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STATUTORY INSTRUMENTS

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**2003 No. 1471**

**CUSTOMS AND EXCISE**

**The Tobacco Products (Descriptions of Products) Order 2003**

*Approved by the House of Commons*

<i>Made</i>	-	-	-	-	<i>5th June 2003</i>
<i>Laid before the House of Commons</i>	-	-	-	-	<i>5th June 2003</i>
<i>Coming into force</i>	-	-			<i>1st August 2003</i>

The Treasury, in exercise of the powers conferred upon them by section 1(3) of the Tobacco Products Duty Act 1979 <sup>F1</sup>, and of all other powers enabling them in that behalf, hereby make the following Order:

**F1** 1979 c. 7; section 1(3) was amended by the Finance Act 1993 (c. 34), section 14(5).

**Citation and commencement**

1. This Order may be cited as the Tobacco Products (Descriptions of Products) Order 2003 and comes into force on 1st August 2003.

**Interpretation**

2. In this Order “the Act” means the Tobacco Products Duty Act 1979.

**Repeal and revocation**

3.—(1) Subsections (2) and (2A) of section 1 of the Act <sup>F2</sup> are repealed.

(2) The Tobacco Products (Cigarettes and Cigars) Order 1977 <sup>F3</sup> is revoked.

**F2** Subsection (2) was amended by, and subsection (2A) was inserted by, the Finance Act 1993 (c. 34), section 14.

**F3** S.I. 1977/1979.

**Cigarettes**

4.—(1) Subject to paragraph (2) below, references to cigarettes in the Act include any product that comprises—

(a) rolls of tobacco capable of being smoked as they are and that are not cigars, or

(b) rolls of tobacco that, by simple non-industrial handling, are—

- (i) inserted into cigarette-paper tubes, or
- (ii) wrapped in cigarette paper.

(2) References to cigarettes in the Act include products consisting in whole or in part of substances other than tobacco that otherwise conform to a description in paragraph (1) above <sup>F4</sup>....

**F4** Words in art. 4(2) omitted (1.1.2014) by virtue of [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2013 \(S.I. 2013/2721\)](#), arts. 1, **3(1)**

## Cigars

5. References to cigars in the Act include any product that is described in the Schedule below and do not include tobacco products of any other description.

## Hand-rolling tobacco

6.—(1) References to hand-rolling tobacco in the Act include any product that would, but for the reference to hand-rolling tobacco in article 7(1) below, be other smoking tobacco and—

- (a) in which more than 25% by weight of the tobacco particles have a cut width of less than [<sup>F5</sup>1.5 millimetres], or
- (b) that is sold or intended to be sold for making into cigarettes by hand, or
- (c) that is of a kind used for making into cigarettes by hand.

(2) In this regulation—

- (a) the references to “making into cigarettes by hand” in paragraph (1)(b) and (c) above include making into cigarettes by hand with the aid of a mechanical device, and
- (b) the use for making into cigarettes referred to in paragraph (1)(c) above must amount to more than occasional use but need not amount to common use.

**F5** Words in art. 6(1)(a) substituted (1.1.2011) by [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2010 \(S.I. 2010/2852\)](#), arts. 1, **2(2)**

## Other smoking tobacco

7.—(1) Subject to paragraph (2) below, references to other smoking tobacco in the Act include any product that is not cigarettes, cigars, or hand-rolling tobacco and comprises—

- (a) tobacco that has been cut or otherwise split, twisted or pressed into blocks, and is capable of being smoked without further industrial processing, or
- (b) tobacco refuse put up for retail sale that can be smoked.

(2) References to other smoking tobacco in the Act include products consisting in whole or in part of substances other than tobacco that otherwise conform to a description in paragraph (1) above <sup>F6</sup>....

[<sup>F7</sup>(3) For the purposes of paragraph (1), “tobacco refuse” means the remnants of tobacco leaves and the by-products of the processing of tobacco or the manufacture of tobacco products.]

**F6** Words in art. 7(2) omitted (1.1.2014) by virtue of [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2013 \(S.I. 2013/2721\)](#), arts. 1, **3(2)**

**F7** Art. 7(3) added (1.1.2011) by [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2010 \(S.I. 2010/2852\)](#), arts. 1, **2(3)**

### **Chewing tobacco**

**8.—**(1) Subject to paragraph (2) below, references to chewing tobacco in the Act include any product that—

- (a) is not cigarettes, cigars, hand-rolling tobacco, or other smoking tobacco,
- (b) consists of or includes tobacco, and
- (c) has been prepared so that it can be chewed.

(2) References to chewing tobacco in the Act include any product prepared for chewing that does not include tobacco but consists in whole or in part of a substitute for tobacco, except for such a product that is intended solely as an aid to persons to give up smoking.

### **[<sup>F8</sup>Tobacco for heating**

**9.—**(1) References to tobacco for heating in the Act include any product that—

- (a) is not cigarettes, cigars, hand-rolling tobacco, other smoking tobacco, or chewing tobacco; and
- (b) consists of tobacco prepared for heating, without combustion, in order to produce or flavour vapour.

(2) In paragraph (1)(b), “tobacco” includes tobacco mixed with any substance other than tobacco.

(3) References to tobacco for heating in the Act do not include any product that consists wholly of a substance or substances used as a substitute for tobacco.]

**F8** Art. 9 inserted (1.7.2019) by [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2019 \(S.I. 2019/953\)](#), arts. 1, **2**

*Philip Woolas*  
*John Heppell*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

**Status:** Point in time view as at 01/07/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Tobacco Products (Descriptions of Products) Order 2003. (See end of Document for details)

## SCHEDULE

article 5

### Descriptions of Cigars

<sup>F9</sup>1. ....

**F9** Sch. para. 1 omitted (1.1.2011) by virtue of [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2010 \(S.I. 2010/2852\)](#), arts. 1, **2(4)(a)**

**2.** *Cigars with an outer wrapper of natural tobacco.* Cigars falling within this description include cigars containing a mixture of tobacco and other substances; provided that they have an outer wrapper of natural tobacco. A cigar containing only substances other than tobacco does not fall within this description.

<sup>F10</sup>3. ....

**F10** Sch. para. 3 omitted (1.1.2011) by virtue of [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2010 \(S.I. 2010/2852\)](#), arts. 1, **2(4)(b)**

**4.** *Cigars with a threshed blend filler and with an outer wrapper that has the normal colour of a cigar.* The outer wrapper must be made of reconstituted tobacco and must cover the cigar in full, including where appropriate the filter, but not (in the case of cigars with a mouthpiece) the mouthpiece. If the filler is held together with a binder, the binder may be made of a material other than tobacco or reconstituted tobacco. [<sup>F11</sup>Each cigar must have a unit weight (excluding the weight of any filter or mouthpiece) of not less than 2.3 grams and not more than 10 grams.] The circumference over at least one third of the length of the cigar must not be less than 34 mm. A cigar containing only substances other than tobacco does not fall within this description.

**F11** Words in Sch. para. 4 substituted (1.1.2011) by [The Tobacco Products \(Descriptions of Products\) \(Amendment\) Order 2010 \(S.I. 2010/2852\)](#), arts. 1, **2(4)(c)**

**5.** A product that is described as a cigarillo but falls within one of the above descriptions is a cigar.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order comes into force on 1st August 2003.

### **Purpose of the Order**

This Order describes the tobacco products listed in section 1(1) of the Tobacco Products Duty Act 1979(c. 7).

The Order implements Articles 3 –7 of Council Directive [95/59/EC](#) (OJ No. L291, 6.12.1995, p.40), as amended; in particular, by Council Directive [2002/10/EC](#) (OJ No. L 46, 16.2.2002, p. 26).

This Order replaces The Tobacco Products (Cigarettes and Cigars) Order 1977 (S.I. 1977/1979). It describes all the tobacco products that are subject to tobacco products duty.

The description of cigarettes includes those cigarettes consisting of pre-formed rolls of tobacco, which the smoker either wraps in cigarette paper or inserts into cigarette paper tubes. A product is only a cigar if it is described in the Schedule to the Order. The products described include cigars made entirely of natural tobacco. They also include cigars with an outer wrapper of natural tobacco containing tobacco or a mixture of tobacco and other substances. Products, which have an outer wrapper of reconstituted tobacco, are included within the description of cigars provided that certain further conditions are satisfied. To meet these conditions the cigar must:

- have a threshed blend filler of tobacco or a mixture of tobacco and other substances;
  - meet certain minimum weight requirements; and
  - either have a binder and a spirally fitted outer wrapper, or meet a minimum size requirement.
- Products that do not contain any tobacco are excluded from the description of cigars.

**Status:**

Point in time view as at 01/07/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the The Tobacco Products (Descriptions of Products) Order 2003.