
STATUTORY INSTRUMENTS

2016 No. 507

The Tobacco and Related Products Regulations 2016

PART 1

Introduction

Citation and commencement

- 1.—(1) These Regulations may be cited as the Tobacco and Related Products Regulations 2016.
- (2) These Regulations come into force on 20th May 2016.

Interpretation

- 2.—(1) In these Regulations—

“the 2002 Regulations” means the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002⁽¹⁾;

“addictiveness” means the pharmacological potential of a substance to cause addiction, that is, a state which affects an individual’s ability to control his or her behaviour, typically by instilling a reward or a relief from withdrawal symptoms, or both, and “addictive” is to be construed accordingly;

“additive” means a substance, other than tobacco, that is added to a tobacco product, unit pack or container pack;

“brand name”, in relation to a particular product, means the primary name by which the product is known;

“calendar year” means a period of 12 months beginning with 1st January and ending with 31st December;

“characterising flavour” means a smell or taste other than one of tobacco which—

- (a) is clearly noticeable before or during consumption of the product; and
- (b) results from an additive or a combination of additives,

including, but not limited to, fruit, spice, herbs, alcohol, candy, menthol or vanilla;

“cigarette” means a tobacco product that can be consumed by means of a combustion process and which is either—

- (a) a roll of tobacco (or of tobacco and another substance) capable of being smoked as it is, but which is not a cigar; or
- (b) a roll of tobacco (or of tobacco and another substance) which is designed to be, by simple non-industrial handling—
 - (i) wrapped in cigarette paper, or
 - (ii) inserted into a cigarette-paper tube;

⁽¹⁾ S.I. 2002/3041.

“cigar” means a tobacco product that can be consumed by means of a combustion process and, given its properties and normal consumer expectations, is exclusively intended to be smoked as it is, and which is either—

- (a) a roll of tobacco (or of tobacco and another substance) which has an outer wrapper of natural tobacco; or
- (b) a roll of tobacco (or of tobacco and another substance) which—
 - (i) has an outer wrapper—
 - (aa) of the normal colour of a cigar,
 - (bb) made of reconstituted tobacco, and
 - (cc) covering the product in full (including the filter but not, in the case of a cigar with a mouthpiece, the mouthpiece),
 - (ii) is filled with a threshed blend of tobacco (or of tobacco and another substance),
 - (iii) has a unit weight, not including any filter or mouthpiece, of not less than 2.3 grams and not more than 10 grams, and
 - (iv) has a circumference, over at least one third of its length, of not less than 34 millimetres;

“cigarillo” means a cigar with a unit weight of not more than 3 grams;

“chewing tobacco” means a smokeless tobacco product which is exclusively intended for the purpose of chewing;

“CMR properties” means properties which are carcinogenic, mutagenic or toxic for reproduction;

“consumer” means a natural person who is acting for purposes which are outside that person’s trade, business, craft or profession;

“container pack” has the meaning given to it in regulation 4(2);

“cross border distance sale” has the meaning given to it in regulation 3(4);

“electronic cigarette” means a product that—

- (a) can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges); and
- (b) is not a medicinal product or medical device;

“emissions” means substances that are released when a tobacco product or related product is consumed as intended;

“hand rolling tobacco” means a tobacco product which is not a cigarette and can be used after retail sale for making cigarettes;

“herbal product for smoking” means a product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process;

“ingredient” means the tobacco, any additive, as well as any other substance or element present in a finished tobacco product or related product, including paper, filter, ink, capsules and adhesives;

“ISO 4387” means the international standard entitled “Cigarettes: Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine”, ISO 4387:2000, third edition, published by the International Organisation for Standardisation on 1st April 2000 and amended by Amendment 1:2008 dated 15th September 2008;

“ISO 10315” means the international standard entitled “Cigarettes: Determination of nicotine in smoke condensates. Gas chromatographic method”, ISO 10315:2013, third edition, published by the International Organisation for Standardisation on 31st March 2013, and corrected by Corrigendum dated 1st November 2014;

“ISO 8243” means the international standard entitled “Cigarettes: Sampling”, ISO 8243:2013, fifth edition, published by the International Organisation for Standardisation on 31st July 2013;

“ISO 8454” means the international standard entitled “Cigarettes: Determination of carbon monoxide in the vapour phase of cigarette smoke: NDIR method”, ISO 8454:2007, third edition, published by the International Organisation for Standardisation on 1st June 2007 and amended by Amendment 1:2009 dated 15th October 2009;

“medical device” has the meaning given to it by regulation 2 of the Medical Devices Regulations 2002⁽²⁾;

“medicinal product” has the meaning given to it by regulation 2 of the Human Medicines Regulations 2012⁽³⁾;

“nasal tobacco” means a smokeless tobacco product that can be consumed via the nose;

“nicotine” means nicotinic alkaloids;

“novel tobacco product” means a tobacco product which—

- (a) is not a cigarette, hand rolling tobacco, pipe tobacco, waterpipe tobacco, a cigar, a cigarillo, chewing tobacco, nasal tobacco or tobacco for oral use; and
- (b) is first supplied by the producer after 19th May 2014;

“pipe tobacco” means tobacco that—

- (a) can be consumed by means of a combustion process; and
- (b) is exclusively intended for use in a pipe;

“pouch” means a unit pack of hand rolling tobacco either in the form of a rectangular pocket with a flap that covers the opening or in the form of a standing pouch;

“produce” and “producer” have the meaning given to them by regulation 3(1);

“refill container” means a receptacle that—

- (a) contains a nicotine-containing liquid, which can be used to refill an electronic cigarette; and
- (b) is not a medicinal product or medical device;

“related product” means a herbal product for smoking, an electronic cigarette or a refill container;

“retailer” has the meaning given to it by regulation 3(4);

“retail sale” means sale to a consumer;

“smokeless tobacco product” means a tobacco product that is consumed in a way which does not involve a combustion process (including chewing tobacco, nasal tobacco and tobacco for oral use);

“supply” and “supplier” have the meaning given to them by regulation 3(2);

“tar” means the raw anhydrous nicotine-free condensate of smoke;

“tobacco” means leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;

“tobacco for oral use” means a tobacco product which is—

(2) [S.I. 2002/618](#), amended by [S.I. 2008/2936](#); there are other amending instruments but none are relevant.

(3) [S.I. 2012/1916](#), to which there are amendments not relevant to these Regulations.

- (a) intended for oral use, unless it is intended to be inhaled or chewed; and
- (b) in powder or particulate form or any combination of these forms, whether presented in a sachet portion or a porous sachet, or in any other way;

“tobacco product” means a product that can be consumed and consists, even partly, of tobacco;

“tobacco product for smoking” means a tobacco product other than a smokeless tobacco product;

“Tobacco Products Directive” means [Directive 2014/40/EU](#) of the European Parliament and the Council 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⁽⁴⁾;

“toxicity” means the degree to which a substance can cause harmful effects in the human organism, including effects occurring over time, usually through repeated or continuous consumption or exposure, and “toxic” is to be construed accordingly;

“travel retail sector” means retail outlets in the United Kingdom at which tobacco products or related products may be purchased only by people travelling on journeys to destinations outside the United Kingdom;

“unit pack” has the meaning given to it in regulation 4(1);

“variant name”, in relation to a particular product, means any name by which that product is distinguished from other products under the same brand name;

“waterpipe tobacco” means a tobacco product that can be consumed by means of a waterpipe, and for the purposes of these Regulations—

- (a) waterpipe tobacco is deemed to be a tobacco product for smoking; and
- (b) a product which may either be consumed via a waterpipe, or used as hand rolling tobacco, is deemed to be hand rolling tobacco.

(2) For the purposes of these Regulations, data or information are available to a person if that person is able, by reasonable endeavour, to identify their existence and obtain a copy.

Meaning of producer and supplier etc.

3.—(1) For the purposes of these Regulations a person produces a tobacco product or related product if in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person—

- (a) manufactures the product;
- (b) puts a name, trade mark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator; or
- (c) imports it into the United Kingdom,

and the terms “producer” and “importer” are to be construed accordingly.

(2) For the purposes of these Regulations a person supplies a tobacco product or related product if, in the course of a business, the person—

- (a) supplies the product—
 - (i) for consumption in the United Kingdom or through the travel retail sector, or
 - (ii) with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector;
- (b) offers or agrees to supply it in those circumstances; or

(4) OJ L 127, 29.4.2014, p.1 as amended by Commission Delegated [Directive 2014/109/EU](#), OJ L 360, 17.12.2014.

(c) exposes or possesses it for supply in those circumstances, and “supplier” is to be construed accordingly.

(3) In the case of a cross-border distance sale of a product to a consumer located in the United Kingdom, the product is to be treated for the purposes of these Regulations as supplied, and presented for retail sale, in the United Kingdom.

(4) In these Regulations, “cross-border distance sale” means a distance sale to a consumer where, at the time the consumer orders a product from a retailer, the consumer is located in a member State other than the member State or third country where the retailer is established, and for these purposes—

- (a) a retailer means a person who sells, or offers or agrees to sell, a tobacco product or related product to a consumer; and
- (b) a retailer is deemed to be established in a member State—
 - (i) in the case of a retailer who is a natural person, if that person’s place of business is in that member State, and
 - (ii) in any other case, if the retailer has its statutory seat, central administration or place of business, including a branch, agency or any other establishment, in that member State.

Meaning of unit and container pack and the surfaces of a pack

4.—(1) In these Regulations, a “unit pack”, in relation to a tobacco product or related product, means the smallest individual packaging in which that product is, or is intended to be, presented for retail sale (regardless of whether it is presented inside a container pack), but does not include any transparent wrapper.

(2) In these Regulations, a “container pack”, in relation to a tobacco product or related product means any packaging—

- (a) in which that product is, or is intended to be, presented for retail sale; and
- (b) which contains (whether fully or partially enclosing)—
 - (i) a unit pack of that product, or
 - (ii) an aggregation of such unit packs,

and where there is more than one separate layer of such packaging, each layer is to be regarded as a separate container pack, but a transparent wrapper alone is not a container pack.

(3) References in these Regulations to the front and back surfaces of a unit pack or container pack are to the two largest surfaces of the pack (of the surfaces that are visible before the pack is opened).

(4) References in these Regulations to the secondary surfaces of a unit pack or container pack are to the next two largest surfaces of the pack after the front and the back surfaces (again of the surfaces that are visible before the pack is opened).