

FIRST PRINT

PUBLIC HEALTH (TOBACCO) AMENDMENT BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

Business Franchise Licences (Tobacco) Further Amendment Bill 1986;

Cigarettes (Labelling) Amendment and Repeal Bill 1986.

The object of this Bill is to amend the Public Health Act 1902 to require tobacco products to be marked with health warnings and to prohibit the sale of tobacco to persons who are under the age of 16 years.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

Clause 4 repeals the Juvenile Smoking Suppression Act 1903.

SCHEDULE 1—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902
RELATING TO TOBACCO PRODUCTS LABELLING

Schedule 1 (1) inserts a new Part VIIIA into the Principal Act containing the following provisions relating to tobacco products labelling:

Proposed section 75A is an interpretation provision for the purposes of Part VIIIA. It defines the words "pack", "package" (which includes a box, carton, cylinder, packet, pouch, tin and wrapping, but does not include a transparent outer wrapping), "sell", and "tobacco product" (which means a product containing tobacco prepared for smoking, but does not include cigars or plug tobacco).

Proposed section 75B provides that, until such day as is appointed by the Governor-in-Council, Part VIIIA shall apply only to the packing or sale of tobacco products manufactured in Australia on or after 1 July 1987 and to the packing or sale of tobacco products manufactured outside Australia on or after 1 September 1987. After the appointed day, the Part shall apply to the packing or sale of tobacco products, irrespective of their place or date of manufacture.

Proposed section 75C prohibits a person selling a tobacco product unless it is in a package. The penalty for an offence against this section is \$1,000.

Proposed section 75D prohibits a person packing a tobacco product unless the package is marked with a designated health warning. The penalty for an offence against this section is \$1,000.

Proposed section 75E prohibits a person selling a tobacco product unless the package is marked with a designated health warning. The penalty for an offence against this section is \$1,000.

Proposed section 75F prohibits the marking of packages with certain specified words and any words that directly or by implication contradict, qualify or modify the health warning.

Proposed section 75G provides that the Governor may, by regulation, substitute or amend the Third Schedule proposed to be inserted into the Principal Act.

Schedule 1 (2) inserts the Third Schedule into the Principal Act containing provisions concerning the requirements for marking tobacco products with health warnings.

Of the provisions of the Third Schedule, proposed clause 1 is an interpretation provision for the purposes of the Schedule. It defines the words "marked", "package" and "word".

Proposed clause 2 specifies that the health warnings shall consist of any one of the following 4 warnings:

SMOKING CAUSES LUNG CANCER
SMOKING CAUSES HEART DISEASE
SMOKING DAMAGES YOUR LUNGS

SMOKING REDUCES YOUR FITNESS

and the attribution "Health Authority Warning". Provision is made for the manner in which the health warning shall be printed on a package.

Proposed clause 3 requires each of the 4 health warnings to be marked on packages with equal frequency in each successive 12 month period commencing from the date on which the new requirements come into effect.

Proposed clause 4 provides for the positioning and prominence of the health warnings on packages.

SCHEDULE 2—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902
RELATING TO JUVENILE SMOKING

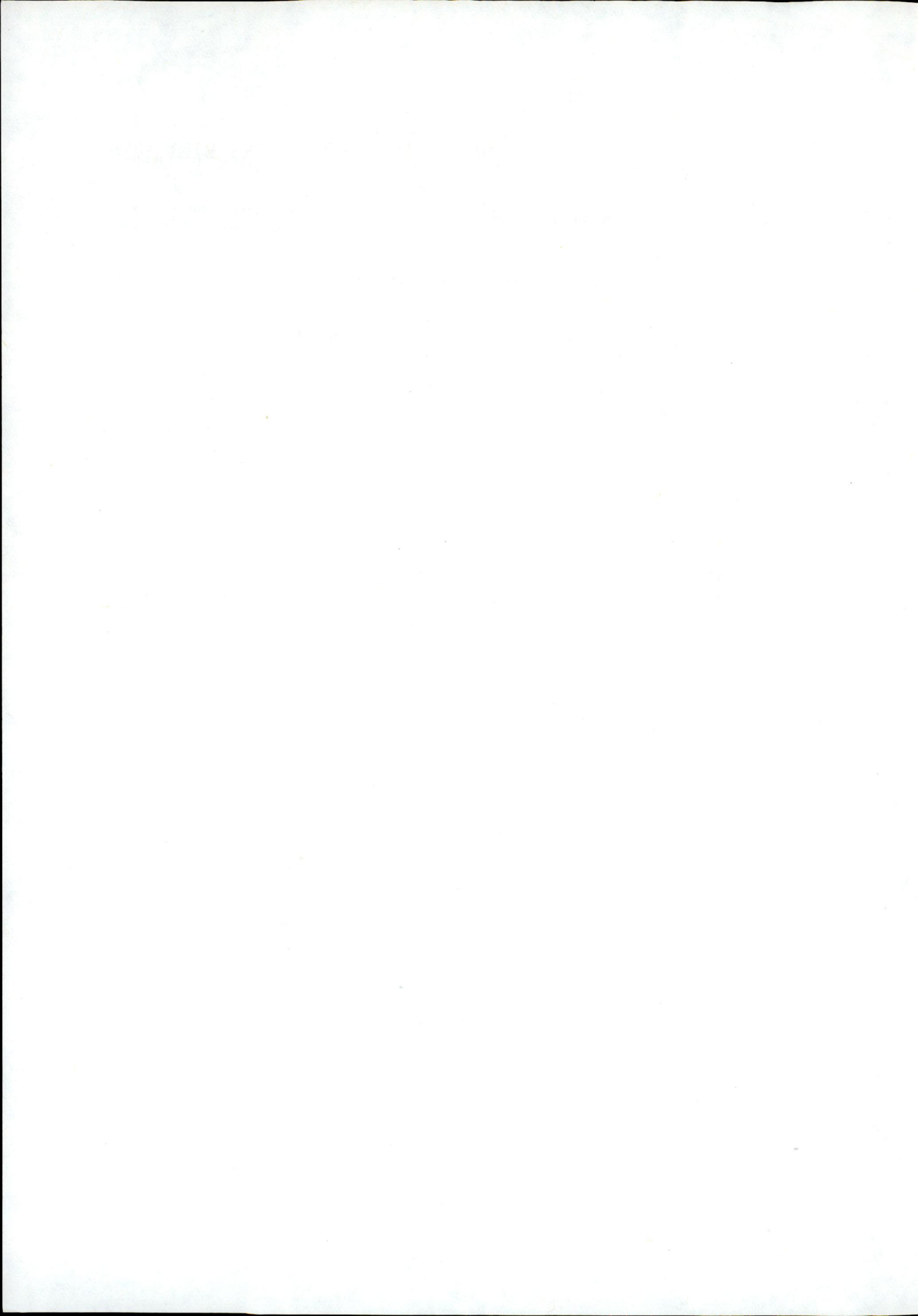
Schedule 2 inserts a new Part VIII B into the Principal Act containing the following provisions relating to juvenile smoking:

Proposed section 75H is an interpretation provision for the purposes of Part VIII B. It defines "tobacco" to include cigars and cigarettes.

Proposed section 75I prohibits the sale of tobacco to persons under 16 years and imposes a maximum penalty of \$1,000. The proposed section provides a defence if the defendant proves that the person to whom the tobacco was sold was of or above the age of 12 years and was, on reasonable grounds, believed by the defendant to be of or above the age of 16 years.

Proposed section 75J provides for the Chief Commissioner for Business Franchise Licences (Tobacco) to be notified of the conviction of a person under proposed section 75I where the person is the holder of a retail tobacconist's licence under the Business Franchise Licences (Tobacco) Act 1975 or a member of a group in respect of which a group retail tobacconist's licence under that Act is held.

Proposed section 75K enables the making of regulations requiring the display of signs at places where tobacco is sold.



PUBLIC HEALTH (TOBACCO) AMENDMENT BILL 1986

NEW SOUTH WALES

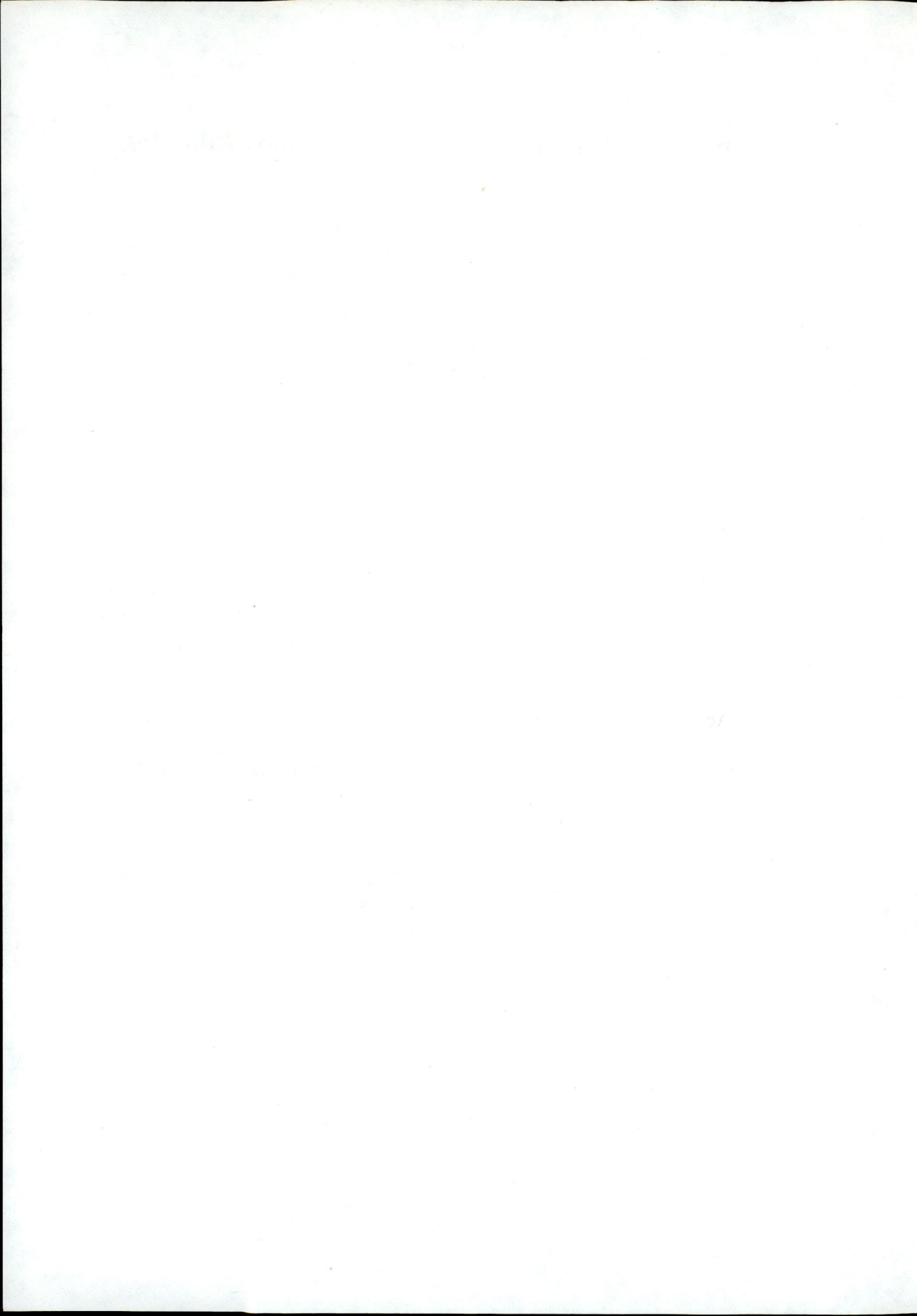


TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 30, 1902
4. Repeal of Act No. 11, 1903

SCHEDULE 1—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING TO TOBACCO PRODUCTS LABELLING

SCHEDULE 2—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING TO JUVENILE SMOKING



PUBLIC HEALTH (TOBACCO) AMENDMENT BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Public Health Act 1902 to require tobacco products to be marked with health warnings and to prohibit the sale of tobacco to persons who are under the age of 16 years; and to repeal the Juvenile Smoking Suppression Act 1903.

See also Business Franchise Licences (Tobacco) Further Amendment Bill 1986; Cigarettes (Labelling) Amendment and Repeal Bill 1986.

Public Health (Tobacco) Amendment 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Public Health (Tobacco) Amendment Act 1986".

Commencement

2. (1) Except as provided by subsections (2) and (3), this Act shall
10 commence on the date of assent to this Act.

(2) Section 3, in its application to Schedule 1 or 2, shall commence on the day on which the Schedule commences.

(3) Section 4 and Schedule 2 shall commence on such day as may be
15 appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 30, 1902

3. The Public Health Act 1902 is amended in the manner set forth in Schedules 1 and 2.

Repeal of Act No. 11, 1903

20 **4.** The Juvenile Smoking Suppression Act 1903 is repealed.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING

5 (1) Part VIIIA—

After Part VIII, insert:

PART VIIIA

TOBACCO PRODUCTS LABELLING

Interpretation

10 75A. In this Part—

“pack” includes cause, permit or suffer to be packed;

“package” includes a box, carton, cylinder, packet, pouch, tin
and wrapping, but does not include a transparent outer
wrapping;15 “sell” includes offer for sale and keep, or have in possession,
for sale;20 “tobacco product” means a tobacco product prepared for
smoking and includes cigarettes and any mixture that
contains tobacco and is intended to be smoked, but does not
include cigars or plug tobacco.**Application of Part**25 75B. (1) Before a day (not earlier than 1 September 1987) to
be appointed by the Governor and notified by proclamation
published in the Gazette, this Part shall apply to and in respect
of—(a) the packing or sale of tobacco products manufactured in
Australia on or after 1 July 1987; and(b) the packing or sale of tobacco products manufactured
outside Australia on or after 1 September 1987.30 (2) On and from the day appointed and notified under
subsection (1), this Part shall apply to the packing or sale of all
tobacco products, irrespective of their place or date of
manufacture.

Public Health (Tobacco) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

Sale of unpackaged tobacco products prohibited

75C. A person shall not sell a tobacco product unless it is in a package.

Penalty: \$1,000.

5 **Packing of tobacco product without health warning prohibited**

75D. A person shall not pack a tobacco product into a package in which the product is to be sold unless the package is marked with a health warning in accordance with the Third Schedule.

Penalty: \$1,000.

10 **Sale of tobacco product without health warning prohibited**

75E. A person shall not sell a tobacco product unless the package in which the product is sold is marked with a health warning in accordance with the Third Schedule.

Penalty: \$1,000.

15 **Prohibited words**

75F. A person shall not pack a tobacco product into a package in which the product is to be sold or sell a tobacco product in a package if the package is marked with, or accompanied by, any material containing—

- 20 (a) the word “non-injurious” or “non-hazardous” or the words “harmless to man”, or any other words of similar import;
or
- (b) any words that directly or by implication contradict, qualify or modify a health warning marked on the package
- 25 in accordance with the Third Schedule.

Amendment of Third Schedule

75G. The Governor may, by regulation, substitute or amend the Third Schedule.

*Public Health (Tobacco) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

(2) Third Schedule—

After the Second Schedule, insert:

THIRD SCHEDULE

(Secs. 75A—75G)

5

HEALTH WARNINGS ON TOBACCO PRODUCTS

Interpretation

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

10

“marked”, in relation to a package, means printed on the package or affixed to the package by means of an adhesive label;

“package” means a package containing a tobacco product, and includes a box, carton, cylinder, packet, pouch, tin and wrapping, but does not include a transparent outer wrapping;

“word” includes symbol.

15

Health warning

2. (1) The health warning shall consist of one of the following warnings:

SMOKING CAUSES LUNG CANCER

SMOKING CAUSES HEART DISEASE

SMOKING DAMAGES YOUR LUNGS

20

SMOKING REDUCES YOUR FITNESS

and the attribution “Health Authority Warning” which shall appear below the warning.

25

(2) The warning shall be marked on a package in one line of letters in upper case of not less than 14 point (or the nearest practicable point size) in Univers 57 Medium Condensed Roman typeface.

(3) The attribution shall be marked on a package in one line of letters in upper and lower case which are one-half of the point size of those in which the warning is printed, in Univers 55 Medium Roman typeface.

Public Health (Tobacco) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

Rotation of health warnings

3. As far as is reasonably practicable, each health warning shall be marked on packages with equal frequency during each successive 12 month period commencing—

- 5 (a) in the case of tobacco products manufactured in Australia—on 1 July 1987; and
- (b) in the case of tobacco products manufactured outside Australia—on 1 September 1987.

Position and prominence of health warning

- 10 4. The health warning—
- (a) shall, in the case of each packet containing a tobacco product, be marked at the base of the front and back of the packet;
- (b) shall, in the case of each pouch, tin or cylinder, be marked on each face on which the brand name appears;
- 15 (c) shall, in the case of all other packages, be marked on not less than 2 faces of the package; and
- (d) shall be printed in such colour or colours as will afford a distinct colour contrast to the background on which it appears.
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Public Health (Tobacco) Amendment 1986

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO JUVENILE SMOKING

5 Part VIII B—

After Part VIIIA, insert:

PART VIII B

JUVENILE SMOKING

Interpretation

10 75H. In this Part—

“tobacco” means tobacco prepared for consumption and includes cigars, cigarettes and any mixture that contains tobacco and is intended to be consumed.

Sale of tobacco to persons under 16 prohibited

15 75I. (1) A person shall not sell tobacco to a person who is under the age of 16 years.

Penalty: \$1,000.

20 (2) It is a defence to a prosecution for an offence under subsection (1) if the defendant proves that the person to whom the tobacco was sold was of or above the age of 12 years and was, on reasonable grounds, believed by the defendant to be of or above the age of 16 years.

Notification of certain offences to Chief Commissioner for Business Franchise Licences (Tobacco)

25 75J. Where a person, being—

(a) the holder of a retail tobacconist's licence under the Business Franchise Licences (Tobacco) Act 1975; or

(b) a member of a group in respect of which a group retail tobacconist's licence under that Act is held,

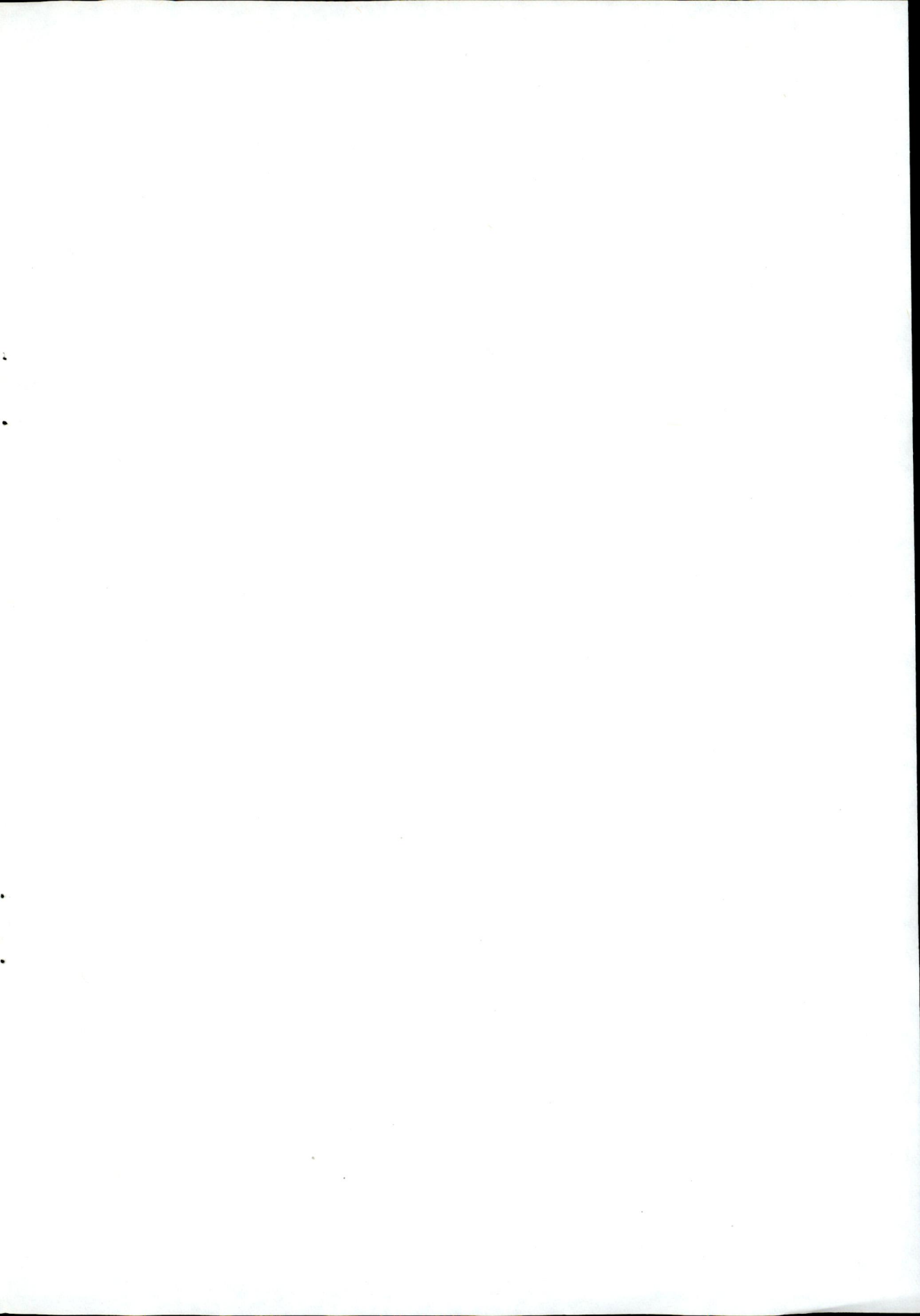
30 is convicted of an offence under section 75I (1), the court before which the person was convicted shall notify the Chief Commissioner for Business Franchise Licences (Tobacco) of the conviction.

SCHEDULE 2—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO JUVENILE SMOKING—*continued*

Regulations

75K. The Governor may make regulations for or with respect to the form and contents and the display of signs at places where tobacco is sold relating to the provisions of this Part.



PUBLIC HEALTH (TOBACCO) AMENDMENT ACT 1986
No. 164

NEW SOUTH WALES

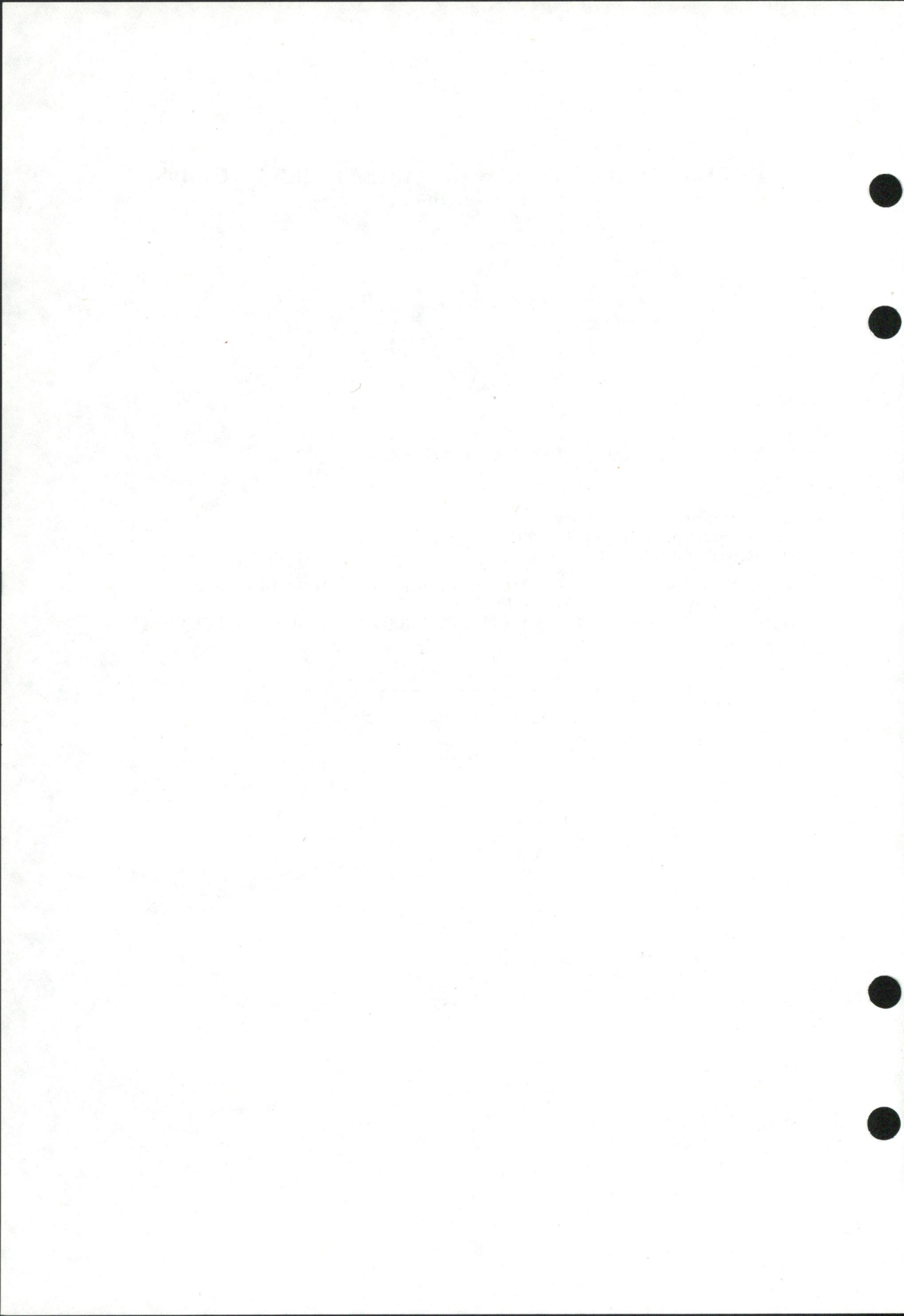


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2. Commencement
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4. Repeal of Act No. 11, 1903

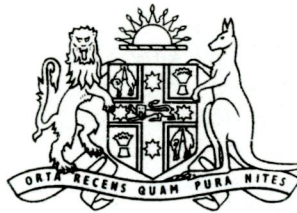
SCHEDULE 1—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING

SCHEDULE 2—AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO JUVENILE SMOKING



PUBLIC HEALTH (TOBACCO) AMENDMENT ACT 1986 No. 164

NEW SOUTH WALES



Act No. 164, 1986

An Act to amend the Public Health Act 1902 to require tobacco products to be marked with health warnings and to prohibit the sale of tobacco to persons who are under the age of 16 years; and to repeal the Juvenile Smoking Suppression Act 1903. [Assented to 17 December 1986]

See also Business Franchise Licences (Tobacco) Further Amendment Act 1986; Cigarettes (Labelling) Amendment and Repeal Act 1986.

Public Health (Tobacco) Amendment 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Public Health (Tobacco) Amendment Act 1986".

Commencement

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 3, in its application to Schedule 1 or 2, shall commence on the day on which the Schedule commences.

(3) Section 4 and Schedule 2 shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 30, 1902

3. The Public Health Act 1902 is amended in the manner set forth in Schedules 1 and 2.

Repeal of Act No. 11, 1903

4. The Juvenile Smoking Suppression Act 1903 is repealed.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING

(1) Part VIIIA—

After Part VIII, insert:

PART VIIIA

TOBACCO PRODUCTS LABELLING

Interpretation

75A. In this Part—

“pack” includes cause, permit or suffer to be packed;

“package” includes a box, carton, cylinder, packet, pouch, tin and wrapping, but does not include a transparent outer wrapping;

“sell” includes offer for sale and keep, or have in possession, for sale;

“tobacco product” means a tobacco product prepared for smoking and includes cigarettes and any mixture that contains tobacco and is intended to be smoked, but does not include cigars or plug tobacco.

Application of Part

75B. (1) Before a day (not earlier than 1 September 1987) to be appointed by the Governor and notified by proclamation published in the Gazette, this Part shall apply to and in respect of—

- (a) the packing or sale of tobacco products manufactured in Australia on or after 1 July 1987; and
- (b) the packing or sale of tobacco products manufactured outside Australia on or after 1 September 1987.

(2) On and from the day appointed and notified under subsection (1), this Part shall apply to the packing or sale of all tobacco products, irrespective of their place or date of manufacture.

Public Health (Tobacco) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

Sale of unpackaged tobacco products prohibited

75C. A person shall not sell a tobacco product unless it is in a package.

Penalty: \$1,000.

Packing of tobacco product without health warning prohibited

75D. A person shall not pack a tobacco product into a package in which the product is to be sold unless the package is marked with a health warning in accordance with the Third Schedule.

Penalty: \$1,000.

Sale of tobacco product without health warning prohibited

75E. A person shall not sell a tobacco product unless the package in which the product is sold is marked with a health warning in accordance with the Third Schedule.

Penalty: \$1,000.

Prohibited words

75F. A person shall not pack a tobacco product into a package in which the product is to be sold or sell a tobacco product in a package if the package is marked with, or accompanied by, any material containing—

- (a) the word “non-injurious” or “non-hazardous” or the words “harmless to man”, or any other words of similar import; or
- (b) any words that directly or by implication contradict, qualify or modify a health warning marked on the package in accordance with the Third Schedule.

Amendment of Third Schedule

75G. The Governor may, by regulation, substitute or amend the Third Schedule.

*Public Health (Tobacco) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

(2) Third Schedule—

After the Second Schedule, insert:

THIRD SCHEDULE

(Secs. 75A—75G)

HEALTH WARNINGS ON TOBACCO PRODUCTS

Interpretation

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“marked”, in relation to a package, means printed on the package or affixed to the package by means of an adhesive label;

“package” means a package containing a tobacco product, and includes a box, carton, cylinder, packet, pouch, tin and wrapping, but does not include a transparent outer wrapping;

“word” includes symbol.

Health warning

2. (1) The health warning shall consist of one of the following warnings:

SMOKING CAUSES LUNG CANCER

SMOKING CAUSES HEART DISEASE

SMOKING DAMAGES YOUR LUNGS

SMOKING REDUCES YOUR FITNESS

and the attribution “Health Authority Warning” which shall appear below the warning.

(2) The warning shall be marked on a package in one line of letters in upper case of not less than 14 point (or the nearest practicable point size) in Univers 57 Medium Condensed Roman typeface.

(3) The attribution shall be marked on a package in one line of letters in upper and lower case which are one-half of the point size of those in which the warning is printed, in Univers 55 Medium Roman typeface.

Public Health (Tobacco) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO TOBACCO PRODUCTS LABELLING—*continued*

Rotation of health warnings

3. As far as is reasonably practicable, each health warning shall be marked on packages with equal frequency during each successive 12 month period commencing—

- (a) in the case of tobacco products manufactured in Australia—on 1 July 1987; and
- (b) in the case of tobacco products manufactured outside Australia—on 1 September 1987.

Position and prominence of health warning

4. The health warning—

- (a) shall, in the case of each packet containing a tobacco product, be marked at the base of the front and back of the packet;
 - (b) shall, in the case of each pouch, tin or cylinder, be marked on each face on which the brand name appears;
 - (c) shall, in the case of all other packages, be marked on not less than 2 faces of the package; and
 - (d) shall be printed in such colour or colours as will afford a distinct colour contrast to the background on which it appears.
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SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO JUVENILE SMOKING

Part VIII B—

After Part VIII A, insert:

PART VIII B
JUVENILE SMOKING**Interpretation**

75H. In this Part—

“tobacco” means tobacco prepared for consumption and includes cigars, cigarettes and any mixture that contains tobacco and is intended to be consumed.

Sale of tobacco to persons under 16 prohibited

75I. (1) A person shall not sell tobacco to a person who is under the age of 16 years.

Penalty: \$1,000.

(2) It is a defence to a prosecution for an offence under subsection (1) if the defendant proves that the person to whom the tobacco was sold was of or above the age of 12 years and was, on reasonable grounds, believed by the defendant to be of or above the age of 16 years.

Notification of certain offences to Chief Commissioner for Business Franchise Licences (Tobacco)

75J. Where a person, being—

- (a) the holder of a retail tobacconist’s licence under the Business Franchise Licences (Tobacco) Act 1975; or
- (b) a member of a group in respect of which a group retail tobacconist’s licence under that Act is held,

is convicted of an offence under section 75I (1), the court before which the person was convicted shall notify the Chief Commissioner for Business Franchise Licences (Tobacco) of the conviction.

Public Health (Tobacco) Amendment 1986

SCHEDULE 2—*continued*

AMENDMENTS TO THE PUBLIC HEALTH ACT 1902 RELATING
TO JUVENILE SMOKING—*continued*

Regulations

75K. The Governor may make regulations for or with respect to the form and contents and the display of signs at places where tobacco is sold relating to the provisions of this Part.

