

# Standardised tobacco products and packaging

## Draft Regulations for consultation

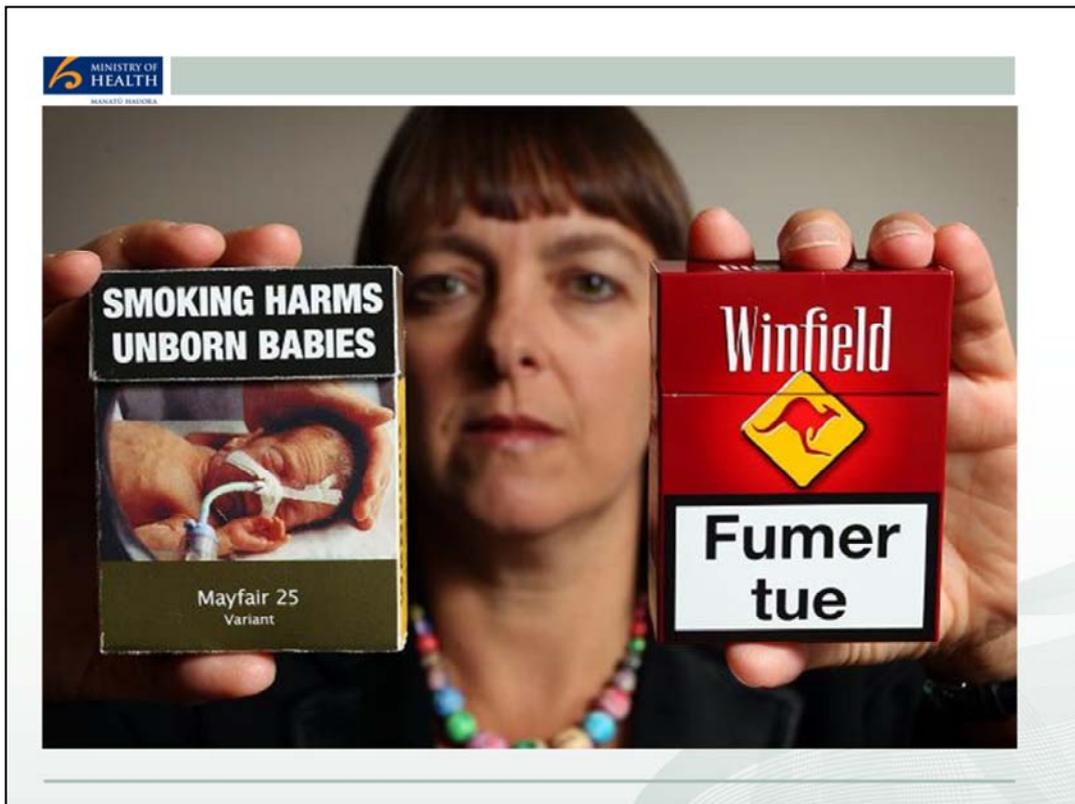
HPA Tobacco Control Webinar  
Thursday 16 June 2016

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## **Presentation outline**

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1. Quick tour of the world of plain packaging
  2. What's being consulted on  
(with more detail in the notes pages)
  3. Questions & answers
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Australia was the first country in the world to implement plain or standardized tobacco packaging – which came fully into force on 1 December 2012

Australia's Tobacco Plain Packaging Act [www.legislation.gov.au/Details/C2013C00190](http://www.legislation.gov.au/Details/C2013C00190)

Tobacco Plain Packaging Regulations [www.legislation.gov.au/Details/F2013C00801](http://www.legislation.gov.au/Details/F2013C00801)

France will be second, with standardized packaging coming fully into force from 1 January 2017 just over four years later

The image shows former Australian Health Minister, and then Attorney General Nicola Roxon MP with a pack of cigarettes from the French market in one hand and an example of Australian plain packaging in the other.

This received international media coverage early in 2012

BAT and other international tobacco companies had challenged the Australian legislation in the High Court of Australia (equivalent to NZ Supreme Court) on constitutional grounds, claiming unjustified expropriation of intellectual property

Meanwhile BAT was marketing “the Australian favourite” Winfield in Europe, with the emblematic Australian kangaroo.

The Australian Government took exception

"This kind of weasel marketing tactic will soon have no place here in Australia when all cigarettes will be in plain packaging from December." Ms Roxon said

The Australian Government later won the High Court case.



France has now followed Australia's lead

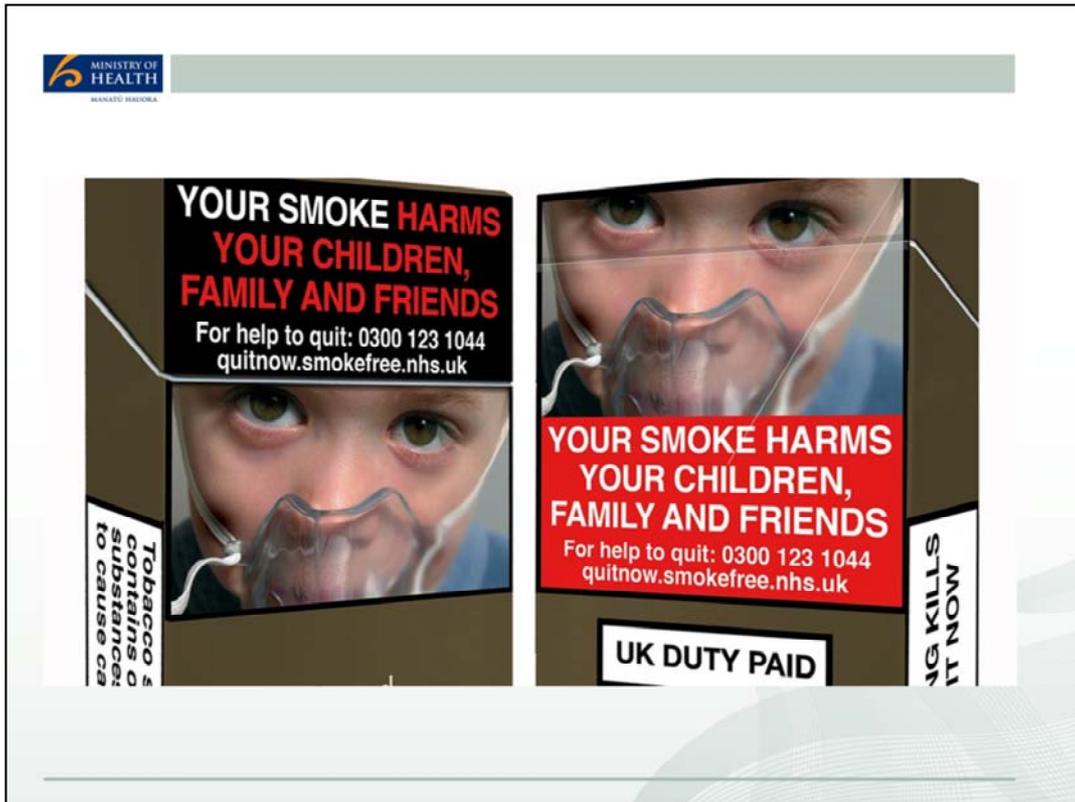
The image is a 'before and after' example of standardised tobacco packaging in France.

The legal framework came into force on 20 May 2016.

Manufacturing non-compliant tobacco products is now illegal.

From 1 January 2017 it will be illegal to sell cigarettes or loose tobacco in France, unless they are in standardised packaging

Website references to France's standardised packaging legislation and regulations (in French) are available on request.



The United Kingdom also brought its standardised tobacco packaging legislation into force on 20 May 2016

In the UK the so-called 'wash-through' period for allowing retailers to sell existing stock of cigarettes and loose tobacco extends for 12 months to 20 May 2017

**Children and Families Act 2014 (UK)**

[www.legislation.gov.uk/ukpga/2014/6/contents/enacted/data.htm](http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted/data.htm)

**Standardised Packaging of Tobacco Products Regulations 2015 (UK)**

[www.legislation.gov.uk/uksi/2015/829/introduction/made](http://www.legislation.gov.uk/uksi/2015/829/introduction/made)



Former Health Minister James Reilly was the political champion for standardised packaging in the Republic of Ireland, which has adopted a scheme very similar to Australia's covering all tobacco products

Like the UK, the legislation in Ireland provides for a retail 'wash-through' period until 20 May 2017

Public Health (Standardised Packaging of Tobacco) Act 2015 (Ireland)  
[www.irishstatutebook.ie/eli/2015/act/4/enacted/en/html?q=public+health+standardised+packaging+of+tobacco+](http://www.irishstatutebook.ie/eli/2015/act/4/enacted/en/html?q=public+health+standardised+packaging+of+tobacco+)

Draft Public Health (Standardised Packaging of Tobacco) Regulations 2016 (Ireland)  
<http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2015&num=650>



The introduction of standardised tobacco packaging was a 2015 election campaign pledge of Justin Trudeau’s Liberal Party in Canada

On 31 May 2016 Canada issued a public consultation document on its detailed proposals <http://healthycanadians.gc.ca/health-system-systeme-sante/consultations/tobacco-packages-emballages-produits-tabac/document-eng.php>

Measures being considered for packaging that would go beyond Australia’s include:

- Limits on the number of words in the brand name displayed
- Prescribed thickness for cigarette package walls
- No insertion of ‘space fillers’ in cigarette packages.

Measures being considered for tobacco products that would go beyond Australia’s include:

- No distinctive colours or designs (e.g. grooves, hole or recess) in cigarette filters
- Single length and minimum diameter for cigarettes
- Single unattractive colour for cigarette and other products that are rolled in cigarette paper (e.g. tobacco sticks, kreteks [clove cigarettes], tubes, rolling papers).

Examples of cigarette, cigar, pipe tobacco and smokeless tobacco packages showing plain and standardized packaging features under consideration can be found in Appendix A.



Norway undertook a consultation on standardised tobacco packaging in 2015 and has announced the decision to send a bill into its Parliament this year

The Norwegian Government hosted the launch of the WHO report *Plain packaging of tobacco products: evidence, design and implementation* in Oslo on World No Tobacco Day, 31 May 2016

"We must protect children and teens from the temptation of tobacco," Norwegian Health Minister Bent Høie said at the launch.

He later told Norwegian channel TV2 that he plans to have plain packs in place by 2017.

## What's happening in New Zealand?

As announced on 31 May 2016 – World No Tobacco Day:

New Zealand is taking the next steps needed to introduce standardised tobacco products and packaging (also known as ‘plain packaging’)

- Government expects to pass the necessary legislation – the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill – this year  
<http://www.legislation.govt.nz/bill/government/2013/0186/latest/DLM5821037.html>
- Ministry of Health has launched a consultation on proposed regulations to set out the detailed requirements for standardised tobacco products and packaging

Legislation and regulations are both needed to implement the standardised tobacco regime. Passing the legislation and developing the Regulations are on parallel paths.

### Legislation

The Bill contains wide powers to make regulations to control all aspects of the design and physical appearance of cigarettes and other tobacco products and packaging

The Bill has already been through its select committee stage. Parliament’s Health Committee recommended the bill should be passed with only minor amendments

The next step is the second reading of the Bill. Government has a busy legislative programme and has not set the date, but the second reading is expected soon

### Consultation on draft regulations

Regulations will also need to be made to set out the detailed requirements for standardising tobacco products and packaging

The Ministry of Health is issuing an ‘exposure draft’ of a proposed set of these detailed regulations and opening this up for consultation.

# What's being consulted on?



The consultation is seeking feedback on the content and coverage of the draft regulations, and on the questions and issues raised in the consultation document

The proposed regulations are all within the wide regulation-making scope in the Bill. These allow the Government to control any aspect of the design and physical appearance of cigarettes and other tobacco products and their packaging that might otherwise be used to enhance the appeal of tobacco products.

The proposals are mostly based on Australia's established plain packaging regime, and also take into account the schemes being introduced in other countries.

The Government expects there will be differing views on the proposals and wants to carefully consider all the feedback before it makes final decisions

New Zealand will also be formally notifying the 'exposure draft' of the regulations to other World Trade Organization members through a WTO committee process.

In order to focus the consultation on the key issues that need to be decided, the scope of the consultation is restricted to the content and coverage of the draft regulations.

The Ministry is particularly interested in information about the impact and practical implications of the proposed regulations, including for compliance and enforcement. Submissions should ideally be backed up wherever possible with detailed reasons and evidence. Simple expressions of support or opposition will be largely irrelevant.

It is not intended to re-open the wider policy debate or revisit the contents of the Bill. There was an extensive consultation in 2012 before the Government decided on its policy to introduce standardised tobacco packaging – including notification of the proposal to the WTO Technical Barriers to Trade Committee, and there was public consultation on the Bill as it went through the select committee in 2014.



The draft regulations propose the same standard dark brown/green background colour for tobacco packaging being used in Australia and other countries (the United Kingdom, Ireland and France)

Mandatory health warnings and pictures will be enlarged to cover at least 75% of the front of tobacco packs, and all tobacco company marketing imagery will be removed from tobacco products and packaging

Manufacturers will be permitted to print a brand name and some other details on their products, but the regulations will standardise how these are printed – including the position on the pack, and the type faces, font sizes and colour that can be used. These specifications are essentially the same as already being used in Australia.

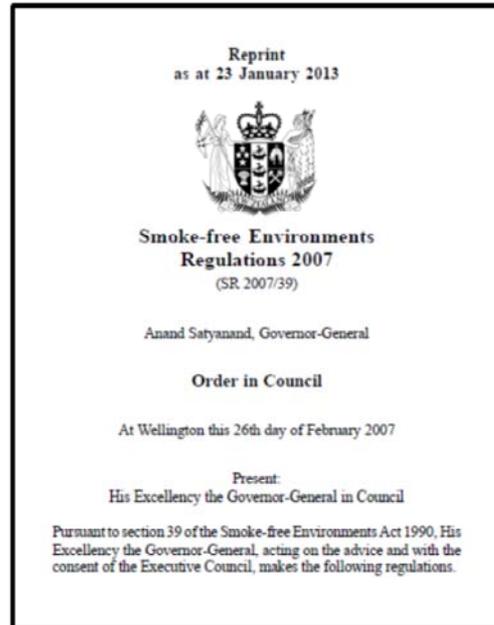
There are a number of proposed regulations to standardise other design features of tobacco products and packages to stop them creating consumer appeal, including:

- cigarettes only to be sold in standard cardboard cigarette packs, and loose tobacco only in standard rectangular soft plastic pouches.
- quantities could also be restricted – it is proposed that cigarettes only be sold in packs of either 20 or 25 sticks and loose tobacco only in pouches of 30 or 50 grams. Cigars would be able to be sold singly, or in packs of 5 or 10.
- restricting the shape, size and appearance of cigarette sticks to their traditional cylindrical shape with specified minimum and maximum lengths and diameter

There are also some ‘future-proofing’ regulations proposed to avoid new marketing devices such as preventing the use of noises or features that might change the appearance of tobacco products or packaging after sale, and stopping any new smells or colouring of tobacco from being introduced to the market

## Relationship to existing Smoke-free Regulations

- The final regulations will be made as an amendment to the Smoke-free Environments Regulations 2007
- The draft regulations for consultation only cover the new proposals for standardised packaging
- Work is also underway on a new set of health warning images and messages to include in the final regulations
- Consequential and necessary changes to the Smoke-free Environments Regulations 2007 are not reflected in the draft regulations



### Relationship to existing Smoke-free Environments Regulations 2007

The draft regulations for consultation contain the new measures being proposed to standardise tobacco products and tobacco product packaging. After the consultation has concluded, the Government will make final decisions on the content of the new regulations.

It is intended that the final regulations will be issued as an amended version of the existing Smoke-free Environments Regulations 2007. Some of the provisions in the existing regulations will be replaced by the new standardised packaging regulations, while some other provisions do not need changing and will continue to apply. A number of consequential and necessary amendments are likely to be made as well.

Before the new regulations are finalised, the Government will also make decisions on new health warnings and graphic images to refresh and enhance the existing set of messages. These are currently under development in collaboration with the HPA.

The Smoke-free Environments Regulations 2007 include detailed schedules that set out the content of the required health warnings and the graphic images that accompany each warning (including the exact wording of the different warning messages and explanatory messages) and also give clear instructions on how the different components of the warnings should be laid out on tobacco packages. The schedules will be updated with the new warnings and messages and all the new standardised packaging requirements.

## Outline of draft regulations

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The draft regulations for consultation are set out in **four parts**.

- **Part 1** sets out **general requirements** that will apply to –
  - all tobacco products (subpart 1)
  - all tobacco packages (subpart 2)
- **Part 2** contains provisions that apply only to **cigarettes, cigarette packs** and **cigarette cartons**
- **Part 3** relates to **loose tobacco** packaging
- **Part 4** covers packaging for **cigars**

If there is any inconsistency between a general provision in Part 1 and a more specific provision in Part 2-4, the specific provision in the other Part prevails

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## Part 1: General requirements

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These apply to all tobacco products and packages, and include:

- setting the unattractive dark green/brown colour (Pantone 448C) as the basic standardised background colour for packaging
- specifying the standard typefaces, font sizes and text colours
- dealing with general issues such as colour (of tobacco) and smell
- ‘future-proofing’ to avoid new marketing devices (eg, the use of noises, or features that might change after sale)
- ensuring that any wrappers put around tobacco products or packages do not interfere with or disguise any of the standardised features
- requiring larger health warnings to cover at least 75 percent of each of the front and back surfaces of tobacco product packages

If there is any inconsistency between a general provision in Part 1 and a more specific provision in Part 2-4, the specific provision in the other Part prevails

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### **Part 1: Provisions that apply to all tobacco products and packages**

#### *Subpart 1—Tobacco products*

- 7 Colour of tobacco
- 8 Smell of tobacco

#### *Subpart 2—Tobacco packages*

- 9 Text or alphanumeric marking on tobacco package
- 10 Warning messages and other information on tobacco package
- 11 Required warning on tobacco packages
- 12 Tobacco packages must not contain inserts
- 13 Tobacco package wrappers
- 14 Tear strip of tobacco package wrapper
- 15 Outer surfaces of tobacco package
- 16 No noise or scent associated with tobacco package
- 17 No feature in tobacco package that changes appearance after sale
- 18 Manufacturers’ details
- 19 Printed code for tracking and tracing tobacco products

## Part 2: Cigarettes and cigarette packs

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The proposals in Part 2 take a detailed and comprehensive approach to standardising cigarettes, cigarette packs and cigarette cartons, including:

- controlling the shape, size and appearance of cigarette sticks
  - length < 95 mm long
  - diameter 7-9mm
- rigid cardboard flip-top box with size limits
- number of cigarettes in a pack (20 or 25 only)
- linings inside cigarette packs (no attractive designs, colours or materials)
- health warning on a cigarette pack must cover at least:
  - 75 percent of the front
  - 90 percent of the back

### Part 2: Cigarettes and cigarette packs

#### *Cigarettes*

- 20 Dimensions and features of cigarettes
- 21 Printed codes on cigarettes

#### *Cigarette packs*

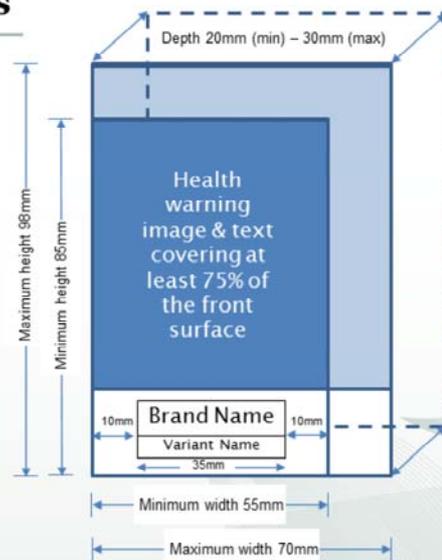
- 22 Number of cigarettes in cigarette pack
- 23 Dimensions and features of cigarette packs
- 24 Required warnings on cigarette pack
- 25 Lining on cigarette packs
- 26 Bar code
- 27 Brand names and variant names on cigarette packs

#### *Cigarette cartons*

- 28 Cigarette cartons

## Cigarette pack dimensions

- Height must be no less than 85 mm and no more than 98 mm
- Width must be no less than 55 mm and no more than 70 mm
- Depth must be no less than 20 mm and no more than 30 mm
- Brand and variant names must be no longer than 35 mm



### **Part 3: Loose tobacco**

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Proposed loose tobacco requirements include:

- only able to be sold in soft plastic pouches
- pack size either 30 grams or 50 grams of manufactured tobacco
- other loose tobacco packaging and quantities no longer permitted for sale
- specifications for printing standardised brand and variant names
- continuing current permitted practice allowing permanent adhesive labels

### **Part 4: Cigars**

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- allows cigars to be sold singly in a tube with health warnings to cover 95 percent of the length of the tube and 60 percent of the circumference
  - otherwise only to be sold in packs containing 5 or 10 cigars
  - also sets out the requirements for printing brand and variant names, etc.
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#### **Part 3: Loose tobacco**

- 29 Weight of tobacco in loose tobacco pack
- 30 Dimensions and features of loose tobacco packs
- 31 Barcode
- 32 Non-removeable adhesive labels
- 33 Appearance of brand name and variant name on loose tobacco pack

#### **Part 4: Cigars**

- 34 Cigars
- 35 Surface of cigar packs
- 36 Statement of number of cigars in pack
- 37 Bar code
- 38 Brand or variant names on cigar packs
- 39 Required warning on cigar tubes
- 40 Coverings on cigar packs or tubes
- 41 Bands on cigars

## Consultation issues and questions

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### 1. Size and quantities of tobacco products

#### Consultation questions

1. Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?
2. Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?
3. Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?
4. Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft-plastic?
5. Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?
6. Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?
7. Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

## Consultation issues and questions

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### 2. Permitted markings on tobacco packages

- Anti-counterfeiting marks
- Marks or other features to allow for manufacturing processes
- Country of manufacture

#### Consultation questions

8. Do the regulations need to allow for any other anti-counterfeiting marks?
9. If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?
10. Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?
11. Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

## Consultation issues and questions

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### 3. Increasing the effectiveness of standardised packaging

#### Consultation question

12. Are there any additional features within the scope of the regulation-making powers in the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill that might increase the effectiveness of standardising tobacco products and packaging?

If so, what is the rationale and can you provide supporting evidence?

### 4. Any other comment/feedback on content of the draft regulations

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The regulation making powers in the Bill (clause 17) are wide ranging. These allow the Government to control any aspect of the design and physical appearance of cigarettes and other tobacco products and their packaging that might otherwise be used to enhance the appeal of tobacco products.

There is space at the end of the consultation submission form to give feedback on any other proposals in the draft regulations not otherwise covered by the 12 consultation questions

## Making a submission

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- Have your say by **29 July 2016**
- The consultation document includes a submission form with all the questions
- Feel free to only answer some of the questions, or to follow your own format
- The submission form includes blank spaces for answering the questions
- Feel free to enlarge the boxes or attach additional pages
- To make submissions or ask questions email:  
[standardisedtobacco@moh.govt.nz](mailto:standardisedtobacco@moh.govt.nz)

This consultation is not opening up the policy debate – the decision to implement standardised packaging has been made

For further information on the Government’s decision to introduce plain packaging, including the public consultation on the proposal in 2012:  
[www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/plain-packaging](http://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/plain-packaging)

For further information on the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill, including the select committee submissions, visit Parliament’s website at:

[www.parliament.nz/en-nz/pb/legislation/bills/00DBHOH\\_BILL12969\\_1/smoke-free-environments-tobacco-plain-packaging-amendment](http://www.parliament.nz/en-nz/pb/legislation/bills/00DBHOH_BILL12969_1/smoke-free-environments-tobacco-plain-packaging-amendment)

The select committee has recommended the Bill be passed and the Government intends to pass the Bill this year

Standardised packaging cannot be implemented until both the regulations and the Bill are passed

Developing the regulations is on a parallel path to passing the Bill and getting the law in place. (It is standard practice to consult on the content of proposed regulations.)

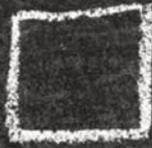
The regulations are about the detail - this consultation is about the detail in the legal text of the draft regulations

Wherever possible, please back up comments and views with detailed reasons and factual evidence

We are particularly interested in feedback on the impact and practical implications of the proposed regulations, including for compliance and enforcement

HELPFUL  
TIP

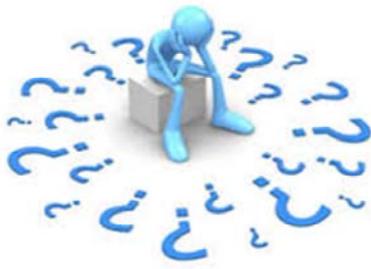
focus on



quantity



quality



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