

## STATUTORY INSTRUMENTS

### 2016 No. 507

## The Tobacco and Related Products Regulations 2016

### PART 7

#### Electronic cigarette advertising

##### No advertising of electronic cigarettes in information society services

**43.**—(1) No person may in the course of a business include, or procure the inclusion of, an electronic cigarette advertisement in an information society service provided to a recipient in the United Kingdom.

(2) No service provider established in [<sup>F1</sup>Northern Ireland] may in the course of a business include an electronic cigarette advertisement in an information society service provided to a recipient in an EEA State <sup>F2</sup>...

(3) No proceedings for an offence for breach of paragraph (1) <sup>M1</sup> may be instituted [<sup>F3</sup>in Northern Ireland] against a service provider who is established in [<sup>F4</sup>an EEA State], unless the derogation condition mentioned in paragraph 4 is satisfied.

(4) The derogation condition is satisfied where the institution of proceedings—

- (a) is necessary for the purposes of public policy, the protection of public health or the protection of consumers (“the objective”);
- (b) relates to an information society service that prejudices the objective or presents a serious and grave risk of prejudice to the objective; and
- (c) is proportionate to the objective.

(5) [<sup>F5</sup>Paragraph (1) does or, as the case may be, paragraphs (1) and (2)] do not apply—

- (a) to an information society service which is intended exclusively for professionals in the trade of electronic cigarettes or refill containers; or
- (b) to an electronic cigarette advertisement which is not principally intended [<sup>F6</sup>—
  - (i) where the recipient of the service is in Great Britain, for the market in Great Britain;
  - (ii) where the recipient of the service is in Northern Ireland, for the Union market.]

(6) Schedule 1 (liability of intermediary information society service providers) has effect.

#### Textual Amendments

- F1** Words in reg. 43(2) substituted (31.12.2020) by [S.I. 2019/41, reg. 6\(28\)\(a\)\(i\)](#) (as substituted by [The Tobacco Products and Nicotine Inhaling Products \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1316\)](#), regs. 1(3), [3\(33\)](#) (with reg. 5))
- F2** Words in reg. 43(2) omitted (31.12.2020) by virtue of [S.I. 2019/41, reg. 6\(28\)\(a\)\(ii\)](#) (as substituted by [The Tobacco Products and Nicotine Inhaling Products \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1316\)](#), regs. 1(3), [3\(33\)](#) (with reg. 5))

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**Changes to legislation:** There are currently no known outstanding effects for the The Tobacco and Related Products Regulations 2016, Section 43. (See end of Document for details)

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- F3** Words in reg. 43(3) inserted (31.12.2020) by S.I. 2019/41, **reg. 6(28)(b)(i)** (as substituted by The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1316), regs. 1(3), **3(33)** (with reg. 5))
- F4** Words in reg. 43(3) substituted (31.12.2020) by S.I. 2019/41, **reg. 6(28)(b)(ii)** (as substituted by The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1316), regs. 1(3), **3(33)** (with reg. 5))
- F5** Words in reg. 43(5) substituted (31.12.2020) by S.I. 2019/41, **reg. 6(28)(c)(i)** (as substituted by The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1316), regs. 1(3), **3(33)** (with reg. 5))
- F6** Words in reg. 43(5)(b) substituted (31.12.2020) by S.I. 2019/41, **reg. 6(28)(c)(ii)** (as substituted by The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1316), regs. 1(3), **3(33)** (with reg. 5))

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**Marginal Citations**

- M1** See regulation 48(e).

**Changes to legislation:**

There are currently no known outstanding effects for the The Tobacco and Related Products Regulations 2016, Section 43.