

## Laws adopted and in force

### AUSTRALIA —

- December 1, 2011 Tobacco Plain Packaging Act adopted.
- December 1, 2012 Tobacco Plain Packaging Regulations came into force.<sup>1</sup> Legislation applies to all tobacco products.
- **Legal challenges:** High Court constitutional challenge by tobacco industry dismissed August 2012<sup>2</sup>; Investment treaty claim by Philip Morris dismissed December 2015<sup>3</sup>; World Trade Organization dispute panel ruling due in 2017<sup>4</sup> (media reports are that the interim award is in Australia's favor<sup>5</sup>).

### UNITED KINGDOM —

- March 16, 2015 Standardised Packaging of Tobacco Products Regulations adopted.
- May 20, 2016 Regulations came into force<sup>6</sup> (applies to England, Wales, Northern Ireland, and Scotland). Legislation applies to cigarettes and hand-roll tobacco. Old stock could be sold until May 20, 2017.
- **Legal challenges:** High Court challenge by tobacco industry dismissed May 2016<sup>7</sup>; ruling upheld by Court of Appeal November 2016.<sup>8</sup>

### FRANCE —

- November 24, 2015 Legislation providing powers adopted by the Assemblée Nationale (Law n°2016-41).
- March 22, 2016 Decree and Ministerial Order were published.
- May 20, 2016 Decree came into force.<sup>9</sup> Legislation applies to cigarettes and hand-roll tobacco. Old stock could be sold until January 1, 2017.
- **Legal challenges:** The Conseil Constitutionnel upheld the law in a decision on January 21, 2016<sup>10</sup>; the Conseil d'État dismissed six industry challenges in a decision given on December 23, 2016.<sup>11</sup>

### HUNGARY —

- August 16, 2016 Decree No. 239/2016 published.<sup>12</sup>
- August 19, 2016 All new brands/variants must be in plain packaging (the first new brand appeared on the market in plain packaging in August 2017).
- May 20, 2019 All existing brands must be in plain packaging. Legislation applies to cigarettes and hand-roll tobacco.

### NORWAY —

- December 9, 2016 Parliament approved the bill to introduce plain packaging.<sup>13 14</sup>
- July 1, 2017 Detailed regulations came into force for manufacturers.<sup>15</sup> Legislation applies to cigarettes, snus and hand-roll tobacco. Old stock of non-standardized packs can be sold until July 1, 2018.<sup>16</sup>
- **Legal Challenges:** Swedish Match has issued court proceedings on the grounds that plain snus boxes are in conflict with the free trade principle under the EEA/EU agreement.<sup>17</sup>

## Laws adopted but not yet implemented

### IRELAND —

- March 10, 2015 Public Health (Standardised Packaging of Tobacco) Act<sup>18</sup> adopted (commenced March 29, 2017); detailed regulations<sup>19</sup> are pending. The law comes into effect on September 29, 2017. Applies to all tobacco products. A 12-month sell through period for old stock is allowed.
- **Legal challenge:** Claim by Japan Tobacco International in the Commercial Court struck out November 2016.<sup>20</sup>

## GEORGIA —

- May 30, 2017 The President signed an amending law on Tobacco Control which included provisions for plain packaging Decree that must be implemented by January 1, 2018.<sup>21</sup> The law also required that the Decree containing detailed requirements must be adopted by July 1, 2017, but to date this has not occurred.

## NEW ZEALAND —

- September 14, 2016 Smoke-free Environments (Tobacco Standardised Packaging) Amendment Act 2016<sup>22</sup> was given royal assent. A consultation ran from May to July 2016.<sup>23</sup>
- June 6, 2017 Smoke-free Environments Regulations 2017<sup>24</sup> adopted. Law comes into force on March 14, 2018. Legislation applies to all tobacco products. A six-week transition period applies to distributors.

## ROMANIA —

- October 12, 2016 Parliament passed a law that implements the EU Tobacco Products Directive (TPD) and includes provisions that allow the Health Minister to introduce plain-packaging regulations.<sup>25</sup>

## SLOVENIA —

- February 15, 2017 Parliament passed a tobacco control bill,<sup>26</sup> which implements the EU TPD and includes provisions for introducing uniform, no-brand packaging by January 1, 2020.

## THAILAND —

- April 2, 2017 The Tobacco Products Control Act 2017 was gazetted which includes a provision (at Article 38) that allows the Minister to introduce regulations for plain packaging.<sup>27</sup> The law came into effect on July 4, 2017.

## Legislation being considered by Parliament

**BRAZIL** — Five different plain packaging bills have been introduced in the Senate and House of Representatives; the latest in May 2016 by Representative Rodrigues.<sup>28</sup>

**CHILE** — A bill providing powers to introduce plain packaging was passed in the Senate in July 2015.<sup>29</sup> It has been assigned to the Health and Agriculture Commission in the House of Deputies, but has since remained inactive, although pressure continues for it to be debated.

**ECUADOR** — A bill for plain packaging was introduced to the National Assembly on August 3, 2016,<sup>30</sup> and has subsequently been assigned to the health committee.

**PANAMA** — On January 2015, a bill was introduced to the National Assembly that would require plain packaging.<sup>31</sup> A sub-committee recommended it be removed making reference to the WTO TRIPS agreement, and no further action has since taken place.

## Under formal government consideration

**CANADA** — The Liberal government had plain packaging as one of its manifesto commitments and in November 2015, it was set as a priority for the Health Department in a formal letter of mandate from the Prime Minister to the Health Minister. In May 2016, the government commenced a consultation<sup>32</sup> on detailed proposals for plain packaging, which ran until the end of August 2016. To date there is no formal government response or proposal following the consultation.

**FINLAND** — The Government National Action Plan<sup>33</sup> included plain packaging as a planned measure in June 2014. Legislation was introduced in July 2016 to implement the EU TPD, which did not include plain packaging.

**GUERNSEY AND JERSEY** — The Jersey Minister for Health and Social Services issued instructions to draft plain packaging regulations on July 3, 2017, with the intent that Jersey and Guernsey would have parallel regulations.<sup>34</sup>

- SINGAPORE** — The Health Promotion Board commenced a public consultation on plain packaging from November 2015 to March 2016.<sup>35</sup> In March 2017, the Health Minister indicated an intention to move forward with the policy and that Singapore will hold a further consultation.<sup>36</sup>
- SWEDEN** — The Minister of Health directed the committee examining the implementation of the EU TPD to also consider plain packaging. The committee report,<sup>37</sup> presented in March 2016, recommended plain packaging, but concluded that implementing it would require a change to the Swedish constitution. The government has yet to propose a bill in response to the committee's report.
- TAIWAN** — On February 13, 2017, a draft Tobacco Hazards Prevention Act Amendment Bill was notified to the WTO (under TBT Article 2.9).<sup>38</sup> The draft includes a provision for uniform tobacco packaging.
- URUGUAY** — In November 2015, the President announced that the government was considering plain packaging. At a press conference on July 13, 2016, the Health Minister stated that plain packaging would be introduced in 2017 and that the law was being developed.<sup>39</sup>

## Political commitments given

- BELGIUM** — On April 9, 2016, the Public Health Minister announced that Belgium would have plain packaging by 2019.
- BOTSWANA** — On May 31, 2016, the Minister of Health announced that the government intended to introduce plain packaging laws.
- KENYA** — On May 31, 2016, the Cabinet Secretary for Health announced that a formal plan and timeline for implementation of plain packaging will be developed. On August 16, 2016, during the launch of the first Global Adult Tobacco Survey (GATS) in Kenya, the Cabinet Secretary for Health directed the Tobacco Control Unit to start the implementation of standardized packaging as part of the subsequent batch of graphic warnings.
- MALAYSIA** — In February 2016, the Health Ministry announced that Malaysia is planning to introduce generic packaging, though no firm dates were included in the announcement. However, on March 21, 2016, the Health Minister said no implementation date will be announced until talks with tobacco companies on intellectual property rights have concluded.
- MAURITIUS** — In September 2014, the Minister of Health made an announcement that it intended to include plain packaging in its National Action Plan for Tobacco Control (2014–2017). On June 6, 2016, the Health Minister renewed the government's commitment to plain packaging.
- NEPAL** — On May 8, 2017, the Minister of Health announced that Nepal is to have plain packaging by 2018.<sup>40</sup>
- SOUTH AFRICA** — In July 2014, the Minister of Health announced that he wanted to introduce plain packaging and in March 2015, he stated that legislation will be introduced. A further similar announcement was made in May 2016. Legislation providing enabling powers is in the process of being drafted.
- THE GAMBIA** — On August 3, 2016, the Minister of Health and Social Welfare stated that his Ministry is in full support of plain packaging and that The Gambia will soon join other countries that have already passed laws to implement plain packaging.
- TURKEY** — The Office of the Prime Minister published a decree on January 27, 2015, announcing the entry into force of the new National Tobacco Control Program and Plan of Action for 2015–2018, which includes plain packaging.
- UNITED ARAB EMIRATES** — In February 2014, the Ministry of Health announced that it intended to introduce legislation which would include plain packaging by 2016.

## Other relevant laws

EUROPEAN UNION — Revised Tobacco Products Directive (TPD) adopted April 3, 2014 and came into force on May 20, 2016 and which introduces some elements of pack standardization and provides (at Article 24(2)) that the 28 EU Member States *have the option* to adopt further requirements to standardize tobacco packaging.<sup>41</sup>

### NOTES

<sup>1</sup> Tobacco Plain Packaging Act 2011, available from: <http://www.comlaw.gov.au/Details/C2013C00190>.

Tobacco Plain Packaging Regulations 2011, available from: <http://www.comlaw.gov.au/Details/F2013C00801>.

<sup>2</sup> JT International SA v. Commonwealth of Australia [2012] HCA 43 (October 5, 2012) Judgment available from:

<http://www.austlii.edu.au/au/cases/cth/HCA/2012/43.html>. The court's decision was given in August 2012 with the reasoned judgment published on October 5, 2012.

<sup>3</sup> Philip Morris Asia Limited v. Commonwealth of Australia PCA Case 2012-02. All publicly available documents associated with the case are available from the Permanent Court of Arbitration's case page: <https://www.pcacases.com/web/view/5>.

<sup>4</sup> Australia — Certain Measures Concerning Trademarks and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging. Dispute numbers [DS435](#), [DS441](#), [DS458](#) and [DS467](#).

<sup>5</sup> Reported by Bloomberg. Available here: <https://www.bloomberg.com/news/articles/2017-05-04/wto-said-to-uphold-australia-s-ban-on-cigarette-logos>.

<sup>6</sup> The Standardised Packaging of Tobacco Products Regulations 2015. Available from:

<http://www.legislation.gov.uk/ukxi/2015/829/contents/made>.

<sup>7</sup> R (British American Tobacco & Ors) v. Secretary of State for Health [2016] EWHC 1169 (Admin). Available from:

<https://www.judiciary.gov.uk/wp-content/uploads/2016/05/bat-v-doh-judgment.pdf>.

<sup>8</sup> [2016] EWCA Civ 1182 (Appeal). Available from: <http://www.bailii.org/ew/cases/EWCA/Civ/2016/1182.html>.

<sup>9</sup> The implementing legislation that amends the Public Health Code is Decree No. 2016-1117 of August 11, 2016, on the manufacture, presentation, sale, and use of tobacco products. Available from:

<https://www.legifrance.gouv.fr/eli/decret/2016/8/11/AFSP1612356D/jo>.

The relevant parts of the public health code are available from:

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000033045524&cidTexte=LEGITEXT000006072665&dateTexte=20170126>.

The detail of the law is in Decree of March 21, 2016, on the conditions of neutrality and standardization for the packaging and paper of cigarettes and rolling tobacco. Available from:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032276123&dateTexte=20170126>.

<sup>10</sup> Décision n° 2015-727 DC du January 21, 2016. Judgment available from: <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2016/2015-727-dc/decision-n-2015-727-dc-du-21-janvier-2016.146887.html>.

<sup>11</sup> CE, December 23, 2016, société JT International SA, Société d'exploitation industrielle des tabacs et des allumettes, société Philip Morris France SA et autres Judgment available from: <http://www.conseil-etat.fr/Decisions-Avis-Publications/Decisions/Selection-des-decisions-faisant-l-objet-d-une-communication-particuliere/CE-23-decembre-2016-societe-JT-International-SA-Societe-d-exploitation-industrielle-des-tabacs-et-des-allumettes-societe-Philip-Morris-France-SA-et-autres>.

<sup>12</sup> Decree No. 239/2016 Amending Government Decree 39/2013 of February 14, 2013 on the manufacture, placement on the market and control of tobacco products, combined warnings, and the detailed rules for the application of the health-protection fine.

Available from:

[http://www.tobaccocontrol.org/files/live/Hungary/Hungary%20-%20Decree%20No.%20239\\_2016%20-%20national.pdf](http://www.tobaccocontrol.org/files/live/Hungary/Hungary%20-%20Decree%20No.%20239_2016%20-%20national.pdf) and in English: [http://www.tobaccocontrol.org/files/live/Hungary/Hungary%20-%20Regulation%20239\\_2016.pdf](http://www.tobaccocontrol.org/files/live/Hungary/Hungary%20-%20Regulation%20239_2016.pdf)

<sup>13</sup> <https://kreftforeningen.no/en/cancer-prevention/parliament-adopts-standardised-packaging-to-save-lives-and-prevent-suffering/>

<sup>14</sup> Section 30 of the Tobacco Control Act 1973 as amended by the Amending Tobacco Act (implementation of Directive 2014/40/EC and Standardized tobacco packs). Available here: [https://lovdata.no/dokument/NL/lov/2017-02-10-5/KAPITTEL\\_1-3?q=standardiserte#KAPITTEL\\_1-3](https://lovdata.no/dokument/NL/lov/2017-02-10-5/KAPITTEL_1-3?q=standardiserte#KAPITTEL_1-3).

<sup>15</sup> Amendments to the Regulations on content and labeling of tobacco products. Available from:

<https://lovdata.no/dokument/SF/forskrift/2017-06-22-942?q=Tobakksskadeloven>

<sup>16</sup> Regulation on transitional provisions to the Act of 10 February 2017 No. 5 amending the Law on March 9, 1973 No.14. Available from: <https://lovdata.no/dokument/SF/forskrift/2017-06-16-770?q=Tobakk>

<sup>17</sup> <http://www.vg.no/nyheter/innenriks/bent-hoeie/snusgiganten-swedish-match-saksoeker-staten/a/24090681/>

- <sup>18</sup> Public Health (Standardised Packaging of Tobacco) Act 2015. Available from: <http://www.irishstatutebook.ie/eli/2015/act/4/section/23/enacted/en/print.html>.
- <sup>19</sup> Draft Public Health (Standardised Packaging of Tobacco) Regulations 2016. Available from: <http://ec.europa.eu/growth/tools-databases/tris/en/index.cfm/search/?trisaction=search.detail&year=2015&num=650&dLang=EN>.
- <sup>20</sup> *JTI v Minister for Health, Ireland and the Attorney General* 2015/2530P.
- <sup>21</sup> Law No. 860-IIC Amending the Law on Advertising, approved by Parliament May 17, 2017, signed by President May 30, 2017. Georgian: <http://www.tobaccocontrolaws.org/files/live/Georgia/Georgia%20-%202017%20APS%20Amendments%20-%20national.pdf>
- <sup>22</sup> Available from <http://www.legislation.govt.nz/act/public/2016/0043/latest/DLM5821008.html>.
- <sup>23</sup> Available from: [http://www.health.govt.nz/system/files/documents/publications/standardised-tobacco-products-packaging-draft-regulations-consultation-may16\\_1.pdf](http://www.health.govt.nz/system/files/documents/publications/standardised-tobacco-products-packaging-draft-regulations-consultation-may16_1.pdf).
- <sup>24</sup> Available from: <http://www.legislation.govt.nz/regulation/public/2017/0123/latest/whole.html>
- <sup>25</sup> Law no. 201/2016 establishing the conditions for manufacture, presentation and sale of tobacco products, and related products and amending Law no. 349/2002 on preventing and combating the effects of tobacco products, text available from: <http://lege5.ro/Gratuit/geztinixga4q/legea-nr-201-2016-privind-stabilirea-conditiilor-pentru-fabricarea-prezentarea-si-vanzarea-produselor-din-tutun-si-a-produselor-conexe-si-de-modificare-a-legii-nr-349-2002-pentru-prevenirea-si-combate>.
- <sup>26</sup> Available from: <http://imss.dz-rs.si/imis/601ce03a35a0d00c2a33.pdf>.
- <sup>27</sup> Available from: <http://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20TC%20Act%202017.pdf>.
- <sup>28</sup> [Senate Bill 103/14](#) (introduced March 22, 2014, by Senator Rollemberg); [Senate Bill 769/15](#) (introduced December 3, 2015, by Senator Serra); [House Bill 1744/15](#) (introduced May 28, 2015, by Representative Perondi); [House Bill 2360/15](#) (introduced July 14, 2015, by Representative Cortes); [House Bill 5430/16](#) (introduced May 31, 2016, by Representative Rodrigues).
- <sup>29</sup> Senate Bill [8.886-11 w.](#)
- <sup>30</sup> [Bill 216.](#)
- <sup>31</sup> [Bill No. 136/2015.](#)
- <sup>32</sup> Available from: <http://healthycanadians.gc.ca/health-system-systeme-sante/consultations/tobacco-packages-emballages-produits-tabac/document-eng.php>.
- <sup>33</sup> Available from: <https://julkaisut.valtioneuvosto.fi/handle/10024/70305>.
- <sup>34</sup> Minister for Health and Social Services, “Tobacco: Plain Packaging Standardisation: Law drafting instructions” Decision Reference MD-HSS-2017-0063, July 3, 2017. <https://www.gov.ie/government/planningperformance/pages/ministerialdecisions.aspx?docid=26301E7F-2D9A-4771-9BED-88E1283523BF>
- <sup>35</sup> Available here: <https://www.reach.gov.sg/participate/public-consultation/health-promotion-board/substance-abuse-department/public-consultation-paper-on-potential-tobacco-control-policies>.
- <sup>36</sup> Reported here: <https://www.theonlinecitizen.com/2017/03/09/legal-age-for-smoking-and-buying-tobacco-products-in-singapore-to-be-raised/>.
- <sup>37</sup> Available from: <http://tobaksfakta.se/wp-content/uploads/2016/03/Summary1.pdf>.
- <sup>38</sup> Notification number TPKM/264 (Taiwan Economy) Date Issued: 2/13/2017.
- <sup>39</sup> See <http://www.espectador.com/salud/338068/empaquetado-generico-para-reducir-el-atractivo-del-tabaco-en-2017>.
- <sup>40</sup> Gagan Kumar Thapa, Nepal’s Minister of Health, address to South Asia Tobacco Control Leadership Program (8 to 13 May 2017, Hotel Annapurna, Durbar Marg), May 8, 2017, Kathmandu, Nepal. “South Asian tobacco control leadership meet concludes” Himalayan Times, May 14, 2017. Available from: <https://thehimalayantimes.com/kathmandu/south-asian-tobacco-control-leadership-meet-concludes/>
- <sup>41</sup> EU Tobacco Products Directive introduces some pack standardization provisions (on shape and minimum quantities together with 65 percent front and back picture health warnings) but does not itself impose full standardized packaging. Instead it provides the EU Member States with the ability to act directly through domestic legislation (“Accordingly, Member States could, for example, introduce provisions providing for further standardization of the packaging of tobacco products, provided that those provisions are compatible with the TFEU [Treaty of the Functioning of the European Union], with WTO obligations and do not affect the full application of this Directive.” Article 24.2 Directive 2014/40/EU of the European Parliament and of the Council of April 3, 2014.