



*Tonga*

# **TOBACCO CONTROL REGULATIONS**

**Chapter 28.36.2**

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# TOBACCO CONTROL REGULATIONS

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Tonga

# TOBACCO CONTROL REGULATIONS<sup>1</sup>

*Made under section 25 of the Tobacco Control Act*

Commencement [<sup>2</sup>]

## 1 Short Title

- (1) This Regulation may be cited as the Tobacco Control Regulations 2006.
- (2) The Regulations come into force on a date to be appointed by the Minister by Notice in the Gazette.

## 2 Interpretation

In these Regulations, unless the context otherwise requires —

“**Act**” means the Tobacco Control Act;

“**Carton**” means a package comprising 2 or more packages within

- (a) a container ; or
- (b) a wrapper that obscures or tends to obscure any writing on any of those packages that would be legible if the wrapper were completely transparent;

“**cigarette pack**” means a retail package containing cigarettes;

“**displayed**” in relation to any package, face , or flap, means displayed on the outside of the package , face or flap;

“**flip-top pack**” means a retail package of the kind commonly called a flip-top pack, a hinge-top pack, or a hinge –lid box;

“**harmful constituents**” means tar, nicotine and carbon monoxide;

**“health information”** means information about the health effects or social costs of tobacco use, the benefits of or suggestions for quitting, and any other matter related to tobacco health;

**“package”** means any container, wrapper, carton, or other enclosure that contains any tobacco product or in which tobacco products are customarily sold and includes that package’s label;

**“point of sale”** means a checkout where tobacco products may be bought and includes a till or cashbox, even if it is not at or part of a checkout;

**“principal display surface”** means in the case of a package or carton —

- (a) that has at least two equal sized sides or surfaces, other than the top and bottom, that may be displayed or visible under normal or customary conditions of sale or use, the area of each of two of those sides or surfaces, including the sides of any lid or cover if those sides are part of the package or carton;
- (b) that has sides of more than one size, the area of each half of the total area of its largest side;
- (c) that has a lid or flap that is part of the package or carton displayed or visible under normal or customary conditions of sale or use, the area of each half of the total area of the top surface of the lid or flap;
- (d) that does not have a particular side or surface that is predominantly displayed or visible under normal or customary conditions, any two portions that each occupy 40 percent of the total surface area of the package or carton and that can be displayed or is visible under normal or customary conditions of sale or use, excluding, where applicable, the top surface of any lid, but including the side of the lid if it is part of the side of the package or carton.

**“retail package”** means a package intended for retail sale as a single unit. For the purpose of this definition —

- (a) a package may be intended for retail sale as a single unit even if it is also intended for any or all of the following —
  - (i) sale of any other kind;
  - (ii) transporting retail packages contained within it;
  - (iii) holding or displaying, for separate retail sale, retail packages contained within it; and
- (b) if a retail package is a carton, it includes every package the carton contains (whether or not the latter are intended for retail sale as single units);

**“wrapper”** means a wrapping containing a retail package or several retail packages, and includes a non-removable adhesive label or sticker securely attached to it.

## PART I- TOBACCO CONTROL PRODUCT

### 3 Price Notices

All price notices displayed inside a retailer's place of business in accordance with Section 3(2)(c) of the Act shall comply with the following requirements —

- (a) price notices that indicate the names and prices of only one or two tobacco brands or brand variants shall be no larger than 90mm x 55mm;
- (b) price notices that indicate the names and prices of three or more tobacco brands variants shall be no larger than 0.3m x 0.4m;
- (c) the combined area of all price notices to which sub regulation (a) applies shall not exceed 21cm x 29.7cm at any point of sale inside a retail outlet;
- (d) there may be no more than three price notices which sub regulation (b) applies displayed at any point of sale inside a retail outlet;
- (e) no material other than the following may appear on any price notice —
  - (i) the name of the tobacco product (which may consist of or include a brand or brand variant)
  - (ii) any logo, design, or similar device that is usually associated with that tobacco product;
  - (iii) a depiction of the package in which the tobacco product is customarily sold;
  - (iv) the quantity in which the tobacco product is sold (whether by weight or number);
  - (v) the price of the tobacco product; and
  - (vi) a health warning as required by this regulation;
- (f) all price notices to which sub regulation (b) refers shall carry one of the health warnings specified in Schedule I, in Tongan and English, centered at the bottom of the notice and in a print size that is at least double the print size of any print on that notice; and
- (g) price notices to which sub regulation (b) refers may also carry the attribution 'Ministry of Health Warning' in Tongan and English, printed after the health warning, provided that the print size of the attribution is no greater than one half the print size of the words that make up the health warning.

### 4 Manufactured Cigarettes to be tested

Manufactured cigarettes shall be tested each year, in accordance with section 8B(3)(b) of the Act, for the purpose of providing a report under Section 8C of the Act on the levels of harmful constituents in the smoke from each brand of manufactured cigarettes.

## **5 Conduct of tests for Manufactured Cigarettes**

Tests for the harmful constituents of brands of manufactured cigarettes, and the respective quantities of those constituents present in the smoke, shall be conducted in accordance with the following standard methods published by the International Standards Organization —

- (a) for tar, ISO 4387:1991(E) (Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine);
- (b) for nicotine, ISO 10315:1991(E) (Cigarettes- Determination of nicotine in smoke condensates- Gas chromatograph method);
- (c) for carbon monoxide, ISO 8454:1995 (E) (Cigarettes- Determination of carbon monoxide in the vapour phase of cigarette smoke- NDIR method); and
- (d) for tar, nicotine, and carbon monoxide, in addition to the applicable standard method specified in sub-regulation (a),(b),(c) —
  - (i) (ISO 3308:1991 (E) (Routine analytical cigarette-smoking machine- Definitions and standard conditions);
  - (ii) ISO 8243:1991(E) (Cigarettes- Sampling); and
  - (iii) ISO 3402:1991 (E) (Tobacco and tobacco products-Atmosphere for conditioning and testing).

## **6 Reports and returns**

A manufacturer and an importer of any class of tobacco product shall, not later than the 31 day of January in each year, file with the Ministry —

- (a) a report in the form provided in Schedule 3 of the results of all tests that, during the previous year, have been conducted by the manufacturer or importer for the purposes of Section 8B of the Act; and
- (b) a return in the form provided in Schedule 4 to these Regulations, showing —
  - (i) the weight of tobacco and all additives used in the manufacture of each such product sold by the manufacturer or importer during the previous year;
  - (ii) the quantity of each brand, and of each brand variant of each such product sold by the manufacturer or importer during the previous year; and
  - (iii) the recommended price of each brand , and each brand variant, of each such product sold by the manufacturer or importer during the previous year,



## **PART II- LABELLING OF TOBACCO PRODUCT CONTAINERS**

### **7 Application**

The requirements of regulations 8 to 19 shall apply to all tobacco products that are for retail sale in Tonga.

### **8 Legibility**

Any written information that is required by these Regulations to be displayed on the tobacco packets shall be displayed —

- (a) in Tongan and English, as prescribed by these Regulations; and
- (b) in a manner that ensures that the information is legible and prominently displayed.

### **9 Obligation to Display**

- (1) Subject to Section 6A of the Act, any person who imports, sells, distributes, displays for sale or distributes tobacco products in Tonga shall ensure that the tobacco product displays the applicable health warnings, health information and other messages, in accordance with Schedule I to these Regulations and any Gazette notice issued under sub regulation (2).
- (2) The Minister may, by notice placed in Gazette, make changes to Schedule I, to specify —
  - (a) the health warnings, health information and other messages that shall be displayed on tobacco products; and
  - (b) specify health warnings, health information and other messages shall be displayed on each class of tobacco products; and
- (3) Any Gazette notice issued by the Minister in accordance with sub regulation (2) may refer to written documents or electronic files that can be obtained from the Minister and that contain the images that are required under Schedule I to be displayed as health warnings, health information and other messages on tobacco packaging.
- (4) Any Gazette notice issued under sub regulation (2) shall allow for sufficient time for importers, manufacturers and distributors to comply with changes to Schedule I.

### **10 Manner of display**

The health warnings, health information and other messages shall —

- (a) occupy at least 50 percent of each principal display surface and be positioned parallel to the top edge of the package, towards the top part of the package as much as possible while satisfying the requirements of sub-regulation (b), and in the same direction as the other information that is on the package;
- (b) be displayed on a principal display surface in a manner that ensures that none of the words of the warning will be severed when the package is opened;
- (c) contain the information, wording or pictorial representations or both specified in Schedule I; and
- (d) as closely as possible be reproduced in the colours, style and format specified in Schedule I.

## **11 Textual details and warnings**

Health warnings that are entirely textual shall be displayed using black characters on a white background in Helvetica bold type in a textual detail of warning that results in it occupying not less than 60% and not more than 70% of the area in which it is displayed as determined in accordance with regulation 10(a).

## **12 Warnings to appear in rotation**

- (1) The health warnings, health information and other information required by these regulations shall be displayed in rotation, so that in each calendar year each of them appears on an equal number of retail packages of the same kind of tobacco product.
- (2) For the purposes of sub-regulation (1), tobacco products are not of the same kind if —
  - (a) they are sold under different brand names; or
  - (b) they are sold under the same brand name, but differ in one or more of the following —
    - (i) containing or not containing menthol;
    - (ii) different flavour;
    - (iii) producing different quantities of tar;
    - (iv) having or not having filter tips or cork tips;
    - (v) being sold in retail packages containing different numbers of pieces; or
    - (vi) being of different length or mass.

**13 Harmful constituents to be displayed on cigarette packets**

Subject to regulation 18, a cigarette pack that is sold or offered for sale by a manufacturer, importer, distributor, or retailer shall display a list in the following form —

“The smoke from each cigarette contains, on average —

- (xx) milligrams or less of tar-condensed smoke containing many chemicals, including some that cause cancer;
- (yy) milligrams or less of nicotine-a poisonous and addictive drug; and
- (zz) milligrams or less of carbon monoxide-a deadly gas that reduces the ability of the blood to carry oxygen.”

**14 Average tar, nicotine, and carbon monoxide content**

The list required by regulation 14 shall be displayed on a cigarette packet —

- (a) with the expression “(xx)” replaced —
  - (i) by the average amount of tar produced by a cigarette of the kind contained in the pack, when cigarettes of that kind are tested in accordance with the testing methods required by regulation 5; or
  - (ii) if, when cigarettes of that kind are tested in accordance with those testing methods, the average amount of tar produced by a cigarette does not exceed 16 milligrams, by the lowest weight in the first column of Schedule II that is greater than the average amount produced; and
- (b) with the expression “(yy)” replaced —
  - (i) by the average amount of nicotine produced by a cigarette of the kind contained in the pack, when cigarettes of that kind are tested in accordance with the testing methods required by regulation 5; or
  - (ii) if, when cigarettes of that kind are tested in accordance with those testing methods, the average amount of nicotine produced by a cigarette does not exceed 1.5mg, by the lowest weight in the second column of Schedule II that is greater than the average amount produced; and
- (c) with the expression “(zz)” replaced —
  - (i) by the average amount of carbon monoxide produced by a cigarette of the kind contained in the pack, when cigarettes of the kind are tested in accordance with the testing methods required by regulation 5; or
  - (ii) if, when cigarettes of that kind are tested in accordance with those testing methods, the average amount of nicotine produced by a cigarette does not exceed 20mg, by the lowest weight in the

third column of Schedule II that is greater than the average amount produced

## **15 Format of list of harmful constituents**

The text of a list of harmful constituents shall be printed in black on a rectangular white background —

- (a) in Roman font the Helvetica type;
- (b) in upper-case and lower-case letters, as it is set out in these Regulations;
- (c) in the type that is —
  - (i) clear and legible;
  - (ii) subject to subregulation (b), the same height throughout the message; and
  - (iii) of normal weight

## **16 Display of list of harmful constituents**

- (1) The list of harmful constituents shall be displayed on packets of manufactured cigarettes and cartons in a manner that does not interfere with the display of health warnings, health information and other messages.
- (2) The list of harmful constituents shall be displayed on packets of manufactured cigarettes so that it takes up an entire side of the packet, or a minimum of nine percent of the packet surface, whichever is greater.
- (3) The list of harmful constituents shall be displayed on the cartons of manufactured cigarettes so that it takes up a minimum of five percent of the surface on the carton.

## **17 Alternative list of harmful constituents**

In the case of retail packages that are imported in small quantities, it is a sufficient compliance with these Regulations if the package displays a list of harmful constituents —

- (a) in the English language; and
- (b) in a manner that is substantially the same as the manner required by these regulations.

## **18 Ministry of Health warning**

- (1) Any health warning, or health information or other message or list of harmful constituents may include the words “Ministry of Health Warning”, printed after the rest of the message or list —

- (a) in upper-case and lower-case letters;
  - (b) in italic font in the Helvetica type; and
  - (c) in a point size such that its risers are no more than the half the height of the equivalent risers – of the rest of the message or list in the case of an explanatory message or a list of harmful constituents.
- (2) If the words “Ministry of Health Warning” is included with a health warning, health information or other message or list of harmful constituents —
  - (a) it is part of the message or list; and
  - (b) these Regulations shall apply to health warnings, health information or other messages, and lists of harmful constituents.

**SCHEDULE I***(Regulations 3 and 11)***HEALTH WARNINGS AND OTHER INFORMATION**

ITEM	HEALTH WARNINGS	OTHER INFORMATION
1	SMOKING CAUSES LUNG CANCER	<p><b>SMOKING CAUSES LUNG CANCER</b></p> <p>Tobacco smoke contains many cancer-causing chemicals including tar. When you breathe the smoke in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer can grow spread before it is noticed. It can kill rapidly.</p>
2	SMOKING IS ADDICTIVE	<p><b>SMOKING IS ADDICTIVE</b></p> <p>Nicotine, a drug in tobacco, makes smokers feel they need to smoke. The more you smoke, the more your body will depend on getting nicotine and you may find yourself getting hooked. It may be difficult to give up smoking once you are hooked on nicotine.</p>
3	SMOKING KILLS	<p><b>SMOKING KILLS</b></p> <p>Tobacco use has been shown to cause more illness and early death than using any other drug</p>
4	SMOKING CAUSES HEART DISEASE	<p><b>SMOKING CAUSES HEART DISEASE</b></p> <p>Tobacco smoking is a major cause of heart disease. It can cause blockages in the body's arteries. These blockages can lead to chest pain and heart attacks.</p>
5	SMOKING WHEN PREGNANT HARMS YOUR BABY	<p><b>SMOKING WHEN PREGNANT HARMS YOUR BABY</b></p> <p>Poisons in tobacco smoke reach your baby through the blood-stream. If you smoke when you are pregnant, you greatly increase the chance of having a baby of low weight. Smoking may lead to serious complications which could harm your baby.</p>
6	YOUR SMOKING CAN HARM	<b>YOUR SMOKING CAN HARM OTHERS</b>

	OTHERS	Tobacco smoke causes cancer and poisons people. People who breathe in your tobacco smoke can be seriously harmed. Your smoking can increase their risk of lung cancer and heart disease. Children who breathe your smoke may suffer asthma attacks and chest illnesses.
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**SCHEDULE II***(Regulation 15)***FIGURES FOR DESCRIBING AVERAGE AMOUNTS OF TAR, NICOTINE, AND  
CARBON MONOXIDE**

Tar (milligrams)	Nicotine (milligrams)	Carbon Monoxide (milligrams)
1	0.2	2
2	0.3	3
4	0.4	5
8	0.8	10
12	1.2	15
16	1.5	20



**SCHEDULE III***(Regulation 6(a))***FORM OF REPORT**

Manufacturer, exporter or importer:

Laboratory:

Calendar:

Product	Tar	Nicotine	CO
Brand and Brand Variant	Mean CI *	Mean CI*	Mean CI*

*\*CI=95% confidence interval*

I,.....(full name) of .....(address),.....(position held in testing laboratory), certify that the report correctly records the results of all tests carried out at the laboratory .....(Location) by or on behalf of the.....(Name of manufacturer or importer) during the year.....for the purposes of the Tobacco Control Regulations.

Dated this.....day of.....20.....

**ENDNOTE**

## ENDNOTES

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<sup>1</sup> Gazette 25 May 2006

<sup>2</sup> No commencement proclamation found at the date of the preparation of this revised edition