

ANNEX A – TRANSPOSITION NOTE

Transposition Note for Articles 13 and 14, and one provision of Article 9.3, of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (the “Tobacco Products Directive”)

This transposition note outlines how Articles 13 and 14, and one provision of Article 9.3 of the Tobacco Products Directive are transposed by The Standardised Packaging of Tobacco Products Regulations 2015 (“the Regulations”) for the whole of the UK.

The initial explanatory memorandum concerning the Tobacco Products Directive was provided to the UK Parliamentary European Scrutiny Committees in February 2013. Following extensive negotiations the Tobacco Products Directive was cleared by the House of Commons European Scrutiny Committee on 29 January 2014 and House of Lords Select Committee on the European Union on 5 February 2014.

The Tobacco Products Directive sets out a number of new requirements that will apply to all tobacco and related products across the EU. Articles 13 and 14 of the Tobacco Products Directive contain requirements that relate to the presentation and appearance of tobacco products and their packaging. One of the provisions of Article 9.3 requires the lateral surfaces of shoulder box packets of cigarettes or hand rolling tobacco to be at least 16mm high.

The Regulations relate to the retail packaging of hand rolling tobacco and the retail packaging and appearance of cigarettes. Given that Articles 13 and 14, and the particular provision of Article 9.3, also relate to the retail packaging of tobacco and the appearance of tobacco products, the Regulations are considered the most appropriate legislative vehicle for transposing these Articles.

All other requirements of the Tobacco Products Directive will be implemented in other regulations. The implementation deadline for the Tobacco Products Directive (including Articles 13 and 14 and 9.3) is 20 May 2016. Different transitional provisions apply to different products under the Directive. Tobacco products manufactured or released for free circulation and labelled in accordance with Directive 2001/37/EC (the previous Tobacco Products Directive currently in force), may continue to be made available for retail sale (placed on the market) until 20 May 2017. This transitional arrangement is applied in relation to all the requirements of the Regulations, by regulation 20.

The general approach taken in the Regulations has been to replicate the wording of Articles 13, 14 and 9.3. Where this is not done explanations are given.

Article	Copy out	National provision	If no, reason for elaboration
Article 13: Product presentation For all tobacco products, the labelling of a unit packet or the outside packaging and the tobacco product itself shall not include	Yes:	Regulation 10 sets out the requirements for product presentation.	N/A

<p>any element or feature that:</p> <ul style="list-style-type: none"> • promotes a tobacco product or encourages its consumption by creating an erroneous impression about its - characteristics, health effects, risks or emissions • includes any information about the nicotine, tar or carbon monoxide content of the tobacco product • suggests that a particular tobacco product is less harmful than others or aims to reduce the effect of some harmful components of smoke or has vitalising, energetic, healing, rejuvenating, natural, organic properties or has other health or lifestyle benefits • refers to taste, smell, any flavourings or other additives or the absence thereof • resembles a food or a cosmetic product • suggests that a certain tobacco product has improved biodegradability or other environmental advantage <p>Unit packets and any outside packaging shall not suggest economic advantages by including printed vouchers, offering discounts, free distribution and two for one type or other similar offers.</p> <p>The elements and features that are prohibited may include but are not limited to texts, symbols, names, trademarks, figurative or other signs.</p>		<p>Regulation 10(1) to 10(3) transposes Article 13(1).</p> <p>Regulation 10(4) transposes Article 13(2).</p> <p>Regulation 10(5) transposes Article 13(3).</p> <p>The regulations apply to the packaging in which a tobacco product is or is intended to be presented for 'retail sale' which is defined as being sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade.</p> <p>Article 13 applies to unit packets and outside packaging which are defined as being in relation to products that are 'placed on the market' which is defined as meaning to make available to consumers.</p> <p>The terms 'presented for retail sale' and 'placed on the market' are considered to be synonymous in their effect.</p>	
<p>Article 14: Appearance and content of unit packs</p> <ul style="list-style-type: none"> • The shape of unit packets of cigarettes must be cuboid and consist of carton or soft material • A cigarette packet, that has an opening that can be reclosed or resealed after it is first opened, can 	<p>Yes</p>	<p>Article 14 is transposed by regulation 4 in relation to cigarettes and regulation 8 in relation to hand rolling tobacco.</p> <p>Regulation 4 sets out the requirements for</p>	<p>N/A</p>

<p>only have a flip top lid (the most common form of pack opening in the UK) or be in the form of a shoulder box with a hinged lid, (which are less common in the UK but common in some EU countries) and both types of opening must hinge at the back of the packet.</p> <ul style="list-style-type: none"> packets of hand-rolling tobacco must be cuboid or cylindrical shape or have the form of a pouch <p>A unit packet of cigarettes must include at least 20 cigarettes and a unit packet of hand-rolling tobacco must contain at least 30 grams of tobacco.</p>		<p>the material, shape, opening and contents of unit packets of cigarettes.</p> <p>Regulation 8 sets out requirements for the form of, and weight of tobacco in, unit packets of hand rolling tobacco.</p> <p>See above in relation to the terms 'retail packaging' and 'placed on the market'.</p>	
<p>Article 9.3: size of lateral surfaces of shoulder box with a hinged lid</p> <p>Article 9.3 provides that for packets of cigarettes and hand rolling tobacco in the form of a shoulder box with a hinged lid, the lateral surface shall have a height of not less than 16mm</p>	<p>Yes</p>	<p>This provision is transposed by regulation 4(7) in relation to cigarettes and regulation 8(3) in relation to hand rolling tobacco.</p> <p>The term 'lateral surface' refers to the sides of the cuboid to the left and right of the front surface. 'Lateral' relies on a specific orientation of the packet. (Shoulder box packets are usually orientated as being laid flat and 16mm is intended to refer to the shorter side of the surface.) Therefore for clarity, this requirement has been drafted by reference to the distance between the front and back surfaces of the cuboid.</p>	