



Jersey

## **RESTRICTION ON SMOKING (STANDARDISED PACKAGING AND LABELLING) (JERSEY) REGULATIONS 2021**

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*Made*

*30th June 2021*

*Coming into force*

*31st July 2021*

**THE STATES** make these Regulations under Articles 1, 1C and 2 of the Restriction on Smoking (Jersey) Law 1973<sup>1</sup> –

## PART 1

### INTRODUCTION

#### 1 Interpretation

(1) In these Regulations –

“additive” means a substance, other than tobacco, that is added to a tobacco product, unit packet or container packet;

“brand name”, in relation to a tobacco product, means the primary name by which the product is known;

“calibration mark” means a mark that is used only for the purpose of the automated manufacture of any packaging;

“characterising flavour”, in relation to a tobacco product, means a clearly noticeable smell or taste, other than one of tobacco, which –

(a) results from an additive or a combination of additives, including (but not limited to) fruit, spice, herbs, alcohol, candy, menthol or vanilla; and

(b) is noticeable before or during the consumption of the tobacco product;

“chewing tobacco” means a smokeless tobacco product which is exclusively intended for the purpose of chewing;

“cigar” means a tobacco product that can be consumed by means of a combustion process and (given its properties and normal consumer expectations) is exclusively intended to be smoked as it is, and that is –

(a) a roll of tobacco (or of tobacco and another substance) that has an outer wrapper of natural tobacco; or

- (b) a roll of tobacco (or of tobacco and another substance) that –
- (i) has an outer wrapper, of the normal colour of a cigar, made of reconstituted tobacco that covers the product in full (including the filter but not, in the case of a cigar with a mouthpiece, the mouthpiece),
  - (ii) is filled with a threshed blend of tobacco (or of tobacco and another substance),
  - (iii) has a unit weight, not including any filter or mouthpiece, of at least 2.3 g and no more than 10 g, and
  - (iv) has a circumference, over at least one third of its length, of at least 34 mm;

“cigarette” has the meaning in Article A1 of the Law but does not include a cigar;

“cigarillo” means a cigar with a unit weight of not more than 3 g;

“CMR properties” means properties which are carcinogenic, mutagenic or toxic for reproduction;

“Combined Health Warnings Decision” means Commission Implementing Decision (EU) 2015/1842 of 9 October 2015 on the technical specifications for the layout, design and shape of the combined health warnings for tobacco products for smoking (OJ L 267, 14.10.2015, p. 5);

“container packet”, in relation to a tobacco product, means any packaging (other than a wrapper) –

- (a) in which that product is, or is intended to be, presented for sale; and
- (b) that encloses (whether wholly or partially) a unit packet of that product or an aggregation of such unit packets,

and where there is more than one separate layer of such packaging, each layer is taken to be a separate container packet;

“cross-border distance sale”, in relation to a tobacco product, means a distance sale to a consumer where, at the time the consumer orders the product from a producer or supplier, the producer or supplier is established in a country or territory other than Jersey and for the purposes of this definition a producer or supplier is deemed to be established in the country or territory concerned –

- (a) in the case of a producer or supplier who is an individual, if the individual’s place of business is in that country or territory; and
- (b) in any other case, if the producer or supplier has its statutory seat, central administration or place of business, including a branch, agency or any other establishment, in that country or territory;

“emissions” means substances that are released when a tobacco product or related product is consumed as intended;

“external packaging” means –

- (a) in relation to a unit packet of a tobacco product other than hand rolling tobacco in the form of a pouch, every surface of the packet that is visible before the packet is opened;
- (b) in relation to a unit packet of hand rolling tobacco in the form of a pouch, every surface of the pouch that is visible before the pouch is

opened, together with the hidden surface of the pouch in a case where the pouch takes the form of a rectangular pocket with a flap that covers the opening; and

- (c) in relation to a container packet of a tobacco product, every surface of the packet that is visible before the packet is opened;

“hand rolling tobacco” means a tobacco product that is not a cigarette and that can be used after sale for making cigarettes;

“herbal product for smoking” means a product based on plants, herbs or fruits that contains no tobacco and that can be consumed via a combustion process;

“hidden surface”, in relation to a pouch of hand rolling tobacco in the form of a rectangular pocket with a flap that covers the opening, means the surface of the pouch that becomes visible when the flap is opened, but does not include the underside surface of the flap or any surface of the inside of the pocket;

“ingredient” means the tobacco, any additive, as well as any other substance or element present in a finished tobacco product or related product, including paper, filter, ink, capsules and adhesives;

“internal packaging”, in relation to a unit packet or container packet of a tobacco product, means any part of the packet that is not external packaging;

“Law” means the Restriction on Smoking (Jersey) Law 1973<sup>2</sup>;

“nasal tobacco” means a smokeless tobacco product that can be consumed via the nose;

“nicotine” means nicotinic alkaloids;

“novel tobacco product” means a tobacco product which is –

- (a) is not a cigarette, hand rolling tobacco, pipe tobacco, waterpipe tobacco, a cigar, a cigarillo, chewing tobacco, nasal tobacco or tobacco for oral use; and
- (b) is first supplied by the producer after the commencement of these Regulations;

“packaging”, in relation to a tobacco product, includes any material that is –

- (a) an integral part of the packaging of the product;
- (b) required as part of the packaging process; or
- (c) required to protect the product;

“pipe tobacco” means tobacco that –

- (a) can be consumed by means of a combustion process; and
- (b) is exclusively intended for use in a pipe;

“pouch” means a unit packet of hand rolling tobacco in the form of –

- (a) a rectangular pocket with a flap that covers the opening; or
- (b) a standing pouch;

“shoulder box” means a unit packet that is cuboid in shape with a hinged lid that results in the secondary surfaces being split into two when the packet is opened;

“smokeless tobacco product” means a tobacco product that is consumed in a way that does not involve a combustion process (including chewing tobacco, nasal tobacco and tobacco for oral use);

“tar” means the raw anhydrous nicotine-free condensate of smoke;

“tobacco for oral use” means a tobacco product that is –

- (a) intended for oral use, unless it is intended to be inhaled or chewed; and
- (b) in powder or particulate form or any combination of those forms, whether presented in a sachet portion or a porous sachet, or in any other way;

“tobacco product” means a product that can be consumed and consists, even partly, of tobacco, whether genetically modified or not;

“tobacco product for smoking” means a tobacco product other than a smokeless tobacco product;

“toxicity” means the degree to which a substance can cause harmful effects in the human organism, including effects occurring over time, usually through repeated or continuous consumption or exposure;

“travel retail sector” means retail outlets in Jersey at which tobacco products may be purchased only by people travelling on journeys to destinations outside of Jersey;

“unit packet” means the smallest individual packaging (whether enclosed by a container packet or not) in which that product is, or is intended to be, presented for sale, but does not include any wrapper;

“variant name”, in relation to a particular tobacco product, means any name by which that product is distinguished from other tobacco products under the same brand name;

“waterpipe tobacco” means a tobacco product that can be consumed by means of a waterpipe;

“wrapper” means a cellophane or plastic wrapper –

- (a) in which that product is, or is intended to be, presented for sale; and
- (b) that encloses (whether wholly or partially) –
  - (i) a unit packet of that product,
  - (ii) an aggregation of such unit packets that is not contained in a container packet, or
  - (iii) a container packet of that product.

(2) For the purpose of these Regulations –

- (a) waterpipe tobacco is taken to be a tobacco product for smoking;
- (b) a product that may be consumed via a waterpipe or used as hand rolling tobacco is taken to be hand rolling tobacco; and
- (c) “visible” includes visible through any wrapper permitted by paragraph 5 of Schedule 2 or any tab that complies with paragraph 4(1) of Schedule 2.

(3) In these Regulations, a reference to the front and back surfaces of a unit packet or container packet of a tobacco product is a reference to –



- (a) in relation to a unit packet of hand rolling tobacco in the form of a pouch, the 2 largest surfaces of the external packaging of the packet, excluding the hidden surface; and
- (b) in relation to a unit packet or container packet of hand rolling tobacco that is cylindrical in shape, the 2 opposite halves of the curved surface of the external packaging of the packet if the curved surface is divided equally along a vertical plane.

## **2 Meaning of producer and supplier**

- (1) A person produces a tobacco product or related product if, in the course of a business, and with a view to the product being supplied for consumption in Jersey or through the travel retail sector, the person –
  - (a) manufactures the product;
  - (b) puts a name, trade mark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator; or
  - (c) imports it into Jersey.
- (2) A person supplies a tobacco product or related product if, in the course of a business, the person –
  - (a) supplies the product –
    - (i) for consumption in Jersey or through the travel retail sector, or
    - (ii) with a view to the product being supplied for consumption in Jersey or through the travel retail sector;
  - (b) offers or agrees to supply it in those circumstances; or
  - (c) exposes or possesses it for supply in those circumstances.
- (3) In the case of a cross-border distance sale of a tobacco product to a consumer located in Jersey, the tobacco product is taken to be supplied, and presented for sale, in Jersey.

## **PART 2**

### **REQUIREMENTS FOR PACKAGING OF TOBACCO PRODUCTS**

## **3 Permitted colour and shade of packaging of cigarettes or hand rolling tobacco**

- (1) The colour of external packaging of a unit packet or container packet of cigarettes or hand rolling tobacco must be Pantone 448 C with a matt finish.
- (2) The colour of internal packaging of a unit packet or container packet of cigarettes or hand rolling tobacco must be –
  - (a) white; or
  - (b) Pantone 448 C with a matt finish.
- (3) Schedule 1 contains exceptions to paragraphs (1) and (2).

- (4) Nothing in this Regulation prohibits any warning, statement, text, picture, image, symbol or marking that is required by any enactment (whenever passed or made) other than these Regulations.

#### **4 Material, shape, opening and contents of unit packet of cigarettes**

- (1) A unit packet of cigarettes must –
  - (a) be made of carton or soft material;
  - (b) be cuboid in shape, but may have bevelled or round edges; and
  - (c) contain a minimum of 20 cigarettes.
- (2) A unit packet of cigarettes may contain an opening that can be re-closed or re-sealed after it is first opened, but only if that opening is a flip-top lid or a shoulder box hinged lid.
- (3) A flip-top lid may only be hinged at the back of the packet.
- (4) A shoulder box hinged lid may only be hinged along one of the 2 smallest sides of the packet.
- (5) The sides of a unit packet of cigarettes that is a shoulder box with a hinged lid must have a height (measured between the front and back surfaces of the packet) of at least 16 mm.

#### **5 Appearance of cigarettes**

- (1) The paper, casing, filter or other material forming part of a cigarette (other than the tobacco contained in it) must be white with a matt finish.
- (2) The paper or casing surrounding the end of a cigarette that is not designed to be lit may be coloured in such a way as to imitate cork.
- (3) A cigarette may have text printed on it to identify the brand name and variant name of the cigarette, but only if –
  - (a) the text appears parallel to, and not more than 38 mm from, the end of the cigarette that is not designed to be lit;
  - (b) the text does not contain any character that is not alphabetic, numeric or an ampersand;
  - (c) the first letter of any word is in upper-case type or lower-case type and the remaining letters of the word are in lower-case type;
  - (d) the text is printed in Helvetica font;
  - (e) the colour of the text is black;
  - (f) the text is in a normal, weighted, regular typeface; and
  - (g) the size of the text is no larger than 8 point.

#### **6 Further provisions about the packaging of cigarettes**

A person must not produce or supply any cigarettes in breach of any of the provisions of Schedule 2.

## **7 Form of, and weight of tobacco in, unit packet of hand rolling tobacco**

- (1) A unit packet of hand rolling tobacco may only –
  - (a) be cuboid in shape, but may have bevelled or rounded edges;
  - (b) be cylindrical in shape; or
  - (c) take the form of a pouch.
- (2) The sides of a unit packet of hand rolling tobacco that is a shoulder box with a hinged lid must have a height (measured between the front and back surfaces of the packet) of at least 16 mm.
- (3) A unit packet of hand rolling tobacco must contain at least 30 g of tobacco.

## **8 Product presentation**

- (1) A tobacco product and the labelling of the packaging of the tobacco product must not contain any element or feature that –
  - (a) promotes a tobacco product or encourages its consumption by creating an erroneous impression about its characteristics, health effects, risks or emissions;
  - (b) includes any information about the nicotine, tar or carbon monoxide content of a tobacco product;
  - (c) suggests that a particular tobacco product –
    - (i) is less harmful than others,
    - (ii) aims to reduce the effect of some harmful components of smoke,
    - (iii) has vitalising, energising, healing, rejuvenating, natural or organic properties, or
    - (iv) has other health or lifestyle benefits;
  - (d) refers to taste, smell or any flavourings or other additives, or the absence of any such thing;
  - (e) resembles a food or cosmetic product; or
  - (f) suggests that a particular tobacco product has improved biodegradability or other environmental advantages.
- (2) The packaging of a tobacco product must not contain any element or feature that suggests economic advantage by including printed vouchers or offering discounts, free distribution, two-for-one or other similar offers.
- (3) In this Regulation, “element or feature” includes, but is not limited to, any text, symbol, name, trade mark, figurative sign or any other type of sign.

## **9 Packaging of cigarettes or hand rolling tobacco not to produce noise or scent**

- (1) A person must not produce or supply cigarettes or hand rolling tobacco if any part of the packaging makes a noise or contains or produces a smell that is not ordinarily associated with the packaging of cigarettes or hand rolling tobacco.

- (2) Paragraph (1) does not prohibit a smell in the packaging of cigarettes or hand rolling tobacco that results from a manufacturing process which is designed to give the cigarettes or hand rolling tobacco a characterising flavour that is not prohibited.

## **10 Packaging of cigarettes or hand rolling tobacco not to change after sale**

- (1) A person must not produce or supply any cigarettes or hand rolling tobacco if the packaging includes any feature that is designed to change the packaging after sale.
- (2) In this Regulation, “feature” includes, but is not limited to –
- (a) heat activated ink;
  - (b) ink or embellishment designed to appear gradually over time;
  - (c) ink that appears fluorescent in certain light;
  - (d) a panel that is designed to be scratched or rubbed to reveal an image or text;
  - (e) a removeable tab; and
  - (f) a fold-out or slide-out panel.

## **PART 3**

### **LABELLING OF TOBACCO PRODUCTS**

## **11 Combined health warnings on tobacco products for smoking (other than large cigars, individually wrapped cigars and cigarillos)**

- (1) A unit packet and a container packet of a tobacco product for smoking (other than a unit packet or container packet referred to in Regulation 14(1)) must carry a combined health warning.
- (2) A combined health warning must consist of –
- (a) one of the text warnings listed in Schedule 3 with a corresponding colour photograph; and
  - (b) the text “Get help to stop smoking at [gov.je/help2quit](http://gov.je/help2quit) or [gov.gg/quittingsmoking](http://gov.gg/quittingsmoking)”.
- (3) A combined health warning must appear on both the front and back surfaces of the unit packet and any container packet, and the same text warning and corresponding colour photograph must appear on both surfaces.
- (4) A combined health warning must –
- (a) cover at least 65% of the area of each surface on which it appears;
  - (b) in the case of a unit packet of cigarettes, not be less than 44 mm high and 52 mm wide;
  - (c) appear at the top edge of the surface concerned;
  - (d) be positioned in the same direction as any other information on that surface; and

- (e) comply with the general health warning requirements.
- (5) A combined health warning must be reproduced in accordance with the layout, design and proportions specified in the Combined Health Warnings Decision.
- (6) For the purpose of this Regulation, a reference in the Combined Health Warnings Decision –
  - (a) to a manufacturer or an importer is to be construed as a reference to a producer; and
  - (b) to outside packaging is to be construed as a reference to a container packet.
- (7) A reference in this Regulation to the front and back surfaces of a packet is, in relation to a cylindrical packet, a reference to the two opposite halves of the curved surface of the packet that is visible before the packet is opened, if the curved surface is divided equally along a vertical plane.

## **12 Range and rotation of combined health warnings**

A producer of a tobacco product for smoking must select the photograph used for the purpose of Regulation 11(2)(a) from the set of photographs in Schedule 3 and ensure that each of the photographs is carried on between 1/24 and 1/12 of the total number of packets under each brand name produced by that producer over any period of 12 months.

## **13 General warnings and information messages on tobacco products for smoking (other than large cigars, individually wrapped cigars and cigarillos)**

- (1) A unit packet and any container packet of a tobacco product for smoking (other than a unit packet or container packet referred to in Regulation 14(1)) must carry the following information (the “health warnings”) –
  - (a) a general warning consisting of the text “Smoking kills – quit now”; and
  - (b) an information message consisting of the text “Tobacco smoke contains over 70 substances known to cause cancer”.
- (2) Each of the health warnings must –
  - (a) cover at least 50% of the area of each surface on which it appears;
  - (b) be in black Helvetica bold type on a white background;
  - (c) be in a font size that ensures that the text occupies the greatest possible proportion of the surface area reserved for it;
  - (d) appear at the centre of that area;
  - (e) in the case of a cuboid shaped unit packet and any container packet, be orientated parallel to the longest edge of the surface on which it appears;
  - (f) comply with the general health warning requirements.
- (3) In the case of a unit packet of cigarettes or a unit packet of hand rolling tobacco that is cuboid in shape (other than a shoulder box) –

- (a) the general warning must appear on one of the secondary surfaces of the packet;
  - (b) the information message must appear on the other secondary surface of the packet; and
  - (c) each of the health warnings must be at least 20 mm wide and positioned at the bottom edge of the surface on which it appears.
- (4) In the case of a unit packet of cigarettes or hand rolling tobacco that is a shoulder box –
- (a) the general warning must appear in its entirety on the larger of the two split parts of one of the secondary surfaces of the shoulder box;
  - (b) the information message must appear in its entirety on the larger of the two split parts of the other secondary surface of the shoulder box; and
  - (c) the general warning must also appear on the inside of the lid, such that it is visible when the packet is open.
- (5) In the case of a unit packet of hand rolling tobacco that is cylindrical with a lid –
- (a) the general warning must appear on the outside surface of the lid; and
  - (b) the information message must appear on the inside surface of the lid.
- (6) A unit packet of hand rolling tobacco that is a rectangular pouch must carry a general warning and an information message in accordance with Article 2.1 of Commission Implementing Decision (EU) 2015/1735 of 24 September 2015 on the precise position of the general warning and the information message on roll-your-own tobacco marketed in pouches (OJ L 252, 29.9.2015, p. 49) (the “Pouches Decision”).
- (7) For the purpose of this Regulation, a reference in the Pouches Decision to roll-your-own tobacco is to be construed as a reference to hand rolling tobacco.

#### **14 Labelling of large cigars and individually wrapped cigars and cigarillos**

- (1) This Regulation applies to a unit packet or container packet which contains –
- (a) a single cigar or cigarillo; or
  - (b) two or more cigars with a unit weight of more than 3 g.
- (2) A person must not produce or supply a unit packet or container packet to which this Regulation applies unless that contains unless the packet carries the following information (the “health warnings”) –
- (a) the general warning “Smoking kills – quit now”, together with the text “Get help to stop smoking at [gov.je/help2quit](http://gov.je/help2quit) or [gov.gg/quittingsmoking](http://gov.gg/quittingsmoking)” –
    - (i) on the most visible surface of the packet, and
    - (ii) subject to paragraph (2), covering at least 30% of the area of the surface on which it appears; and
  - (b) one of the text warnings listed in Schedule 4 –

- (i) on the next most visible surface of the packet or, if the packet has a hinged lid, the surface that appears when the packet is opened, and
  - (ii) subject to paragraph (2), covering at least 40% of the area of the surface on which it appears.
- (2) If one of the health warnings is to appear on a surface with an area that is greater than 150 cm<sup>2</sup>, the health warning must cover at least 45 cm<sup>2</sup> of that surface.
- (3) A producer must select the text warning listed in Schedule 4 so that each of the text warnings appears on between 1/24 and 1/12 of the total number of packets under each brand name produced by that producer over any period of 12 months.
- (4) Each of the health warnings must –
  - (a) be in black Helvetica bold type on a white background;
  - (b) be in a font size that ensures that the text occupies the greatest possible proportion of the surface area reserved for it;
  - (c) appear at the centre of that area;
  - (d) be parallel to the main text on the surface concerned; and
  - (e) comply with the general health warning requirements.

## **15 Health warning on smokeless tobacco products**

A unit packet and any container packet of a smokeless tobacco product must carry a health warning consisting of the text “This tobacco product damages your health and is addictive”, which must –

- (a) appear on both the front and the back surfaces of the packet;
- (b) cover at least 30% of the area of each of those surfaces;
- (c) be in black Helvetica bold type on a white background;
- (d) be in a font size that ensures that the text occupies the greatest possible proportion of the surface area reserved for it;
- (e) appear at the centre of that area;
- (f) be parallel to the main text on the surface concerned; and
- (g) comply with the general health warning requirements in Regulation 16.

## **16 General health warning requirements**

- (1) A health warning must cover the entire area that is reserved for it and must not be commented on or paraphrased.
- (2) The dimensions of a health warning must be calculated in relation to the area of the surface concerned when the packet is closed.
- (3) A health warning must be –
  - (a) in English;
  - (b) fully visible;
  - (c) indelible;

- (d) irremovably printed;
  - (e) printed on the packet or, in the case of a unit packet of a tobacco product other than cigarettes or hand rolling tobacco in a pouch, printed on an irremovable sticker affixed to the packet; and
  - (f) surrounded by a black border of a width of 1 mm inside the area that is reserved for it.
- (4) A health warning must not –
- (a) be partially or totally hidden or interrupted by wrappers, jackets or boxes (except in the case of a unit packet presented inside a container packet);
  - (b) be partially or totally hidden or interrupted by any other item (such as a tax stamp, price mark or security feature); or
  - (c) partially or totally hide or interrupt any tax stamp, price mark, tracking and tracing mark, security feature or any other marking that is required under any enactment.
- (5) A health warning –
- (a) must remain intact when the packet is opened; or
  - (b) in the case of a unit packet with a flip-top lid, may be split when the packet is opened, but only in a manner that ensures the graphical integrity and visibility of the text, photograph and smoking cessation information in accordance with Article 4 of the Combined Health Warnings Decision.

## PART 4

### TOBACCO PRODUCTS WHICH MUST NOT BE PRODUCED OR SUPPLIED

#### **17 No flavoured cigarettes or hand rolling tobacco etc.**

- (1) A person must not produce or supply cigarettes or hand rolling tobacco with a characterising flavour.
- (2) A person must not produce or supply cigarettes or hand rolling tobacco with –
  - (a) a filter, paper, package, capsule or other component containing flavourings;
  - (b) a filter, paper or capsule containing tobacco or nicotine; or
  - (c) a technical feature allowing the consumer to modify the smell, taste or smoke intensity of the product.

#### **18 No vitamins, colourings or prohibited additives in tobacco products**

- (1) A person must not produce or supply a tobacco product containing –
  - (a) vitamins or other additives that create the impression that a tobacco product has a health benefit or presents reduced health risks;
  - (b) caffeine, taurine or other additives and stimulant compounds that are associated with energy and vitality;



- (c) additives that have colouring effects on emissions; or
  - (d) in the case of tobacco products for smoking, additives that facilitate inhalation or nicotine uptake.
- (2) A person must not produce or supply a tobacco product containing –
- (a) additives that have CMR properties in unburnt form; or
  - (b) additives in quantities that increase, to a significant or measurable degree, the toxic or addictive effect or CMR properties of the product when it is consumed.
- (3) Nothing in this Regulation prohibits the use of an additive that is essential for the manufacture of a tobacco product (for example, sugar when it is used to replace sugar that is lost during the curing process) to the extent that it does not result in a product with a characterising flavour and does not increase, to a significant or measurable degree, the toxic or addictive effect or CMR properties of the product when it is consumed.

## **19 Tobacco for oral use**

A person must not produce or supply tobacco for oral use.

## **20 Novel tobacco products**

A person must not produce or supply novel tobacco products.

# **PART 5**

## **HERBAL PRODUCTS FOR SMOKING**

### **21 Labelling and presentation of herbal products for smoking**

- (1) A person must not produce or supply a herbal product for smoking unless the unit packet and any container packet carries a health warning consisting of the text “Smoking this product damages your health”.
- (2) The health warning must –
  - (a) appear on both the front and back surfaces of the unit packet and any container packet;
  - (b) cover 30% of the area of each of those surfaces, calculated in relation to the area of the surface concerned when the packet is closed;
  - (c) be in black Helvetica bold font on a white background;
  - (d) be in a font size that ensures that the text occupies the greatest possible proportion of the surface area reserved for it; and
  - (e) appear at the centre of that area.
- (3) A unit packet and any container packet of a herbal product for smoking must not state that the product is free of additives or flavourings or include any element or feature that –

- (a) promotes a herbal product for smoking or encourages its consumption by creating an erroneous impression about its characteristics, health effects, risks or emissions;
  - (b) includes any information about the nicotine, tar or carbon monoxide content of a herbal product for smoking;
  - (c) resembles a food or a cosmetic product; or
  - (d) suggests that a particular herbal product for smoking –
    - (i) is less harmful than other herbal products for smoking,
    - (ii) aims to reduce the effect of some harmful components of smoke,
    - (iii) has vitalising, energising, healing, rejuvenating, natural or organic properties, or
    - (iv) has other health or lifestyle benefits.
- (4) In this Regulation, “element or feature” includes, but is not limited to, any text, symbol, name, trade mark, figurative sign or any other type of sign.

## **PART 6**

### **PENALTIES AND ENFORCEMENT**

#### **22 Offences**

- (1) A person who produces or supplies a tobacco product in contravention of these Regulations commits an offence and is liable to a term of imprisonment of 2 years and a fine.
- (2) A person commits an offence and is liable to a term of imprisonment of 2 years and a fine if that person breaches a provision of –
  - (a) Part 2 (requirements for packaging of tobacco products);
  - (b) Part 3 (labelling of tobacco products);
  - (c) Part 4 (tobacco products which must not be produced or supplied);  
or
  - (d) Part 5 (herbal products).

#### **23 False or misleading information**

A producer or supplier commits an offence and is liable to a term of imprisonment of 2 years and a fine if the producer or supplier provides information to a person under any obligation in these Regulations and –

- (a) the information is false or misleading in a material particular; and
- (b) the producer or supplier knows the information to be false or misleading in a material particular or is reckless as to whether the information is false or misleading in a material particular.

## 24 Defences

- (1) In any proceedings for an offence under these Regulations against a person who supplies any tobacco product in contravention of any provision of these Regulations, it is a defence that the person neither knew nor had reasonable grounds for suspecting that the tobacco product was supplied in breach of that provision.
- (2) In any proceedings for an offence under these Regulations brought against a person who supplies any tobacco product or related product in breach of these Regulations, it is a defence that the supplier exercised all due diligence to avoid committing the offence.
- (3) A defendant may not, without permission of the court, rely on the defence provided by paragraph (1) or (2) on the basis that the commission of the offence was due to the act or default of another person or the defendant's reliance on information given by another person unless –
  - (a) the defendant has served on the prosecutor notice in writing, giving such information identifying or assisting in the identification of that other person as is in the defendant's possession; and
  - (b) such notice is served at least 7 days before the date of the hearing.
- (4) A defendant may not rely on the defence provided by paragraph (1) or (2) by reason that the defendant relied on information given by another person unless the defendant shows that it was reasonable in all the circumstances to have relied on that information.

## 25 Offences by bodies corporate and others

- (1) Without prejudice to Article 2B of the Law, in this Regulation –

“relevant offence” means an offence under these Regulations that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;

“relevant person” means –

  - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
  - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
    - (i) a director, manager, secretary or other similar officer of the body corporate, and
    - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
  - (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.

- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## PART 7

### MISCELLANEOUS PROVISIONS

#### 26 Transitional provisions

A tobacco product is deemed to comply with these Regulations if it would have complied with the Restriction on Smoking (Warning Notices) (Jersey) Regulations 2011<sup>3</sup> if they were still in force and –

- (a) in the case of cigarettes or hand rolling tobacco was –
  - (i) imported before 1st January 2022, and
  - (ii) supplied before 31st July 2022; and
- (b) in the case of any other tobacco products was –
  - (i) imported before 31st July 2022, and
  - (ii) supplied before 31st July 2023.

#### 27 Article A1 (interpretation) of Restriction on Smoking (Jersey) Law 1973 amended

In Article A1 of the Restriction on Smoking (Jersey) Law 1973<sup>4</sup> –

- (a) for the definition “cigarette” there is substituted –

“ “cigarette” means a tobacco product that can be consumed by means of a combustion process and that is –

  - (a) a roll of tobacco (or of tobacco and another substance) that is capable of being smoked as it is; or
  - (b) a roll of tobacco (or of tobacco and another substance) that is designed to be, by simple non-industrial handling –
    - (i) wrapped in cigarette paper, or
    - (ii) inserted into a cigarette-paper tube;”;
- (b) in the definition “tobacco” for sub-paragraph (b) there is substituted –

“(b) leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;”.

**28 Restriction on Smoking (Warning Notices) (Jersey) Regulations 2011 and Restriction on Smoking (Warning Notices) (Amendment for UK Exit from EU) (Jersey) Regulations 2019 repealed**

The Restriction on Smoking (Warning Notices) (Jersey) Regulations 2011<sup>5</sup> and Restriction on Smoking (Warning Notices) (Amendment for UK Exit from EU) (Jersey) Regulations 2019<sup>6</sup> are repealed.

**29 Citation and commencement**

These Regulations may be cited as the Restriction on Smoking (Standardised Packaging and Labelling) (Jersey) Regulations 2021 and come into force on 31st July 2021.

## **SCHEDULE 1**

(Regulation 3(3))

### **EXCEPTIONS TO COLOUR AND SHADE OF PACKAGING**

#### **1 Application**

The provisions of this Schedule prevail to the extent of any inconsistency with any other provision in these Regulations.

#### **2 Text stating brand name and variant name**

The external packaging of a unit packet or container packet of cigarettes or hand rolling tobacco may have text printed on it that states the brand name and variant name of the product, but only if –

- (a) the text does not contain any character which is not alphabetic, numeric or an ampersand;
- (b) the first letter of any word is in upper-case type or lower-case type and the remaining letters are in lower-case type;
- (c) the text is printed in Helvetica font;
- (d) the colour of the text is Pantone Cool Gray 2 C with a matt finish;
- (e) the text is in a normal, weighted, regular typeface;
- (f) the brand name is contained within 1 line;
- (g) the variant name is contained within 1 line;
- (h) the variant name appears immediately below the brand name and has the same orientation as it;
- (i) the size of the brand name is no larger than 14 point;
- (j) the size of the variant name is no larger than 10 point;
- (k) in relation to a packet that is not cylindrical in shape or in the form of a pouch, the brand name and variant name appear only, and not more than once, on each of the following surfaces –
  - (i) the front surface of the packet,
  - (ii) one of the smallest surfaces of the packet, and
  - (iii) the other smallest surface of the packet;
- (l) in relation to a packet that is cylindrical in shape, the brand name and variant name appear only, and not more than once, on each of the following surfaces –
  - (i) the front surface of the packet,
  - (ii) the back surface of the packet, and
  - (iii) the lid of the packet;
- (m) in relation to a packet that is in the form of a pouch, the brand name and variant name appear only, and not more than once, on each of the following surfaces –

- (i) the front surface of the packet,
  - (ii) the back surface of the packet, and
  - (iii) if the pouch takes the form of a rectangular pocket with a flap that covers the opening, the hidden surface of the packet;
- (n) the brand name and variant name are located at the centre of any such surface or, where the surface contains a health warning, at the centre of the area of the surface not taken up by the health warning; and
- (o) the text on any surface that contains a health warning is orientated in accordance with the warning.

### **3 Text stating number of cigarettes or weight of tobacco**

- (1) The external packaging of a unit packet or container packets of cigarettes may have text printed on it that states the number of cigarettes contained in the packet and may be followed by the word “Cigarettes”, but only if –
- (a) in relation to a container packet of an aggregation of unit packets, the number so expressed is –
    - (i) the total number of cigarettes in the container packet, or
    - (ii) the number of unit packets in the container packet multiplied by the number of cigarettes in each unit packet, with the multiplication symbol being expressed as an “x”; and
  - (b) the first letter of the word “Cigarettes” is in upper-case type or lower-case type and the remaining letters in the word are in lower-case type.
- (2) The external packaging of a unit packet or container packet of hand rolling tobacco may have text printed on it that states the weight of tobacco in g contained in the packet and may be followed by the words “Rolling Tobacco” or “Hand Rolling Tobacco”, but only if –
- (a) in relation to a container packet of an aggregation of unit packets, the weight so expressed is –
    - (i) the total weight of tobacco in the container packet, or
    - (ii) the number of unit packets in the container packet multiplied by the weight of tobacco in each unit packet, with the multiplication symbol being expressed as an “x”; and
  - (b) the weight of tobacco is expressed in numeric characters followed by the letter “g”.
- (3) The text referred to in sub-paragraphs (1) and (2) must also comply with the following –
- (a) the number must be expressed in numeric characters;
  - (b) the text is printed in Helvetica font;
  - (c) the colour of the text is Pantone Cool Gray 2 C with a matt finish;
  - (d) the text is in a normal, weighted, regular typeface;
  - (e) in relation to a unit packet, the size of the text is no larger than 10 point;

- (f) in relation to a container packet, the size of the text is no larger than 14 point;
- (g) the text appears only once;
- (h) the text on any surface that contains a health warning is orientated in accordance with the warning.

#### **4 Text giving details about producer**

- (1) A unit packet or container packet of cigarettes or hand rolling tobacco may have text printed on its external or internal packaging (but not on both its external and internal packaging) that states all or any of the following –
  - (a) the words “The producer’s contact details are:”;
  - (b) the name of the producer;
  - (c) the address of the producer;
  - (d) the email address of the producer;
  - (e) the telephone number of the producer.
- (2) The text referred to in sub-paragraph (1) must comply with the following –
  - (a) the text must not contain any character that is not alphabetic, numeric or an ampersand, although the text of the email address may include an “@”;
  - (b) the first letter of any word must be in upper-case type or lower-case type and the remaining letters of the word must be in lower-case type;
  - (c) the text must be printed in Helvetica font;
  - (d) the colour of the text must be –
    - (i) if it appears on the external packaging, Pantone Cool Gray 2 C with a matt finish, or
    - (ii) if it appears on the internal packaging, Pantone Cool Gray 2 C with a matt finish, Pantone 448 C with a matt finish or black with a matt finish;
  - (e) the text must be in a normal, weighted, regular typeface;
  - (f) the size of the text must not be larger than 10 point;
  - (g) the text must appear only once;
  - (h) the text must not appear on the front surface of the unit packet or container packet.

#### **5 Text about cigarette papers and filters**

- (1) If a unit packet of hand rolling tobacco includes cigarette papers or filters, or both, the external packaging of the unit packet, and of any container packet in which it is contained, may have printed on it such of the following texts as is applicable –
  - (a) “includes cigarette papers and filters”;
  - (b) “includes cigarette papers”; or
  - (c) “includes filters”.



- (2) If a container packet of hand rolling tobacco includes cigarette papers or filters, or both, the external packaging of the container packet may have printed on it such of the following texts as is applicable –
  - (a) “includes cigarette papers and filters”;
  - (b) “includes cigarette papers”; or
  - (c) “includes filters”.
- (3) The texts referred to in sub-paragraphs (1) and (2) must comply with the following –
  - (a) the text must be in lower-case type;
  - (b) the text must be printed in Helvetica font;
  - (c) the colour of the text must be Pantone Cool Gray 2 C with a matt finish;
  - (d) the text must be in a normal, weighted, regular typeface;
  - (e) the text must appear below any variant name (or, if there is no variant name, below any brand name);
  - (f) the size of the text must not be larger than 10 point; and
  - (g) the text must appear only once.

## **6 Barcodes**

The external packaging of a unit packet or container packet of cigarettes or hand rolling tobacco may contain a barcode, but only if –

- (a) the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product;
- (b) the colour of the barcode is –
  - (i) black and white, or
  - (ii) Pantone 448 C and white;
- (c) the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode;
- (d) the barcode appears only once; and
- (e) the barcode does not appear on the front surface of the unit packet or container packet.

## **7 Calibration mark**

The external packaging of a unit packet or container packet of cigarettes or hand rolling tobacco may contain a calibration mark, but only if –

- (a) the calibration mark appears only to the extent necessary for the automated manufacture of the packaging of the product; and
- (b) the calibration mark, if visible or otherwise detectable, is as inconspicuous as possible so far as is consistent with its function in connection with that automated manufacture.

## SCHEDULE 2

(Regulation 6)

### FURTHER CONDITIONS FOR THE PACKAGING OF TOBACCO PRODUCTS

#### 1 Surfaces

- (1) Any surface of the external or internal packaging of a unit packet or container packet of cigarettes or hand rolling tobacco –
  - (a) must be smooth and, in the case of a unit packet or container packet that is cuboid in shape, flat; and
  - (b) must contain no ridges, embossing or other irregularities of shape or texture.
- (2) Nothing in sub-paragraph (1) prohibits the inclusion –
  - (a) in the case of a unit packet of hand rolling tobacco in the form of a pouch, of any feature that occurs as a necessary part of the process of sealing the pouch during its manufacture; or
  - (b) in the case of a unit packet or container packet of hand rolling tobacco that is cylindrical in shape, of any feature that is necessary to affix the bottom of the cylinder or to enable the lid of the cylinder to be opened and closed.
- (3) Sub-paragraph (1) is subject to any provision to the contrary made by any enactment (whenever passed or made) other than these Regulations.

#### 2 Inserts etc

- (1) No insert or additional material may be attached to or included with the packaging of a unit packet or container packet of cigarettes or hand rolling tobacco.
- (2) Despite sub-paragraph (1) –
  - (a) a barcode may be attached to packaging in the form of an adhesive label; and
  - (b) cigarette papers or filters may be included with a unit packet or container packet of hand rolling tobacco, provided they are not visible before the packet is opened.
- (3) Sub-paragraph (1) is subject to any provision to the contrary made by any enactment (whenever passed or made) other than these Regulations.

#### 3 Lining in unit packet of cigarettes

- (1) If a unit packet of cigarettes contains a lining as part of its internal packaging –
  - (a) the lining must be a silver coloured foil with a white paper backing; and
  - (b) there must be no variation in the tone or shade of the foil.

- (2) Despite Paragraph 1(1), the lining may be textured over any entire surface with small dots or squares embossed on the lining if –
  - (a) that texture is required for the purpose of –
    - (i) the automated manufacture of the lining, or
    - (ii) the packing of the cigarettes into the packet; and
  - (b) the dots or squares –
    - (i) are equidistant from each other,
    - (ii) are of uniform size, and
    - (iii) do not form a picture, pattern, image or symbol that is recognisable as anything other than a lining.

#### **4 Tab and seal in unit packet of hand rolling tobacco**

- (1) If a unit packet of hand rolling tobacco has a tab for resealing the packet, the tab must be clear and transparent and not coloured or marked.
- (2) If a unit packet of hand rolling tobacco that is cylindrical in shape contains a foil seal as part of its internal packaging, the foil seal must be coloured silver with no variation in tone or shade.
- (3) Despite Paragraph 1(1), a foil seal may be textured over any entire surface with small dots or squares embossed on the seal if the dots or squares –
  - (a) are equidistant from each other;
  - (b) are of uniform size; and
  - (c) do not form a picture, pattern, image or symbol that is recognisable as anything other than a foil seal.
- (4) Nothing in sub-paragraph (1) prevents a feature that is required to be carried by a unit packet of hand rolling tobacco by a provision of an enactment (whenever passed or made) other than these Regulations from being in the form of a tab.

#### **5 Wrappers**

- (1) A container packet, a unit packet or an aggregation of unit packets that is not contained in a container packet may be enclosed by a wrapper, but only if –
  - (a) the wrapper is clear and transparent;
  - (b) the wrapper is not coloured or marked;
  - (c) any surface of the wrapper –
    - (i) is smooth and, in the case of a unit packet or container packet that is cuboid in shape, flat, and
    - (ii) does not contain any ridge, embossing or other irregularity of shape or texture that is not a necessary result of the packaging process; and
  - (d) there is nothing attached to the wrapper.
- (2) A wrapper that encloses an aggregation of unit packets may have solid, black rectangles or squares but only to the extent necessary, and of a

- minimum size necessary, to cover any barcode on the unit packets enclosed within the wrapper.
- (3) A wrapper may have a tear tape –
    - (a) that is –
      - (i) clear and transparent (and not coloured or marked), or
      - (ii) black;
    - (b) that forms a continuous straight line which is of a constant width not exceeding 3 mm; and
    - (c) that is parallel to any straight edge of the packet enclosed by the wrapper.
  - (4) Nothing in sub-paragraph (3)(a)(i) prevents the tear tape from including a single, solid black line that is not more than 15 mm long and indicates where the tear strip begins.
  - (5) A wrapper may contain a barcode (and that barcode may take the form of an adhesive label), but only if –
    - (a) the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product;
    - (b) the colour of the barcode is –
      - (i) black and white, or
      - (ii) Pantone 448 C and white;
    - (c) the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode;
    - (d) the barcode appears only once; and
    - (e) the barcode does not appear on that part of the wrapper that covers the front of the container packet, unit packet or aggregation of unit packets.

### SCHEDULE 3

(Regulation 11(2)(a))

#### TEXT WARNINGS AND CORRESPONDING IMAGES FOR COMBINED HEALTH WARNINGS

1. Smoking clogs your arteries



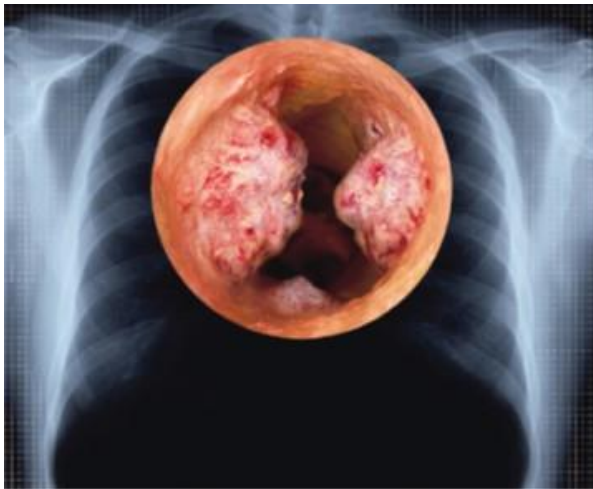
2. Don't let children breathe your smoke



3. Smoking causes blindness



4. Smoking causes lung cancer



5. Smoking doubles your risk of stroke



6. Tobacco smoke is toxic



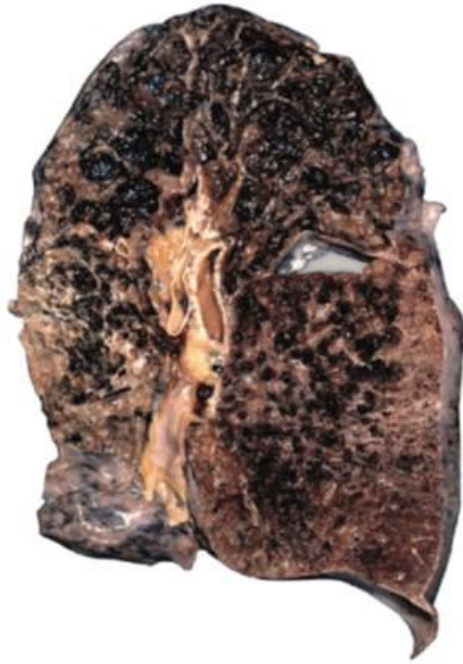
7. Smoking harms unborn babies



8. Smoking causes peripheral vascular disease



9. Smoking causes emphysema



10. Quitting will improve your health



11. Smoking damages your gums and teeth





12. Smoking damages your gums and teeth



13. Smoking causes throat cancer



**SCHEDULE 4**

(Regulation 14(2)(b))

**TEXT WARNING FOR CIGARS AND CIGARILLOS**

1. “Smoking causes 9 out of 10 lung cancers”.
2. “Smoking causes mouth and throat cancer”.
3. “Smoking damages your lungs”.
4. “Smoking causes heart attacks”.
5. “Smoking causes stroke and disability”.
6. “Smoking clogs your arteries”.
7. “Smoking increases the risk of blindness”.
8. “Smoking damages your teeth and gums”.
9. “Smoking can kill your unborn child”.
10. “Your smoke harms your children, family and friends”.
11. “Smokers’ children are more likely to start smoking”.
12. “Quit smoking – stay alive for those close to you”.
13. “Smoking reduces fertility”.
14. “Smoking increases the risk of impotence”.

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>chapter 20.825</i>
<i>2</i>	<i>chapter 20.825</i>
<i>3</i>	<i>chapter 20.825.93</i>
<i>4</i>	<i>chapter 20.825</i>
<i>5</i>	<i>R&amp;O.4/2011 (chapter 20.825.93)</i>
<i>6</i>	<i>R&amp;O.27/2019</i>