

**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(a), and of all other powers enabling them in that behalf, hereby make the following Order:

**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3.—(1) Subsections (2) and (2A) of section 1 of the Act(b) are repealed.  
(2) The Tobacco Products (Cigarettes and Cigars) Order 1977(c) is revoked.

**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.

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

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

(c) S.I. 1977/1979.

(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, unless they are herbal smoking products.

### **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 1 millimetre, 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.

### **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, unless they are herbal smoking products.

### **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.

5th June 2003

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

## SCHEDULE

article 5

### Descriptions of Cigars

1. *Cigars made entirely of natural tobacco.* Cigars do not fall within this description if they contain substances other than natural tobacco.

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.

3. *Cigars with a threshed blend filler and with an outer wrapper that has the normal colour of a cigar.* The outer wrapper must cover the cigar in full, including where appropriate the filter but not (in the case of cigars with a mouthpiece) the mouthpiece. The cigar must have a binder (which holds the filler together before the outer wrapper is applied). Both the outer wrapper and the binder must be made of reconstituted tobacco. Each cigar must have a unit weight of not less than 1.2 grams (excluding the weight of any filter or mouthpiece). The outer wrapper must be fitted in spiral form with an acute angle of at least 30 degrees to the longitudinal axis of the cigar. A cigar containing only substances other than tobacco does not fall within this description.

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. Each cigar must have a unit weight of not less than 2.3 grams (excluding the weight of any filter or mouthpiece). 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.

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.

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