Trade Marks Amendment (Tobacco Plain Packaging) Act 2011

No. 149, 2011

An Act to amend the Trade Marks Act 1995, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)
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*Trade Marks Amendment (Tobacco Plain Packaging) Act 2011*  
No. 149, 2011
An Act to amend the *Trade Marks Act 1995*, and for related purposes

[Assented to 1 December 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Trade Marks Amendment (Tobacco Plain Packaging) Act 2011*. 
2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<thead>
<tr>
<th>Column 1</th>
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<tr>
<td>Provision(s)</td>
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<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td>1 December 2011</td>
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<td>2. Schedule 1</td>
<td>At the same time as section 28 of the Tobacco Plain Packaging Act 2011 commences. However, if that section does not commence, the provision(s) do not commence at all.</td>
<td>1 December 2011</td>
</tr>
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</table>

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Trade Marks Act 1995

Trade Marks Act 1995

1 At the end of subsection 231(2)
Add:

Note: Regulations can also be made in relation to the Tobacco Plain Packaging Act 2011 under section 231A.

2 At the end of Division 3 of Part 21
Add:

231A Regulations may make provision in relation to the Tobacco Plain Packaging Act 2011

(1) The regulations may make provision in relation to the effect of the operation of the Tobacco Plain Packaging Act 2011, and any regulations made under that Act, on:
   (a) a provision of this Act; or
   (b) a regulation made under this Act, including:
      (i) a regulation that applies a provision of this Act; or
      (ii) a regulation that applies a provision of this Act in modified form.

Note: Section 28 of the Tobacco Plain Packaging Act 2011 also sets out the effect of the operation of that Act on certain provisions of, and regulations made under, this Act.

(2) Without limiting subsection (1), regulations made for the purposes of that subsection may clarify or state the effect of the operation of the Tobacco Plain Packaging Act 2011, and any regulations made under that Act, on a provision of this Act or a regulation made under this Act, including by taking or deeming:
   (a) something to have (or not to have) happened; or
   (b) something to be (or not to be) the case; or
   (c) something to have (or not to have) a particular effect.

(3) Regulations made for the purposes of subsection (1):
   (a) may be inconsistent with this Act; and
Schedule 1  Trade Marks Act 1995

(b) prevail over this Act (including any other regulations or other instruments made under this Act), to the extent of any inconsistency.

[Minister’s second reading speech made in—
House of Representatives on 6 July 2011
Senate on 25 August 2011]