
STATUTORY INSTRUMENTS

1991 No. 1530

CONSUMER PROTECTION

The Tobacco Products Labelling (Safety) Regulations 1991

<i>Made</i>	- - - -	<i>5th July 1991</i>
<i>Laid before Parliament</i>		<i>11th July 1991</i>
<i>Coming into force</i>		
<i>for the purposes of</i>		
<i>regulations 9 and 13(1)</i>		<i>1st October 1991</i>
<i>for all other purposes</i>		<i>1st January 1992</i>

In exercise of the powers conferred by section 11 of the Consumer Protection Act 1987(1), for the purpose of securing that appropriate information is, and inappropriate information is not, provided in relation to goods, and after consultation, in accordance with section 11(5) of that Act, with organisations appearing to be representative of interests substantially affected by these Regulations and other persons considered appropriate, of the powers conferred by subsection (2) of section 2 of the European Communities Act 1972(2) and of all other powers enabling me in that behalf, I hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tobacco Products Labelling (Safety) Regulations 1991 and shall come into force—

- (a) for the purposes of regulations 9 and 13(1) on 1st October 1991; and
- (b) for all other purposes on 1st January 1992.

Interpretation

2. —

(1) In these Regulations unless the context otherwise requires—

“back face”, in relation to a rectangular cigarette packet, means the side opposite to the most visible surface;

“general warning” means the warning specified in regulation 3;

(1) 1987 c. 43.

(2) 1972 c. 68; see S.I.1991/755 designating the Secretary of State for the purposes of that subsection in relation to measures relating to the sale, packaging, labelling and sampling of tobacco products.

“ISO 3400” means the International Standard entitled Cigarettes—Determination of alkaloids in smoke condensates—Spectrometric method ISO 3400: 1989 (E) second edition published by the International Organisation for Standardisation on 1st July 1989;

“ISO 4387” means the International Standard entitled Cigarettes—Determination of total and dry particulate matter using a routine analytical cigarette-smoking machine—Glass fibre filter smoke trap method ISO 4387: 1987 (E) first edition published by the International Organisation for Standardisation on 15th April 1987;

“ISO 8243” means the International Standard entitled Cigarettes—Sampling ISO 8243: 1988 (E) first edition published by the International Organisation for Standardisation on 15th February 1988;

“member State” means a member State of the European Economic Community;

“most visible surface”, in relation to a rectangular cigarette packet, means that surface of the packet which is, or is equal in area to, the largest surface and either—

- (a) faces a person opening that packet, or
- (b) where no such surface faces a person opening the packet, carries most prominently the name, trademark or other distinguishing mark of the brand of -cigarettes,

and in relation to other cigarette packets means the most conspicuous surface;

“nicotine” means nicotinic alkaloids;

“packet”, in relation to a tobacco product, means any box, package, container or other receptacle which contains the product, and in which the product is, or is intended to be, presented for retail supply, excluding any additional outer wrapping (whether or not transparent) which may be discarded on opening, and where any such receptacle is or is to be contained in another such receptacle (excluding such outer wrapping), includes each such receptacle;

“producer”, in relation to a tobacco product, means a person who in the course of a business—

- (a) manufactures it,
- (b) puts a name, trademark or other distinguishing mark on it, by which he holds himself out to be its manufacturer or originator, or
- (c) imports it into the United Kingdom,

with a view to the product being supplied for consumption in the United Kingdom; and

“produce” shall be construed accordingly;

“rectangular”, in relation to a packet of cigarettes, denotes a packet having only rectangular surfaces;

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

“tobacco product” means a product made wholly or partly of tobacco for the purpose of being smoked, sniffed, sucked or chewed, but does not include a product which is made partly of tobacco and is intended to help a consumer of tobacco products to stop or reduce his use of such products.

(2) In these Regulations—

- (a) any reference to a Standard is a reference to that Standard as it has effect on the date on which these Regulations are made (including any amendment to that Standard taking effect on or before that date); and
- (b) where any Standard mentioned specifies relevant requirements by reference to another Standard, that reference is to be construed for the purposes of these Regulations as a reference to that other Standard as it has effect on the date on which these Regulations are made (including any amendment to that other Standard taking effect on or before that date).

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule, as the case may be, which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation of these Regulations is a reference to the paragraph bearing that number in that regulation.

General warning on tobacco products

3. A producer of a tobacco product shall ensure that its packet carries, on the most visible surface, the warning: “Tobacco seriously damages health”.

Additional warnings for cigarettes

4. –

(1) A producer of cigarettes shall ensure that each packet of cigarettes which he produces carries on the back face a warning from the list in Schedule 1.

(2) Subject to paragraph (3), a producer of a brand of cigarettes shall ensure that each of the warnings listed in Schedule 1 appears on an equal number of packets of that brand of cigarettes which he produces over any period of 12 months.

(3) A producer of cigarettes is to be regarded as complying with the requirements of paragraph (2) in relation to a brand of cigarettes if the number of packets of that brand on which each warning appears is no fewer than 95 per cent. of, and no greater than 105 per cent. of, one sixth of the total number of packets of cigarettes of that brand produced by him over the period of 12 months.

Visibility and position of warnings

5. –

(1) In the case of tobacco products other than cigarettes, the general warning–

(a) shall be printed on, or irremovably affixed to, a conspicuous place on each packet, on a contrasting background and in such a way as to be easily visible, clearly legible and indelible;

(b) shall not in any way be hidden, obscured or interrupted by other written or pictorial matter.

(2) In the case of cigarettes the general warning and a warning required by regulation 4(1) shall, each be printed on the packet–

(a) clearly and legibly;

(b) in bold letters on a contrasting background;

(c) in a position where it is unlikely to be damaged when the packet is opened;

(d) so as to cover an area amounting to at least 6 per cent. of the surface on which it is printed, such area to be defined by a right-angled polygon drawn closely round the periphery of the printed letters as shown in Figures 1 and 2 in Schedule 2.

Information as to tar and nicotine yields in cigarettes

6. –

(1) Subject to the following provisions of these Regulations, a producer of cigarettes shall ensure that each packet of cigarettes which he produces provides information as to the tar and nicotine yields of the cigarettes contained in it by means of a statement of those yields determined in accordance with ISO 3400, ISO 4387 and ISO 8243.

(2) The statement–

- (a) as to the tar yield shall be shown as a figure rounded to the nearest whole number and expressed in milligrams in the form “x mg tar”;
 - (b) as to the nicotine yield shall be shown as a figure rounded to one decimal place and expressed in milligrams in the form “y.z mg nicotine”.
- (3) The statement of the yields shall–
- (a) be printed in clearly legible print on a contrasting background along one side of the packet;
 - (b) cover an area amounting to at least 6 per cent. of that side of the packet such area to be defined by a right-angled polygon drawn closely round the periphery of the printed letters as shown in Figure 3 in Schedule 2.

Non-Rectangular packets

7. In the application of these Regulations to cigarette packets that are not rectangular–
- (a) a requirement of regulation 4(1) or 6(3)(a) to carry a warning on the back face of, or a statement on the side of, a packet shall be construed as a requirement to carry the warning or statement on a conspicuous surface of the packet; and
 - (b) a requirement of regulation 5(2)(d) or 6(3)(b) that a warning or statement cover an area amounting to a percentage of a surface shall be construed as a requirement that the warning or statement cover such an area of the surface on which it is printed that it is no less conspicuously displayed than would be required if the packet were rectangular.

Products imported from other member States

8. A person who imports cigarettes of any brand into the United Kingdom from another member State with a view to them being supplied for consumption in the United Kingdom shall be regarded–
- (a) as complying with the requirements of regulation 4(1) if the packet carries a warning in English which is taken from the list of warnings drawn up by that member State in accordance with Article 4.2 of Council Directive [89/622/EEC](#) on the approximation of laws, regulations and administrative provisions of the member States concerning the labelling of tobacco products⁽³⁾ and is in accordance with any stipulation of that member State made pursuant to Article 4.3 of that Directive;
 - (b) as complying with the requirements of regulation 4(2) if each of the warnings in that list appears on an equal number of packets of that brand imported by him from that Member State over any period of twelve months or on a number of such packets so imported which is no fewer than 95 per cent. of, and no greater than 105 per cent. of, the total number of such packets so imported divided by the number of warnings in that list;
 - (c) as complying with the requirements of regulation 5(2)(d) if the packet complies with requirements imposed by that member State pursuant to Article 4.4 of that Directive;
 - (d) as complying with the requirements of regulation 6(3)(b) if the packet complies with the requirements of that member State imposed pursuant to Article 3.3 of that Directive, so far as it relates to the amount of the surface of the packet to be covered.

Testing of cigarettes, samples and information

9. –

- (1) The Secretary of State may test cigarettes for the purposes of establishing their tar and nicotine yields and the accuracy of the statement of those yields on any packet of cigarettes; and in testing

the cigarettes the Secretary of State shall select samples in accordance with ISO 8243 and conduct the tests in accordance with ISO 3400 and ISO 4387.

(2) For the purposes of enabling the Secretary of State to perform his functions under paragraph (1), a producer of cigarettes shall—

- (a) provide the Secretary of State with such samples, at such times and intervals, and from such sources, as the Secretary of State may reasonably require;
- (b) within the period of one week beginning with the date on which he first supplies a new brand in the United Kingdom notify the Secretary of State of the tar and nicotine yields determined by the producer in accordance with ISO 3400, ISO 4387 and ISO 8243 and shown and expressed as specified in regulation 6(2);
- (c) before 1st October in each year notify the Secretary of State—
 - (i) of the names of all brands of cigarettes produced and to be produced by him during the 12 months preceding that 1st October and of the tar and nicotine yields determined by the producer in accordance with ISO 3400, ISO 4387 and ISO 8243 and shown and expressed as specified in regulation 6(2), and
 - (ii) of the renaming or discontinuance of any brand produced by him within the period of 12 months preceding that 1st October.

(3) In this regulation “new brand” includes a brand of cigarettes which has the same composition as, even if it has a different name from, a brand previously produced, and includes a brand which, though having the same name as one previously produced, has a specification which is sufficiently different to bring about a different tar or nicotine yield.

Procedure for determining statement of yields on packets of cigarettes

10. –

(1) Where the Secretary of State considers, having tested cigarettes under regulation 9(1), that their tar yield or nicotine yield differs from that notified to him by a producer under regulation 9(2) (b) or (c), he may notify that producer—

- (a) that the tests do not confirm the accuracy of a yield so notified; and
- (b) of the tar and nicotine yields which the Secretary of State considers to be accurate.

(2) On receiving notification under paragraph (1) relating to cigarettes a producer shall either—

- (a) within the period of one month beginning with the date on which he receives that notification, notify the Secretary of State in writing that he disputes the accuracy of a tar or nicotine yield notified to him by the Secretary of State under paragraph (1)(b); or
- (b) with effect from the date of expiry of the period of three months beginning with the date on which he receives that notification, provide, as the information which he is required by regulation 6 to provide on packets of those cigarettes, a statement of the tar and nicotine yields as notified by the Secretary of State under paragraph (1)(b).

(3) A producer who notifies the Secretary of State under sub-paragraph (a) of paragraph (2) may make representations to him with a view to agreeing with him the correct tar and nicotine yields; and

- (a) if they reach agreement within the period of eight months beginning with the last date on which the notification could have been given under that sub-paragraph, the producer shall provide, with effect from three months after the date of the agreement, as the information which he is required by regulation 6 to provide, the statement of the tar and nicotine yields as so agreed;
- (b) if they do not reach agreement within that period, the producer shall provide, with effect from three months after its expiry, as the information which he is required by regulation 6 to provide, the statement of the tar and nicotine yields as notified by the Secretary of State

under paragraph (1)(b) or, if different, the statement of the tar and nicotine yields most recently notified to him before the expiry of that period by the Secretary of State.

Prohibition on supply of tobacco products

11. –

- (1) No person shall–
- (a) supply; or
 - (b) offer to supply; or
 - (c) agree to supply; or
 - (d) expose for supply; or
 - (e) possess for supply,

any tobacco product in respect of which the producer has not complied with a requirement of regulations 3 to 6 which relates to that product.

(2) Paragraph (1) does not apply where a tobacco product is or is to be supplied for consumption outside the United Kingdom.

(3) Where in relation to a brand of cigarettes the producer is required by regulation 10 to provide on the packet a statement of tar and nicotine yields notified to him by, or agreed with, the Secretary of State, the producer shall not, after the expiry of a period of three months beginning with the date of expiry of the period of eight months mentioned in regulation 10(3)(a) or the date of the agreement, supply a packet of that brand of cigarettes which does not provide that statement.

Enforcement

12. –

(1) Notwithstanding that they are made partly in exercise of powers other than those conferred by section 11 of the Consumer Protection Act 1987, these Regulations shall be regarded for the purposes of enforcement (whether by criminal proceedings or otherwise) as safety regulations as defined in that Act and any provision of these Regulations made under those other powers shall be regarded for those purposes as a safety provision as defined in that Act.

(2) The requirement of regulation 9(2)(a) to provide samples shall, for the purposes of section 12(4)(a) of the Consumer Protection Act 1987, be treated as though it were a requirement to give information.

Transitional provisions

13. –

(1) Regulation 9(2)(c) shall have effect in relation to brands of cigarettes produced during the 12 months preceding 1st October 1991 as if, for the words “before 1st October in each year”, were substituted the words “as soon as reasonably practicable after 30th September 1991, and in any event no later than 31st October 1991”.

(2) Regulation 11(1) shall not apply to the supply, offer or agreement to supply, or exposure or possession for supply of a tobacco product produced before 1st January 1992 where the supply takes or is to take place–

- (a) in the case of cigarettes, before 1st January 1993;
- (b) in the case of any other tobacco product, before 1st January 1994.

5th July 1991

William Waldegrave
One of Her Majesty's Principal Secretaries of
State

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SCHEDULE 1

Regulation 4(1)

HEALTH WARNINGS TO BE CARRIED IN ROTATION
ON THE BACK OF A CIGARETTE PACKET

1. Smoking causes cancer.
2. Smoking causes heart disease.
3. Smoking causes fatal diseases.
4. Smoking kills.
5. Smoking when pregnant harms your baby.
6. Protect children: don't make them breathe your smoke.

SCHEDULE 2

Regulations 5(2) and 6(3)

MEASUREMENT OF AREA OF WARNINGS AND STATEMENTS

Figure 1: Measurement of area of warning required by regulation 3

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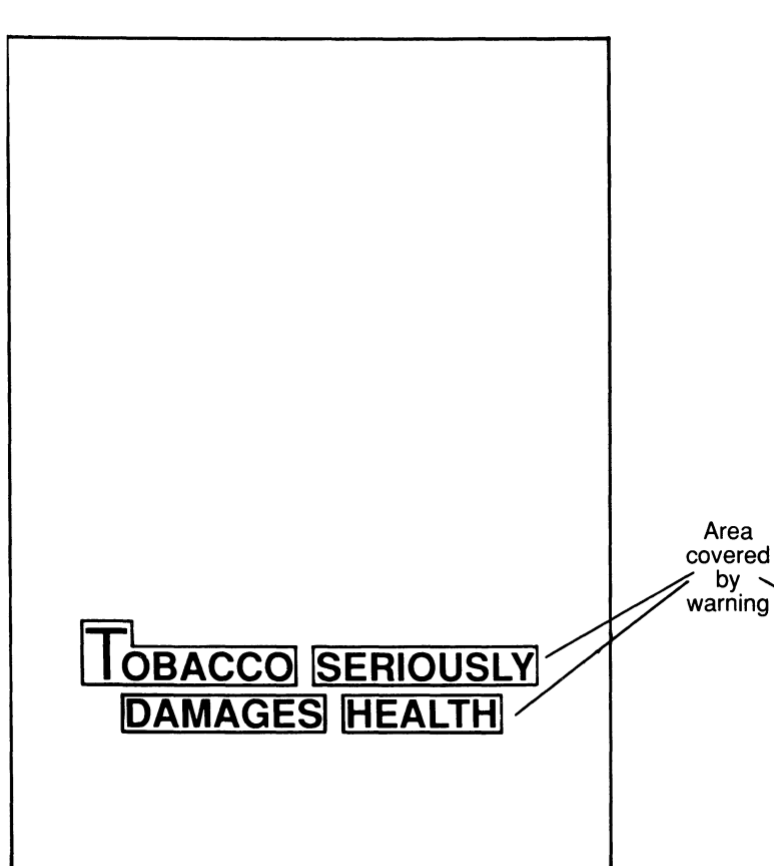


Figure 1:
Measurement of area of warning required by regulation 3

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Figure 2: Measurement of area of warning required by regulation 4(1).
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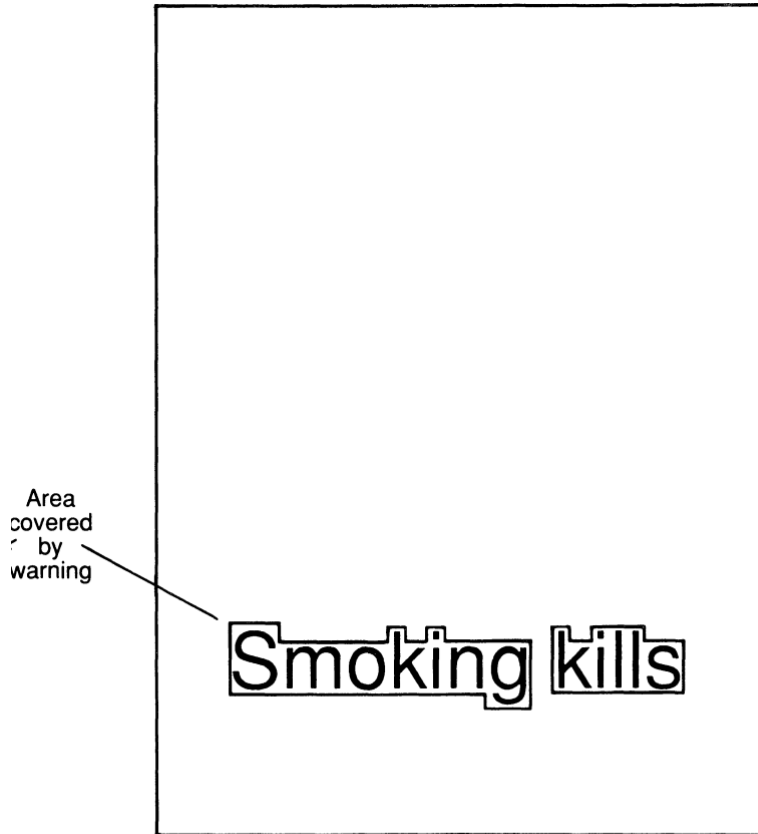
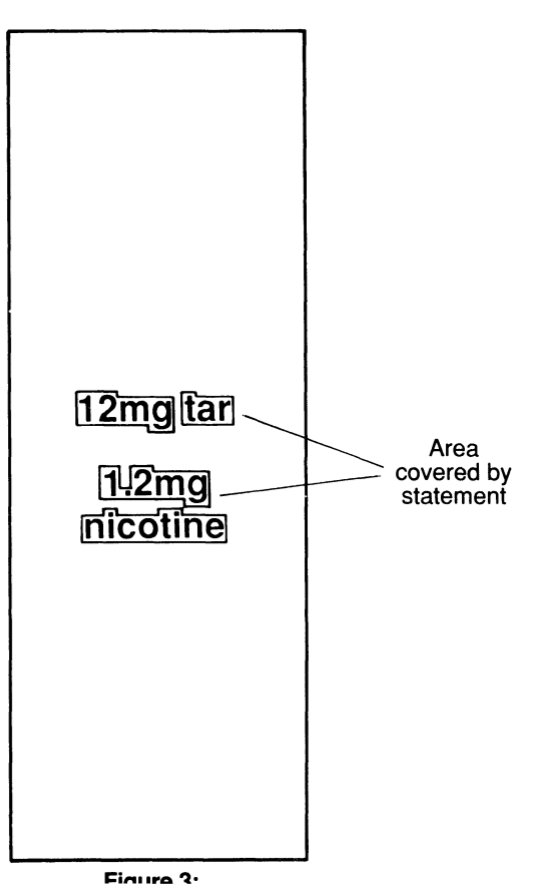


Figure 2:
Measurement of area of warning required by regulation 4(1)

Figure 3: Measurement of area of warning required by regulation 6
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [89/622/EEC](#) concerning the labelling of tobacco products (OJNo. L359 8.12.89 p 1). The Regulations are made in exercise of powers contained in the Consumer Protection Act 1987 and in the European Communities Act 1972.

The Regulations require a producer of tobacco products (“producer” is defined in regulation 2(1), and includes an importer) to ensure that each packet containing the tobacco product carries the specified general warning (regulation 3).

In relation to cigarettes, producers are required to ensure that each packet carries one of six health warnings additional to the general warning (regulation 4). The additional health warnings are specified in Schedule 1 to the Regulations. Regulation 4 requires that these warnings should appear on an equal number of packets over the course of a year, with a 5 per cent. allowance made for variation above or below that number.

Regulation 5 makes provision as to the visibility and position of the general warning and the additional warning for cigarettes; there is also a provision as to the size of the area to be covered by those warnings, and Schedule 2 to the Regulations shows how the area is to be measured.

Regulation 6 requires the producer of cigarettes to ensure that each packet of cigarettes provides information as to the tar and nicotine yields of those cigarettes. The manner of determining the tar and nicotine yields and the presentation of the information on the packet is also specified.

Regulation 7 specifies how information is to be presented on a non-rectangular packet.

Regulation 8 provides that an importer of cigarettes from a member State of the EEC is to be treated as complying with specified requirements of the Regulations if the equivalent requirements of that member State, adopted to implement Council Directive [89/622/EEC](#), are met.

To determine the accuracy of information about tar and nicotine yields carried on packets, the Secretary of State is empowered to select samples of and conduct tests on cigarettes; the methods of sampling and testing are specified in regulation 9(1). Regulation 9(2) requires the producer of cigarettes to supply samples as required by the Secretary of State and to notify the Secretary of State of certain information about cigarette brands produced by him.

Regulation 10 specifies the procedure to be followed when the Secretary of State's own tests show results different from those recorded in the information on the cigarette packets.

The Regulations prohibit supplying, offering to supply, agreeing to supply, exposing for supply or possessing for supply any tobacco product in respect of which the producer has not complied with regulations 3 to 6 (regulation 11).

Regulation 12 provides that the Regulations are to be regarded for the purposes of enforcement as safety regulations and safety provisions as defined in the Consumer Protection Act 1987, although they are made partly in exercise of other powers.

Transitional provisions are provided for in regulation 13.

Copies of the International Standards referred to in the Regulations may be obtained from the British Standards Institute, Linford Wood, Milton Keynes MK14 6LE.