
STATUTORY INSTRUMENTS

2006 No. 2369

**Tobacco Advertising and Promotion Act
2002 etc. (Amendment) Regulations 2006**

Amendment of section 5 of the Act

5.—(1) Section 5 (advertising: defences) of the Act is amended as follows.

(2) In subsection (1), for the words “or section 3(a) or (b)” substitute “, section 3(a) or (b) or section 3A(1)(a) or (b)”.

(3) In subsection (3), for the words “or 3(a) or (b)” substitute “, 3(a) or (b) or 3A(1)(a)”.

(4) After subsection (3), insert—

“(3A) A person does not commit an offence under section 2(4) or 3A(1)(b) if he did not know, and had no reason to suspect, that the tobacco advertisement would be published in another EEA State.”.

(5) In subsection (5)—

(a) after paragraph (b), omit the word “or”; and

(b) for paragraph (c), substitute—

“(c) in relation to transmission by means of information society services, he did not carry on business in an EEA State at the relevant time, or

(d) in relation to transmission by any other means of electronic transmission, he did not carry on business in the United Kingdom at the relevant time.”.

(6) After subsection (5), insert—

“(5A) A person does not commit an offence under section 2(4) of distributing or causing the distribution of a tobacco advertisement if—

(a) he was unaware that what he distributed or caused to be distributed was, or contained, a tobacco advertisement, or

(b) having become aware of it, it was not reasonably practicable for him to prevent its further distribution.”.