
STATUTORY INSTRUMENTS

2019 No. 594

**The Tobacco Products (Traceability and
Security Features) Regulations 2019**

PART 3

Traceability system

Integrity requirements of a unique identifier

7.—(1) Where a manufacturer or importer of tobacco products is required to mark each unit packet with a unique identifier under Article 6 of the Commission Implementing Regulation, the manufacturer or importer must ensure that, in addition to meeting the requirements in Section 2 of Chapter II and Chapter IV of that Regulation, the requirements in paragraph (2) are also met.

(2) The unique identifier—

(a) must be—

(i) irremovably printed or affixed, and

(ii) indelible,

(b) must remain intact when the packet is opened, and

(c) must not be partially or totally hidden or interrupted by any other item, including through tax stamps or price marks.

Provision of equipment for recording and transmitting information

8. Manufacturers of tobacco products must provide all economic operators with the equipment necessary for those operators to comply with the recording and electronic transmission of information requirements in Articles 32 and 33 of the Commission Implementing Regulation.

Primary repository requirements

9.—(1) Where a manufacturer or importer of tobacco products is required under Article 26 of the Commission Implementing Regulation to establish a primary repository for the purpose of hosting data relating to tobacco products, the manufacturer or importer must—

(a) ensure that the repository is physically located in the territory of the European Union, and

(b) appoint an external auditor approved by the Commission to carry out the audits referred to in Article 15 of the Commission Delegated Regulation in relation to that repository.

(2) Where the provider of a primary repository has issued to a manufacturer or importer of tobacco products a written declaration as to that provider's technical expertise or financial independence⁽¹⁾, the manufacturer or importer must—

(1) Under Articles 4 and 8 of the Commission Delegated Regulation (EU) 2018/573 of 15 December 2017 on key elements of data storage contracts to be concluded as part of a traceability system for tobacco products (OJ L 96, p.1), the contract between a

- (a) keep and preserve the declaration for a period of six years beginning on the date the declaration is received by the manufacturer or importer, and
- (b) make the declaration available for inspection by an officer when required.

Access to anti-tampering device records

10. Where HMRC have made a request in writing under Article 7(5) of the Commission Implementing Regulation to a manufacturer or importer of tobacco products for full access to the record of the verification process created by an anti-tampering device, the manufacturer or importer must provide HMRC with such access within a period of 30 days beginning on the day on which the request is made.

External auditor: annual report on primary repository

- 11.**—(1) An external auditor must submit an annual report to HMRC and the Commission.
- (2) The report must—
- (a) assess any irregularities in relation to access, and
 - (b) include any other information specified by the Commission for the purpose of the report.
- (3) The annual report must be submitted to—
- (a) HMRC in a prescribed manner, and
 - (b) the Commission in accordance with any procedure set out by the Commission.
- (4) An external auditor must as soon as reasonably practicable after carrying out, or attempting to carry out, an audit notify HMRC of—
- (a) any irregularities in relation to physical and virtual access to a primary repository, or
 - (b) any non-compliance with the relevant legislative requirements.
- (5) A notification under paragraph (4) must be provided to HMRC in a prescribed manner.
- (6) In this regulation, “relevant legislative requirements” means the requirements in Articles 25 and 26 of the Commission Implementing Regulation.

Access to stored data in duly justified cases

- 12.**—(1) The Commissioners for Her Majesty’s Revenue and Customs may grant manufacturers and importers of tobacco products access to stored data in cases where they are satisfied that—
- (a) access is duly justified, and
 - (b) commercially sensitive information remains adequately protected.
- (2) An application for access must be made to HMRC in a prescribed manner.
- (3) The Commissioners for Her Majesty’s Revenue and Customs must, as soon as reasonably practicable after receiving the application, give notice to the applicant—
- (a) granting access, or
 - (b) rejecting the application.
- (4) Where access is granted, the notice under paragraph (3)(a) must specify the rights of access granted to the applicant, including the duration and purpose of those rights.
- (5) In this regulation, “stored data” means information stored in the primary repository established by the applicant.

