

GUERNSEY STATUTORY INSTRUMENT

2010 NO. 81

The Tobacco Advertising (Guernsey) Regulations, 2010

<i>Made</i>	<i>10 August, 2010</i>
<i>Coming into operation</i>	<i>17 August, 2010</i>
<i>Laid before the States</i>	<i>, 2010</i>

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The Tobacco Advertising (Guernsey) Regulations, 2010

THE HEALTH AND SOCIAL SERVICES DEPARTMENT, in exercise of the powers conferred on it by section 3(1)(a) of the Tobacco Advertising (Guernsey) Law, 1997^a and all other powers enabling it in that behalf, hereby makes the following regulations:-

Warnings on tobacco products other than oral use or smokeless products.

1. (1) Subject to paragraph (5), and in accordance with paragraphs (2), (3) and (4), each packet of tobacco product must carry the following warnings—

(a) on its most visible surface, one of these two written warnings –

(i) "Smoking kills", or

(ii) "Smoking seriously harms you and others around you", and

(b) on its other most visible surface, one of the 14 picture warnings in Part 1 of the Schedule, printed in accordance with the technical specifications in Part 2 of the Schedule.

^a

Ordres en Conseil Vol. XXXVII, p. 313; amended by Recueil d'Ordonnances Tome XXIX, p. 406.

(2) Where a person sells, or offers or exposes for sale, any brand of a tobacco product, the text of each of the two written warnings set out in paragraph (1)(a) must be carried on an equal number, or as near to an equal number as possible, of all the packets of tobacco product of that brand sold, or offered or exposed for sale, by that person over any period of 12 months.

(3) Where a person sells, or offers or exposes for sale, any brand of a tobacco product, each of the 14 picture warnings referred to in paragraph (1)(b) must be carried on an equal number, or as near to an equal number as possible, of all the packets of tobacco product of that brand sold, or offered or exposed for sale, by that person over any period of 12 months.

(4) In the case of packets of tobacco product other than packets which immediately enclose the tobacco product, the period for calculating the number of picture warnings as required by paragraph (3) is 3 years, instead of 12 months.

(5) Nothing in this regulation applies in relation to –

(a) tobacco for oral use, or

(b) smokeless tobacco products.

Warnings on smokeless tobacco products.

2. Each packet of a smokeless tobacco product must carry on the most visible surface this written warning: "This tobacco product can damage your health and is addictive."

Size of warnings.

3. (1) Subject to paragraph (2) –

- (a) a written warning must cover an area amounting to at least 30 per cent of the external area of the most visible surface of the packet, and
- (b) a picture warning must cover an area amounting to at least 40 per cent of the external area of the other most visible surface of the packet.

(2) Where the area of the most visible surface of the packet of a tobacco product other than cigarettes exceeds 75 cm^2 , each warning required by regulation 1(1)(a) or (b) must cover an area of at least 22.5 cm^2 .

Appearance of written warnings.

4. (1) The text of a written warning must be –

- (a) indelible,
- (b) legible,
- (c) printed in black Helvetica bold type on a white background,
- (d) in a font size consistent throughout the text which ensures that the text occupies the greatest possible proportion of the area specified in regulation 3 for the relevant warning,
- (e) in lower-case type, except for the first letter of the text,

- (f) centred in the area in which the text is required to be printed, parallel to the top edge of the packet,
- (g) surrounded by a black border (outside the area specified in regulation 3 for the relevant warning), which must –
 - (i) be not less than three millimetres and not more than four millimetres in width, and
 - (ii) not interfere with the text of the warning, and
- (h) subject to paragraph (2), irremovably printed on the packet.

(2) In the case of a tobacco product other than cigarettes the warning may be affixed to the packet by means of an irremovable sticker.

Appearance of written or pictorial warnings.

5. A written warning or picture warning required by this regulation must not –

- (a) be printed on the tax stamps on any packet of tobacco product, or
- (b) be hidden, obscured or interrupted by -
 - (i) other written or pictorial matter, or
 - (ii) the opening of the packet.

Products imported from EEA member States.

6. A packet of tobacco product of any brand imported into this Island from an EEA State with a view to being supplied for consumption in this Island must be regarded as complying with all of regulations 1 to 5 if the packet complies with –

- (a) Article 5 of Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the member States concerning the manufacture, presentation and sale of tobacco products, and
- (b) any requirements imposed by that EEA State pursuant to that Directive.

Interpretation.

7. (1) In these Regulations, unless the context requires otherwise –

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1995,

"this Island" means the Island of Guernsey,

"most visible surface" –

- (a) 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 –
 - (i) faces a person opening that packet, or
 - (ii) where no surface faces a person opening the packet, carries most prominently the name, trademark or other distinguishing mark of the brand of cigarettes, and
- (b) in relation to any other packet of tobacco product means the most conspicuous surface,

"other most visible surface", in relation to a rectangular cigarette packet means the side opposite to the most visible surface,

"packet", in relation to a tobacco product –

- (a) means any box, package, container, wrapping or other receptacle –
 - (i) which contains the product, and
 - (ii) in which the product is, or is intended to be, sold or (as the case may be) offered or exposed for sale, and

(b) where any such receptacle is or is to be contained in another receptacle, includes each such receptacle, but

(c) excludes –

(i) any additional transparent outer wrapping which may be discarded on opening, and

(ii) any wrapping of individual cigars or cigarillos,

"picture warning" means a picture warning required by regulation 1(1)(b),

"rectangular", in relation to a packet of cigarettes, denotes a packet having only rectangular surfaces,

"tobacco for oral use" means any tobacco product which is –

(a) intended for oral use, unless it is intended to be smoked or chewed, and

(b) either –

(i) in powder or particulate form or any combination of these forms, whether presented in sachet portions or porous sachets or in any other way, or

(ii) presented in a form resembling a food product,

and

"written warning" means a written warning required by regulation 1(1)(a) or regulation 2.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of these Regulations as it applies to the interpretation of a Guernsey enactment.

Transitional provisions.

8. Nothing in these Regulations applies in relation to the sale, or offer or exposure for sale, of a packet of tobacco product in existence before these Regulations come into force, if the sale or (as the case may be) offer or exposure for sale of the packet of tobacco product takes place –

- (a) in the case of a packet of cigarettes, before the 10th of August, 2011, and
- (b) in the case of a packet of any other tobacco product, before the 10th of August, 2012.

Citation.

9. These Regulations may be cited as the Tobacco Advertising (Guernsey) Regulations, 2010.

^b

Ordres en Conseil Vol. XIII, p. 355.

Commencement.

- 10.** These Regulations come into force on the 17th of August, 2010.

Dated this 10th day of August , 2010.

A handwritten signature in black ink, appearing to read 'A. H. ADAM', written over a dotted line.

Deputy A. H. ADAM

Minister of the Health and Social Services Department

For and on behalf of the Department.

SCHEDULE
PICTURE WARNINGS

Regulation 1(1)(b)

PART 1
Picture Warnings

(1)



(2)



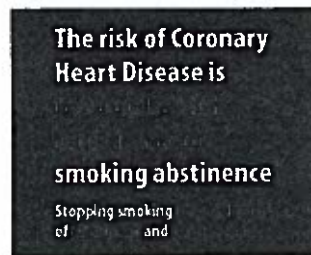
(3)



(4)



(5)



(6)



(7)



(8)



(9)



(10)



(11)



(12)



(13)



(14)



PART 2

Technical specifications

1. Each picture warning must be surrounded by a black border (outside the area specified for the warning) which must -
 - (a) be not less than three millimetres and more than four millimetres in width, and

- (b) not interfere with the picture warning.
- 2. In the case of a packet of cigarettes, each picture warning must be irremovably printed on the packet.
- 3. In the case of a packet of tobacco product other than cigarettes, each picture warning must be –
 - (a) either irremovably printed on the packet, or
 - (b) affixed to the packet by means of an irremovable sticker.
- 4. Subject to paragraph 5, each picture warning must –
 - (a) be in the format and proportions of the pictures and text set out in Part 1 of this Schedule and adopt the graphical integrity of those pictures and text,
 - (b) occupy the entire area specified in regulation 3 for the picture warning,
 - (c) be positioned parallel to the top edge of the package, and in the same direction as the other information in the package, and
 - (d) be printed in four-colour/-CMYK-/screen 133 lines per inch, as a minimum requirement.
- 5. Where the size of the packet so requires, the picture warning can be modified according to the following rules:
 - (a) the graphical editing of the textual elements must be done by varying font size and line breaks to ensure high readability,

- (b) for picture warnings where the illustration is a text, the graphical editing must be done by varying font size and line breaks; the relative surfaces occupied by text as an illustration and the corresponding text of the picture warning must be respected,
- (c) for picture warnings where a photograph or other illustration is an image, the graphical editing shall be done by proportionate scaling of the photograph or other illustration and varying of the relative surfaces occupied by the photograph or other illustration and the corresponding text of the picture warning,
- (d) when the proportion between the height and the width of the picture warning is lower than 0.8, the corresponding text of the picture warning, if placed under the photograph or other illustration in Part 1 of this Schedule, may be moved to the right of the photograph or other illustration, and
- (e) when the proportion between the height and the width of the picture warning exceeds 1.2, the corresponding text of the picture warning, if placed to the side of the photograph or other illustration in Part 1 of this Schedule, may be moved under the photograph or other illustration.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations set out requirements relating to written and pictorial warnings for tobacco products.

In setting requirements for pictorial warnings on tobacco packets, these Regulations implement Article 5.3 of Directive 2001/37/EC of the European Parliament and of the Council of 5th June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products (OJ No. L 194 18.7.2001, p. 26) under which Member States may require the picture warnings on the back of tobacco packets to be in the form of coloured photographs.

A CD with the required images and a European Commission guidance document on editing the images is available from the relevant authorities and initial requests or queries can be addressed to the Health and Social Services Department.

These Regulations come into force on the 17th of August, 2010, but transitional provisions are made for existing packets to be sold or offered or exposed for sale within the next year (in the case of cigarette packets) or within the next 2 years (in the case of any other packets).