



REPUBLIC OF VANUATU

TOBACCO CONTROL ACT NO. 19 OF 2008

Tobacco Control Regulation Order No. 86 of 2013

In exercise of the powers conferred on me by section 47 of the Tobacco Control Act No. 19 of 2008, I, the Honourable TONY WRIGHT ANTHONY, Minister of Youth Development, Training and Sport, and Acting Minister of Health, make the following Regulation.

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PART I PRELIMINARY

1 Interpretation

In this Regulation, unless the contrary intention appears:

Act means the Tobacco Control Act No. 19 of 2008;

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;

harmful constituents mean, in respect of any tobacco product, any constituent of that product which is generally recognized as harmful and includes tar, nicotine and carbon monoxide;

health message means a message set out in under Schedule 1;

information on harmful constituents means the information required by clause 13;

other information means, in relation to information on tobacco packaging, information relating to:

- (a) the social, economic, cultural or other effects of tobacco use; or
- (b) exposure to tobacco smoke; or
- (c) advice on avoidance of harms associated with tobacco use or exposure;

Principal display surface means:

- (a) in the case of a package or carton that has at least 2 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 2 of those sides or surfaces, including the sides of any lid or cover if those sides are part of the package or carton; and

- (b) in the case of a package or carton that has sides of more than 1 size - the area of each half of the total area of its largest side; and
- (c) in the case of a package or carton that has a lid or flap that is the 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; and
- (d) in the case of a package or carton that does not have a particular side or surface that is predominantly displayed or visible under normal or customary conditions:
 - (i) any 2 portions that each occupy 40 percent of the total surface area of the package or carton and that can be displayed or visible under normal or customary conditions of sale or use;
 - (ii) excluding, where applicable, the top surface of any lid, except the side of the lid if the side is a part of the side of the package or carton;

retail package means:

- (a) a package intended for retail sale as a single unit and include packages 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).

PART II REQUIREMENTS FOR PERMITTED FORMS OF ADVERTISING

2 Permitted exterior displays on retail premises

For the purpose of subsection 5(2) of the Act, a retailer must, beneath the retailer's name or trade name, display one of the health messages specified in Schedule 1, in lettering not less than half the size of the word or expression, if the retailer:

- (a) displays that retailer's name or trade name on the exterior of that retailer's place of business; and
- (b) name contains any word or expression relating to tobacco products or tobacco smoking.

3 Price notices

(1) For the purpose of subsection 5(3) of the Act, a retailer may place within the retailer's place of business a price notice which indicates the tobacco products available for purchase and their prices in accordance with the following:

- (a) the names and prices of 1 or 2 tobacco brands or brand variants must not exceed 90mm by 55mm;
- (b) the names and prices of 3 or more tobacco brands or brand variants must not exceed 360 cm²;
- (c) the name of the tobacco product (which may consist of or include a brand or brand variant);
- (d) any logo, design, or similar device that is usually associated with that tobacco product;
- (e) a depiction of the package in which the tobacco product is customarily sold;
- (f) the quantity in which the tobacco product is sold (whether by weight or number);
- (g) the price of the tobacco product;
- (h) a health message as required by this regulation.

- (2) The combined area of all price notices to which paragraphs (a) and (b) applies must not exceed 21cm by 29.7cm at any point of sale inside a retailer's place of business.
- (3) There may be displayed at any point of sale inside a retail outlet no more than 2 price notices of the sort to which paragraph (a) relates and no more than 3 price notices of the sort to which paragraph (b) applies.
- (4) A price notice under paragraph (a) or (b) must carry 1 of the health messages specified in Schedule 1, in Bislama, English and French languages and centred at the bottom of the notice and in a text size that is at least double the text size of any other text on that notice.
- (5) A price notice under paragraph (a) or (b) may also carry the attribution '**Ministry of Health Warning**' in Bislama, English and French, printed after the health message, 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 message.

4 Requirements for health messages, pictorial health message and other information during sponsored events

- (1) For the purpose of subsection 9(4) of the Act, a sponsor must include 1 of the health messages specified in Schedule 1, the pictorial health message and the other information which corresponds to that health message in that Schedule:
 - (a) on every tobacco product advertisement displayed at any sponsored event; or
 - (b) if references to sponsorship are limited to attribution, acknowledgment, association or identification, then on every display of those references.
- (2) If a sponsor intends to display 2 or more tobacco product advertisements at any sponsored event, 2 or more different health messages, the pictorial health message and the other information corresponding to that health message as specified under schedule 1 must appear in rotation so that each tobacco product advertisement or reference to tobacco sponsorship displays a different health message, pictorial health message and other information corresponding to that health message.
- (3) If the number of tobacco product advertisements or references to tobacco sponsorship under subclauses (1) and (2) exceeds the number of health messages and other information specified in Schedule 1, those health messages, pictorial health message and other information must appear in rotation so that the health messages and corresponding pictorial health messages and other information used appear in equal numbers across all

the tobacco product advertisements and references to tobacco sponsorship display.

PART III TESTING, REPORTS AND RETURNS

5 Conduct of tests for manufactured cigarettes

For the purpose of section 19 of the Act, tests for the harmful constituents of brands of manufactured cigarettes, and the respective quantities of those constituents present in the smoke, must be conducted 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);
- (d) for tar, nicotine, and carbon monoxide, in addition to the applicable standard method specified in paragraph (a), (b) or (c);
 - (i) ISO 3308:1991(E) (Routine analytical cigarette - smoking machine - Definitions and standard conditions); and
 - (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

- (1) For the purpose of section 20 of the Act, a manufacturer or an importer of any class of tobacco product must within 60 days of testing and not later than the 31st day of January of the following year submit to the Director General the results of any test conducted.
- (2) In addition to subclause (1), the results of all tests which have been conducted by a manufacturer or importer and submitted to the Director General not later than 31st day of January in each year must be in the following forms:
 - (a) an annual report in a form as prescribed under Schedule 2; and
 - (b) a return in a form as prescribed under Schedule 3.

PART IV CONSUMER INFORMATION REQUIREMENTS

7 Application

This Part applies to all tobacco products that are for retail sale in Vanuatu.

8 Legibility of health message or other information

Any health message or other information that is required under this Regulation to be displayed on tobacco packets must:

- (a) be displayed in Bislama, English and French language, and
- (b) ensure that health message and other information are legible and prominently displayed.

9 Obligation to display health message, pictorial health message and other information

Subject to section 24 of the Act, a person must ensure that tobacco product displays the applicable health messages, pictorial health message and other information as prescribed under Schedule 1 if only a person:

- (a) sells, distributes, displays for sale tobacco products in Vanuatu; or
- (b) distributes tobacco products in Vanuatu; or
- (c) imports any tobacco products into Vanuatu.

10 Manner of display of health message, pictorial health message and other information

The health message, pictorial health message and other information required to be displayed must:

- (a) occupy at least 50% of the 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 to satisfy the requirement of paragraph (b), and in the same direction as the other information that is on the package; and
- (b) be displayed on a principal display surface to ensure that none of the words of the message and other information may be severed when the package is opened; and
- (c) contain the information, wording or pictorial representations specified in Schedule 1; and

- (d) as closely as possible be reproduced in the colours, style and format specified in Schedule 1.

11 Display of textual health message and pictorial health message

- (1) Health messages and other information that is entirely textual in nature must be displayed using black characters on a white background in **Helvetica bold** type in a pitch that results in it occupying not less than 60% and not more than 70% of the area in which it is displayed under paragraph 10(a) of this Regulation.
- (2) To avoid doubt, the pictorial health messages must be display using the picture and its colour as shown under schedule 1 in a pitch that occupying not less than 60% and not more than 70% of the area in which it is displayed under paragraph 10(a) of this Regulation.

12 Messages to appear in rotation

- (1) The health messages and other information required under this Regulation must be displayed in rotation, in each calendar year, at least each health messages under Schedule 1 appears on an equal number of retail packages of the same kind of tobacco product.
- (2) For the purposes of subclause (1), tobacco products are not of the same kind if they are sold under different brand names or same brand name but differ in one or more of the following ways:
 - (a) containing or not containing menthol;
 - (b) being otherwise differently flavoured;
 - (c) producing different quantities of tar;
 - (d) having or not having filter tips or cork tips;
 - (e) being sold in retail packages containing different numbers of pieces;
 - (f) being of different length or mass.

13 Information on harmful constituents to be displayed on cigarette packets

Subject to clause 16, a cigarette pack that is sold or offered for sale by a manufacturer, importer, distributor, or retailer must display the following information:

"Smoking exposes you to more than 40 harmful chemicals

These chemicals damage blood vessels, body cells and the immune system

QUIT NOW to reduce your risk of chronic illness or premature death".

14 Format of information of harmful constituents

The text of the information required under clause 13 must be:

- (a) printed in black on a rectangular white background; and
- (b) in the typeface known as Helvetica or a font which is substantially similar in appearance in upper-case and lower-case letters; and
- (c) in a type that is:
 - (i) clear and legible; and
 - (ii) subject to paragraph 10(b), of the same height throughout the message; and
 - (iii) of normal weight.

15 Display of information on harmful constituents

- (1) The information on harmful constituents under clause 13 must be displayed on packets of manufactured cigarettes and cartons in a manner that does not interfere with the display of health messages and other information.
- (2) In addition to subclause (1), the information on harmful constituents) must be displayed on:
 - (a) packets of manufactured cigarettes so that it takes up an entire side of the packet, or a minimum of 9% of the packet surface, whichever is the greater;
 - (b) cartons of manufactured cigarettes so that it takes up a minimum of 5% of the surface of the carton.

16 Alternative information on harmful constituents on packages of cigarettes imported in small quantities

A person who imports retail packages into Vanuatu is taken to have complied with this Regulation only if the packages display information on harmful constituents in the English or French language and in a manner and form as required under clauses 13, 14 and 15.

17 Ministry of Health warning

- (1) A person may add to the health message required under schedule 1, the display of the attribution "*Ministry of Health Warning*" and printed after the rest of the health message, information on harmful constituents or other information.
- (2) Subject to clause (1), the display of the attribution must be in:
 - (a) upper-case and lower-case letters; and
 - (b) italic font, in the type face known as Helvetica or a font substantially similar in appearance; and
 - (c) a font size that rises no more than half the height of the equivalent risers of the rest of the message or other information.
- (2) To avoid doubt, subclauses (1) and (2) does not apply to a case if the attribution "*Ministry of Health Warning*" is already included with a health message, information on harmful constituents or other information which is required to be displayed on the tobacco packaging.

PART V PENALTY NOTICES

18 Prescribed amounts for penalty notices

For the purposes of section 46 of the Act, the prescribed amount in respect of an offence committed under a provision of the Act listed in Column 2 of the Table in Schedule 4 is set out as follows:

- (a) for a first offence, the prescribed amount is set out in Column 3; and
- (b) for a second offence, the prescribed amount is set out in Column 4; and
- (c) for a third offence, the prescribed amount is set out in Column 5.

19 Commencement

- (1) Clauses 2 and 3 come into force on the expiry of 6 months after the date on which this Regulation is published in the Gazette.
- (2) Clauses 4, 5 and 7 come into force on the expiry of 18 months after the date on which this Regulation is published in the Gazette.
- (3) Clauses 10, 11, 12, 13, 14, 15 and 16 come into force on the expiry of 12 months after the date on which this Regulation is published in the Gazette.
- (4) Except as provided in subclauses (1), (2) and (3) of this clause, this Regulation commences on the date on which it is made.

Made at Port Vila this 01st day of July, 2013.









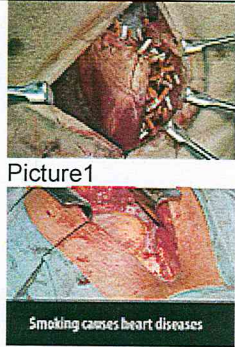


Honourable TONY WRIGHT ANTHONY
Minister of Youth Development, Training
and Sport, and Acting Minister of Health



SCHEDULE 1

HEALTH MESSAGES AND OTHER INFORMATION

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
ITEM	HEALTH MESSAGE	PICTORIAL HEALTH MESSAGE	OTHER INFORMATION
1	SMOKING CAUSES LUNG CANCER (REPEAT IN BISLAMA AND FRENCH)	 <p style="text-align: center;">Picture 1</p>  <p style="text-align: center;">PICTURE 2</p>	SMOKING CAUSES LUNG CANCER 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 and spread before it is noticed. It can kill rapidly.
2	SMOKING IS ADDICTIVE (REPEAT IN BISLAMA AND FRENCH)	 <p style="text-align: center;">Picture 1</p>  <p style="text-align: center;">Picture 2</p>	SMOKING IS ADDICTIVE 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.
3	SMOKING KILLS (REPEAT IN BISLAMA AND FRENCH)	 <p style="text-align: center;">Picture 1</p>  <p style="text-align: center;">PICTURE 2</p>	SMOKING KILLS Tobacco use has been shown to cause more illness and early deaths than using any other drug.

4	SMOKING CAUSES HEART DISEASE (REPEAT IN BISLAMA AND FRENCH)	 <p>Picture 1</p> <p>Smoking causes heart diseases</p> <p>PICTURE 2</p>	SMOKING CAUSES HEART DISEASE 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.
5	SMOKING WHEN PREGNANT HARMS YOUR BABY (REPEAT IN BISLAMA AND FRENCH)	 <p>Picture 1</p> <p>PICTURE 2</p>	SMOKING WHEN PREGNANT HARMS YOUR BABY Poisons in tobacco smoke reach your baby through the bloodstream. If you smoke when you are pregnant, you greatly increase the chance of having a baby of low birth-weight. Smoking may lead to serious complications which could harm your baby.
6	YOUR SMOKING CAN HARM OTHERS (REPEAT IN BISLAMA AND FRENCH)	 <p>Picture 1</p> <p>PICTURE 2</p>	YOUR SMOKING CAN HARM 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.

SCHEDULE 2

FORM OF REPORT

FORM OF REPORT

Manufacturer, exporter or importer:

Laboratory:

Calendar year:

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 at (Location) by or on behalf of the (Name of manufacturer or importer) during the year (Year) for the purposes of the Tobacco Control Regulations 2013.

Dated at this day of .

SCHEDULE 3

FORM OF RETURN

FORM OF RETURN

Manufacturer, importer or exporter:

Calendar year:

Tobacco product class:

Cigarettes/cigarette tobacco/pipe tobacco/cigars/other (specify)*

(a) Tobacco weight by product class:

(b) Weight of additives in total by product class:

(c) List of additives and quantities not exceeded for each brand and brand variants in this return:

Common botanical or chemical name	Quantity not exceeded (percentage by weight)

(d) Brand information:

Brand and brand variant	Quantity released for sale	Price (see note)

I, (Full name) of (Address), (Position held), certify that the information contained in/and annexed to* this return is correct for the purposes of the Tobacco Control Regulation 2013

Dated at this day of

*Delete as appropriate

Note: Price sheets supplied by the manufacturer or importer to retailers during the calendar year of recommended prices for each brand and brand variant or an equivalent list may be attached to the return instead of including that information above.

SCHEDULE 4

PENALTY NOTICE

Column 1 Items	Column 2 Provisions of the Act	Column 3 Prescribed amount (VT) for first offence		Column 4 Prescribed amount (VT) for second offence		Column 5 Prescribed amount (VT) for third offence	
		For an individual	For a body corporate	For an individual	For a body corporate	For an individual	For a body corporate
1	Subsection 6(1) Failure to display a sign with words "Smoking Kills" in Bislama, English and French and in accordance with paragraphs (a) and (b)	2,000	10,000	4,000	20,000	7,000	40,000
2	Subsection 6(2) Sign must be at least 360cm ² in area	2,000	10,000	4,000	20,000	7,000	40,000
3	Subsection 6(3) Sign to include words "Ministry of Health Warning" in Bislama, English and French	2,000	10,000	4,000	20,000	7,000	40,000
4	Subsection 11(1) Sale of tobacco to a person under 18 years of age	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
5	Subsection 11(3) Failure to display notice which state that sale of tobacco products to people who are under 18 years of age is prohibited	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
6	Subsection 13(1) Sale of loose cigarettes or loose tobacco	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
7	Subsection 13(2) (a) Sale of cigarettes in	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000

	package that contains fewer than 20 cigarettes; (b) sale of loose tobacco in a package that contains less than thirty grams of tobacco						
8	Subsection 27(1) A person who has actual possession of a public place must not permit smoking in any part of that public place	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
9	Subsection 27(3) A person must not smoke in any place where smoking is prohibited	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
10	Subsection 30(1) A person who has actual possession or control of a place where health care services are rendered or of an educational facility and permits smoking in that place	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
11	Subsection 30(1) Smoking in correctional centres	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
12	Subsection 30(4) A person must not smoke in institutions where smoking is prohibited	2,000	-	4,000	-	7,000	-
13	Subsection 32(1), (3) or (5) A person must not smoke in any bus, taxi, ship or any other public transport	20,000	-	40,000	-	70,000	-
14	Subsection 32(2) Operator of a public transport vehicle must not permit any person to smoke in the vehicle while it is carrying passengers	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000
15	Subsection 32(4) or (6) Operator of a public transport vehicle must ensure that no smoking signs are posted in	200,000	1,000,000	400,000	2,000,000	700,000	4,000,000

	the vehicle						
16	Section 33 A person must not smoke on any aircraft carrying members of the public	20,000	-	40,000	-	70,000	-