accordance with a plan to be submitted annually to, and approved by, the Minister.

15. (1) Reference to or representations of tobacco products or smoking utensils, shall not be included in:

- (a) any advertisement for any other article, service, or in relation to any person, or
- (b) any advertisement feature or any article or feature in any magazine, newspaper or other similar publication or in relation to any person.

(2) Derogation from sub-article (1) of this article may be granted by the Minister, where the article or service is beneficial to health or safety.

16. (1) A person shall not sell by retail a tobacco product of a particular brand at a price lower than that otherwise obtaining for that brand.

(2) A person shall not offer to sell by retail a tobacco product of a particular brand at a price lower than otherwise obtaining for that brand by making available to persons a coupon or similar document.

(3) A person shall not use, in relation to the retail sale or purchase of tobacco products,

offers of vouchers, trading stamps, coupons, premia, tokens or gifts (including gifts of tobacco products).

17. (1) A person shall not sell by retail a tobacco product at a price as respects which the Minister, in the exercise of the powers conferred on her by paragraph (i) of sub-section (2) of Section 2 of the Act, has formed an opinion that the sale of that product at such a price constitutes a sales promotion device.

(2) An opinion formed by the Minister under sub-article (1) of this article shall be communicated in writing to the person concerned.

18. A person shall not give financial or other inducements in consideration of being allowed to advertise a tobacco product at a point of retail sale.

19. (1) A person shall not incur expenditure on advertising of tobacco products unless such expenditure has been approved by the Minister and shall not exceed an amount determined in accordance with the provisions of this article.

(2) A person shall not incur expenditure on advertising of tobacco products in the year ended on the 31st day of December, 1991, in excess of an amount determined in respect of that year by the Minister and in each succeeding year in which advertising of tobacco products is permitted shall not incur such expenditure in excess of the actual audited expenditure for the year ended on the 31st day of December, 1990, together with an increase by a percentage equal to the percentage by which the Consumer Price Index for mid-November in the year preceding each succeeding year shall exceed the Consumer Price Index for mid-November, 1989.

(3) A person engaged in the manufacture, importation, distribution or sale of tobacco products in respect of which, in the twelve months prior to the date of coming into operation of these Regulations, expenditure on the advertising of tobacco products had not been incurred in the State shall not commence or cause to be commenced advertising in the State, without the prior approval of the Minister who shall, at the same time, determine the expenditure which such person may expend or cause to be expended on such advertising during a specified period.

(4) Expenditure for the purposes of this article means the total expenditure incurred in the preparation and display of advertisements as permitted under sub-articles 8(2)(a) and 8(2)(b), but does not include expenditure on the design and production of packages.

(5) A decision by the Minister in pursuance of sub-articles (2) and (3) of this article shall be communicated in writing to the person.

PART III.

Sponsorship and Related Advertising.

20. A person engaged in the manufacture, importation, distribution or sale of tobacco products shall not engage in the sponsorship of events or activities in which the participants are mainly under eighteen years of age or where the members of the audience are likely to be predominantly under that age.

21. (1) A person engaged in the manufacture, importation, distribution or sale of tobacco products shall not incur expenditure on sponsorship in the year ended on the 31st day of December, 1991, in excess of the amount determined in respect of that year by the Minister and in each succeeding year shall not incur such expenditure in excess of the actual audited expenditure for the year ended on the 31st day of December, 1990, together with an increase by a percentage equal to the percentage by which the Consumer Price Index for mid-November in the year preceding each such succeeding year shall exceed the Consumer Price Index for mid-November, 1989.

(2) A person engaged in the manufacture, importation, distribution or sale of tobacco products who has, in the twelve months prior to the date of coming into operation of these Regulations, engaged in sponsorship in the State shall not commence sponsorship of any event or activity in the State where such an event or activity was not sponsored in the State in the twelve

months prior to the 1st day of May, 1986, by a person engaged in the manufacture, importation, distribution or sale of tobacco products without the prior approval of the Minister who shall, at the same time, determine the expenditure which such person may expend on any such sponsorship during a specified period.

(3) A person engaged in the manufacture, importation, distribution or sale of tobacco products who has not, in the 12 months prior to the date of coming into operation of these Regulations, engaged in sponsorship in the State, shall not commence any sponsorship in the State, shall not commence any sponsorship in the State without the prior approval of the Minister who shall, at the same time, determine the expenditure which such person may expend on such sponsorship during a specified period.

(4) A person engaged in the manufacture, importation, distribution or sale of tobacco products who has not, in the 12 months prior to the date of coming into operation of these Regulations, engaged in sponsorship in the State, shall not commence any sponsorship in the State and who has acquired the prior approval of the Minister under sub-article (3) of this article shall not commence sponsorship of any event or activity in the State where such an event or activity was not sponsored in the State in the 12 months prior to the 1st day of May, 1986, by a person engaged in the manufacture, importation, distribution or sale of tobacco products.

(5) Expenditure for the purposes of this article means the amount of money allocated to sponsorship annually without regard to any receipts accruing as a result of such sponsorship.

(6) A decision of the Minister in pursuance of the provisions of sub-article (1), (2) or (3) of this article shall be communicated in writing to the person concerned.

22. Subject to the provisions of article 23, sponsored events and activities shall be advertised only:—

- (a) in newspapers, magazines or other similar publications, other than comics, comic supplements or any other publications or material directed primarily to persons under the age of 18 years,
- (b) at the place where the event or activity is taking place but not on or along a public road, and
- (c) internally in premises which are points of retail sale of tobacco products.

23. (1) An advertisement referred to in article 22 shall not contain anything other than the following:—

- (a) the name of the event or activity,
- (b) a written description of the event or activity,
- (c) the name of the sponsor, and
- (d) a corporate emblem.

(2) An advertisement referred to in article 22 which is published in newspapers, magazines or other similar publications shall not be part of or alongside a tobacco product advertisement.

24. An advertisement displayed at a sponsored event or activity other than that referred to in sub-article 8 (2) (b) shall not bear any reference to or representation of a brand of tobacco product.

25. A person shall not display a sponsor's name or emblem or the brand name or symbol of a tobacco product on the person or equipment of a participant in, or of any person assisting at, an event or activity.

PART IV.

Exemptions.

26. These Regulations shall not apply to:—

- (a) advertisements directed solely to the tobacco trade and which do not reach the public,

- (b) subject to the provisions of sub-articles 8 (2) (c), 10 (d) and 14 (1) of these Regulations, the sale or advertising of tobacco products in duty free zones at airports and ferryports and on board aircraft and ships, and
- (c) up to 31st December, 1992, packages of tobacco products and packaging materials already manufactured on 31st December, 1991.

SCHEDULE

PART 1

Approved Statements on Printed Media and Point of Sale Advertising

(1) The statement required by article 14 on advertisements referred to in sub-articles 8 (2) (a), 8 (2) (b) and 8 (2) (c) shall be in one of the following forms on advertisements for cigarettes:—

- (a) SMOKING CAUSES CANCER
- (b) SMOKERS DIE YOUNGER
- (c) SMOKING KILLS
- (d) SMOKING CAUSES HEART DISEASE
- (e) SMOKING WHEN PREGNANT HARMS YOUR BABY
- (f) STOPPING SMOKING REDUCES THE RISK OF SERIOUS DISEASE
- (g) DON'T SMOKE IF YOU WANT TO STAY HEALTHY
- (h) SMOKING CAUSES FATAL DISEASES

(2) The statement required by article 14 on advertisements referred to in sub-articles 8 (2) (a), 8 (2) (b) and 8 (2) (c) shall be in the following form on advertisements for pipe tobacco, cigars and cigarillos:—

TOBACCO SERIOUSLY DAMAGES HEALTH

PART 2.

Approved Statements on Packages.

1. The statement on the front of a package of cigarettes required by sub-article 11 (3) shall be in the following form:—

TOBACCO SERIOUSLY DAMAGES HEALTH

2. The statement on the back of a package of cigarettes required by sub-article 11 (3) shall be in one of the following forms:—part

- (a) SMOKING CAUSES CANCER
- (b) SMOKING CAUSES HEART DISEASE
- (c) SMOKERS DIE YOUNGER
- (d) SMOKING KILLS
- (e) SMOKING WHEN PREGNANT HARMS YOUR BABY
- (f) STOPPING SMOKING REDUCES THE RISK OF SERIOUS DISEASE
- (g) DON'T SMOKE IF YOU WANT TO STAY HEALTHY
- (h) SMOKING CAUSES FATAL DISEASES

3. The five approved statements required by sub-article 11 (5) must include (a) and (b) above and any three from (c) (d) (e) (f) (g) and (h).

PART 3.

Tar and Nicotine Yields.

The indications of tar and nicotine yields required on the side of cigarette packages (excluding packages of hand rolling tobacco) by article 11 (4) shall be:

- (1) Clear and legible;
- (2) printed on a contrasting background;
- (3) printed so that at least 4 per cent of the corresponding surface is covered.

PART 4.

(1) The statement required on advertisements by articles 11 and 14 (including that required on the packages by sub-article 11 (3)) shall terminate on a separate line with the attribution 'Government Warning' or 'Irish Government Warning'.

(2) The attribution shall be printed in 'Helvetica' Upper and Lower Case Medium type.

PART 5.

Approved statements on printed media and point of Sale Advertising.

The statement required by article 14:—

(1) shall be clear and legible,

(2) shall be printed in 'Helvetica' Bold capitals,

(3) shall be printed in black on a white background in advertisements in newspapers, magazines or other similar publications and shall be printed in black on a contrasting background on internal point of sale advertising,

(4) shall occupy a bounded areas at the base of the advertisement which shall be clearly separate from the remainder of the advertisement and which shall not contain any other matter.

(5) shall occupy an area of not less than 15 per cent of the total area of the advertisement, and

(6) shall be in type sizes as specified in the following table:—

| Type of Advertisement | Size of Advertisement | Text of Statement (point) | Attribution (point) |
|------------------------------------|---------------------------|---------------------------|---------------------|
| Newspapers (Broadsheet) | Full page | 72 | 36 |
| | Half to full page | 48 | 24 |
| | Quarter to half page | 36 | 18 |
| | Smaller than quarter page | 24 | 14 |
| Newspapers (Tabloid) | Full page | 48 | 24 |
| | Half to full page | 28 | 18 |
| | Quarter to half page | 14 | |
| | Smaller than quarter page | 18 | 11 |
| Magazines and similar publications | Full page | 36 | 18 |
| | Smaller than a page | 24 | 14 |
| Point of sale | 39,000/35,000 sq cms. | 336 | 168 |
| | 35,000/30,000 sq cms. | 288 | 144 |
| | 30,000/25,000 sq cms. | 240 | 120 |
| | 25,000/20,000 sq cms. | 240 | 112 |
| | 20,000/15,000 sq cms. | 192 | 96 |
| | 15,000/10,000 sq cms. | 168 | 84 |
| | 10,000/5,000 sq cms. | 120 | 72 |
| | 5,000/2,500 sq cms. | 84 | 48 |
| | 2,500/1,250 sq cms. | 60 | 36 |
| | 1,250/750 sq cms. | 48 | 28 |
| | 750/375 sq cms. | 42 | 20 |
| | 375/200 sq cms. | 28 | 14 |
| | 200/100 sq cms. | 18 | 10 |
| 100/50 sq cms. | 12 | 8 | |

PART 6.

Approved Statement on packages of tobacco products, other than cigarettes.

1. The statement required by sub-article 11 (2):
 - (i) shall be in the following form:
TOBACCO SERIOUSLY DAMAGES HEALTH
 - (ii) shall be printed on, or irremoveably affixed to, a conspicuous place on a contrasting background and in such a way as to be easily visible, clearly legible and indelible.
 - (iii) may terminate on a separate line with the attribution "Government Warning" or any other attribution approved by the Minister
2. The area which contains the statement required by sub-article 11 (2) shall not, in any way, be hidden, obscured or interrupted by other written or pictorial matter.

PART 7.

Approved Statements on Packages of Cigarettes.

- The statements required on the front and back of packages of cigarettes by sub-article 11 (3):—
- (1) shall be clear and legible,
 - (2) shall be printed in 'Helvetica' Bold capitals,
 - (3) shall be printed on a contrasting background, or shall be printed in gold where 75 per cent or more of the colour of the package is black or dark blue,
 - (4) shall cover at least 4 per cent of the corresponding surface of the unit package, excluding the indication of the authority provided for in Part 4 of this Schedule,
 - (5) the areas which contain the statements shall not contain any other printed matter,
 - (6) shall not be placed on the package so as to be broken when the package is opened and
 - (7) shall not be placed on transparent foil or other outer wrappings.

PART 8.

The statements required under Article 11 (3) shall be printed in type sizes as specified in the following table:—

| Type of Package | Statement on front of package (point) | Statement on back of package (point) | Attribution (point) |
|---|---------------------------------------|--------------------------------------|---------------------|
| Packages containing not more than 10 cigarettes | 7 | 11 | 6 |
| Packages containing more than 10 cigarettes | 9 | 12 | 6 |

GIVEN under the Official Seal of the Minister for Health, this
10th day of December, 1991.

MARY O'ROURKE, Minister for Health.

EXPLANATORY NOTE.

These Regulations control the promotion of tobacco products by means of advertising, sponsorship and certain other promotional activities. They replace the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) (No. 2) Regulations, 1986. The effect of the Regulations is:—

- to restrict the media which may be used for tobacco advertising,
- to limit the content of advertisements of tobacco products,
- To require that advertisements for, and packages of, tobacco products display in rotation a

- number of health warnings,
- to require the indication of the tar and nicotine content of cigarettes on packages,
 - to provide for the curtailment of expenditure on advertising of tobacco products and sponsorship, by tobacco companies,
 - to limit the form which advertising associated with sponsored events may take, and
 - to prohibit the use of coupons, gifts, cut-price offers and sales promotions in relation to tobacco products.

The Regulations which implement Council Directive (89/622/EEC) on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products come into operation on the 31st of December, 1991.

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