

2020 No. 1496

EXITING THE EUROPEAN UNION

EXCISE

The Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020

Made - - - - *9th December 2020*

Laid before the House of Commons *10th December 2020*

Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 45(1), (2)(h), 48(10), (11)(c) and (d) of the Taxation (Cross-border Trade) Act 2018(a).

PART 1

Introductory provision

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020.

(2) These Regulations come into force on IP completion day and have effect in accordance with regulations 3(3), 4(1), 7(3), 8, 9, 10(3) to (5) and 11.

Interpretation

2. In these Regulations—

“2019 Regulations” means the Tobacco Products (Traceability and Security Features) Regulations 2019(b);

“applied Commission Implementing Regulation” has the meaning given in regulation 3(2);

“EU Commission Implementing Regulation” means the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products(c);

“member State” does not include the United Kingdom;

(a) 2018 c. 22. Section 49 defines “HMRC Commissioners” as meaning the Commissioners for Her Majesty's Revenue and Customs.

(b) S.I. 2019/594.

(c) OJ No. L 96, 16.04.2018, p. 7, as corrected by Corrigendum OJ No. L 252, 8.10.2018, p. 47.

“supplied in any part of the United Kingdom” has the meaning given in regulation 3 of the 2019 Regulations as amended by paragraph 5 of Schedule 3;

“supplied in Great Britain” is to be construed in accordance with the meaning of “supplied in any part of the United Kingdom”;

“supplied in a member State” has the meaning given in regulation 5;

“cigarette”, “hand-rolling tobacco” and “tobacco product” have the meanings given to them in regulation 2 of the 2019 Regulations.

PART 2

Application and amendment of direct EU legislation

Application and amendment of retained EU legislation relating to the traceability system

3.—(1) Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products^(a) applies in the United Kingdom and is amended in accordance with Schedule 1.

(2) That Regulation as amended by Schedule 1 (“the applied Commission Implementing Regulation”) applies for the purposes of establishing and operating a traceability system for tobacco products in the United Kingdom.

(3) Subject to regulation 4, the applied Commission Implementing Regulation has effect—

- (a) in relation to cigarettes and hand-rolling tobacco—
 - (i) manufactured in the United Kingdom on or after IP completion day, or
 - (ii) imported into the United Kingdom on or after that day for supply in any part of the United Kingdom, and
- (b) in relation to tobacco products (other than cigarettes and hand-rolling tobacco)—
 - (i) manufactured in the United Kingdom on or after 20th May 2024, or
 - (ii) imported into the United Kingdom on or after that date for supply in any part of the United Kingdom.

Transitional provision: products manufactured and marked before IP completion day

4.—(1) Chapter 6 of the applied Commission Implementing Regulation has effect in relation to cigarettes and hand-rolling tobacco—

- (a) manufactured in the United Kingdom before IP completion day, or
- (b) (i) manufactured outside the United Kingdom before IP completion day, and
- (ii) imported into the United Kingdom on or after that day for supply in any part of the United Kingdom or supply in a member State,

where a unit packet of those products is marked with a unique identifier issued by the UK ID Issuer before that day.

(2) For the purposes of paragraph (1), where an obligation in Chapter 6 of the applied Commission Implementing Regulation cannot be complied with unless a requirement listed in paragraph (3) is first met, the requirement is treated as being met where the same requirement was met before IP completion day in relation to those products for the purposes of the EU Commission Implementing Regulation.

(3) The provisions are—

- (a) Article 6 (marking by means of unit level UIs),

(a) EUR 2018/574.

- (b) Article 8(3) (time stamp of manufacture),
- (c) Article 9 (request and issuing of unit level UIs),
- (d) Article 10 (marking by means of aggregated level UIs),
- (e) Article 11(3) (time stamp of aggregation),
- (f) Article 13 (request and issuing of aggregated level UIs generated by ID issuers),
- (g) Article 21 (data carriers for unique identifiers).

(4) In this regulation, “unique identifier”, “unit packet” and “the UK ID Issuer” have the meanings given to them in regulation 2 of the 2019 Regulations, as that regulation had effect immediately before IP completion day.

Transitional provision: meaning of tobacco products supplied in a member State

5.—(1) For the purposes of regulation 4, tobacco products are supplied in a member State if, in the course of a business, a person—

- (a) supplies the product—
 - (i) for consumption in a member State or through the travel retail sector of a member State,
 - (ii) with a view to it being supplied for consumption in a member State or through the travel retail sector of a member State,
- (b) offers or agrees to supply it in those circumstances, or
- (c) exposes or possesses it for supply in those circumstances,

and “supply in a member State” is to be construed accordingly.

(2) In the case of a cross-border distance sale of a product to a consumer located in a member State, the product is to be treated for the purposes of these Regulations as supplied in a member State.

(3) In this regulation—

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

- (a) in the case of a retailer who is a natural person, if that person’s place of business is in that member State, and
- (b) 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;

“travel retail sector of a member State” means retail outlets in a member State at which tobacco products may be purchased only by people travelling on journeys to destinations outside of that member State.

Saving of identifier codes and registry of codes

6.—(1) A requirement set out in any of the provisions of the applied Commission Implementing Regulation listed in paragraph (2) in relation to an identifier code for—

- (a) an economic operator,
- (b) a facility, or
- (c) a machine,

is treated as met in cases where, for the purposes of the same provisions of the EU Commission Implementing Regulation the requirement was met before IP completion day in relation to that economic operator, facility or machine, as the case may be.

(2) The provisions are—

- (a) Article 14(1) (request for an economic operator identifier code),
- (b) Article 15(3) (registration of economic operator identifier codes),
- (c) Article 16(1) (request for a facility identifier code),
- (d) Article 17(3) (registration of facility identifier codes),
- (e) Article 18(1) (request for a machine identifier code),
- (f) Article 19(3) (registration of machine identifier codes).

(3) In this regulation, “economic operator”, “facility” and “machine” have the meanings given to them in Article 2 of the applied Commission Implementing Regulation.

Amendment of retained EU legislation relating to security features

7.—(1) Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products^(a) is amended in accordance with Schedule 2.

(2) That Decision as amended by Schedule 2 (“the GB Security Features Decision”) applies for the purpose of setting technical standards for applying security features to tobacco products supplied in Great Britain.

(3) The GB Security Features Decision has effect in relation to—

- (a) cigarettes and hand-rolling tobacco supplied in Great Britain on or after IP completion day, and
- (b) tobacco products (other than cigarettes and hand-rolling tobacco) supplied in Great Britain on or after 20th May 2024.

PART 3

Saving and amendment of subordinate legislation

Saving of the Tobacco Products (Traceability and Security Features) Regulations 2019: the Protocol on Ireland/Northern Ireland

8. Subject to regulation 9, the 2019 Regulations as they had effect immediately before IP completion day—

- (a) continue to have effect in relation to Northern Ireland for the purposes of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, and
- (b) apply for those purposes as if—
 - (i) references to “the United Kingdom” were to “Northern Ireland”,
 - (ii) references to “another member State” were to “a member State”,
 - (iii) references to “the territory of the European Union” were to “Northern Ireland or the territory of the European Union”,
 - (iv) the definitions of “cross-border distance sale” and “travel retail sector” were treated as omitted,
 - (v) regulations 3 (meaning of tobacco product supplied in the United Kingdom) and 4 (meaning of tobacco product supplied in another member State) were treated as substituted for—

(a) EUD 2018/576.

“Meaning of tobacco products supplied in Northern Ireland

3.—(1) For the purposes of these Regulations, tobacco products are supplied in Northern Ireland if, in the course of a business, a person—

- (a) supplies the product—
 - (i) for consumption in Northern Ireland or through the travel retail sector, or
 - (ii) with a view to it being supplied for consumption in Northern Ireland or through the travel retail sector,
- (b) offers or agrees to supply it in those circumstances, or
- (c) exposes or possesses it for supply in those circumstances,

and “supply in Northern Ireland” is to be construed accordingly.

(2) In the case of a cross-border distance sale of a product to a consumer located in Northern Ireland, the product is to be treated for the purposes of these Regulations as supplied in Northern Ireland.

(3) In this regulation—

“cross-border distance sale” means a distance sale to a consumer (“C”) where, at the time C orders a product from a retailer, C is located in Northern Ireland and the retailer is established in a member State or another country outside of Northern Ireland, and, for these purposes, a retailer is deemed to be established in a member State—

- (a) in the case of a retailer who is a natural person, if that person’s place of business is in that member State, and
- (b) 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;

“travel retail sector” means retail outlets in Northern Ireland at which tobacco products may be purchased only by people travelling on journeys to destinations outside Northern Ireland.

Meaning of tobacco products supplied in a member State

4.—(1) For the purposes of these Regulations, tobacco products are supplied in a member State if, in the course of a business, a person—

- (a) supplies the product—
 - (i) for consumption in a member State or through the travel retail sector of a member State,
 - (ii) with a view to it being supplied for consumption in a member State or through the travel retail sector of a member State,
- (b) offers or agrees to supply it in those circumstances, or
- (c) exposes or possesses it for supply in those circumstances,

and “supply in a member State” is to be construed accordingly.

(2) In the case of a cross-border distance sale of a product to a consumer located in a member State, the product is to be treated for the purposes of these Regulations as supplied in a member State.

(3) In this regulation—

“cross-border distance sale” means a distance sale to a consumer (“C”) where, at the time C orders a product from a retailer, C is located in a member State, and the retailer is established in Northern Ireland, in a different member State or in a country other than a member State, and, for these purposes, a retailer is deemed to be established in a member State—

- (a) in the case of a retailer who is a natural person, if that person’s place of business is in that member State, and
- (b) 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;

“travel retail sector of a member State” means retail outlets in a member State at which tobacco products may be purchased only by people travelling on journeys to destinations outside of that member State.”,

- (vi) regulation 6(4) (security feature requirement) were treated as omitted.

Exception to regulation 8

9. Regulation 8 does not apply in relation to the following Parts of the 2019 Regulations—

- (a) Part 4 (security feature system), and
- (b) Part 5 (independence of service providers) but only to the extent that that Part makes provision relating to authentication elements providers.

Amendments to the Tobacco Products (Traceability and Security Features) Regulations 2019

10.—(1) The 2019 Regulations are amended in accordance with Schedule 3.

(2) The 2019 Regulations as amended by Schedule 3 apply for the purposes of—

- (a) establishing and operating a traceability system for tobacco products in the United Kingdom, and
- (b) applying security features to tobacco products supplied in any part of the United Kingdom.

(3) Subject to regulation 11, the amendments made by paragraph 7 of Schedule 3 have effect in relation to cigarettes and hand-rolling tobacco supplied in any part of the United Kingdom on or after IP completion day.

(4) The amendment made by paragraph 8 of Schedule 3 has effect in relation to cigarettes and hand-rolling tobacco—

- (a) manufactured in the United Kingdom on or after IP completion day, or
- (b) imported into the United Kingdom on or after that day for supply in any part of the United Kingdom.

(5) The amendments made by paragraph 11 of Schedule 3 have effect in relation to cigarettes and hand-rolling tobacco—

- (a) manufactured in the United Kingdom on or after IP completion day, or
- (b) imported into the United Kingdom on or after that day,

for supply in any part of the United Kingdom.

Transitional provision: products marked before IP completion day

11. In cases where regulation 4 applies, unit packets of cigarettes and hand-rolling tobacco that were marked in compliance with the EU Commission Implementing Regulation before IP completion day and are supplied in any part of the United Kingdom on or after that day, will be treated, for the purposes of regulation 6(2)(a) of the 2019 Regulations, as meeting the marking requirements of the applied Commission Implementing Regulation referred to in that regulation.

Saving of authentication elements notice

12.—(1) Any notice given before IP completion day by HMRC to manufacturers and importers in accordance with Article 3(3) of the EU Commission Implementing Decision that has not been

replaced or revoked before IP completion day, is treated as notice given under regulation 13(2) of the 2019 Regulations.

(2) In this regulation—

“EU Commission Implementing Decision” means the Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products^(a);

“HMRC” has the meaning given in regulation 2 of the 2019 Regulations.

PART 4

Consequential Amendments

13.—(1) The Standardised Packaging of Tobacco Products Regulations 2015^(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definition of “Commission Implementing Regulation” substitute—

““Commission Implementing Regulation” means—

(a) the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products as it applies in the United Kingdom, and

(b) in relation to NI tobacco product, the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;”,

(b) in the appropriate place insert—

““NI tobacco product” has the meaning given in regulation 2 of the Tobacco and Related Products Regulations 2016^(c)”.

9th December 2020

Justin Holliday
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Two of the Commissioners for Her Majesty’s Revenue and Customs

SCHEDULE 1

Regulation 3

Amendment of Commission Implementing Regulation (EU) 2018/574

Amendment of Commission Implementing Regulation (EU) 2018/574

1. The Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products that applies to the United Kingdom, by virtue of regulation 3(1), is amended as follows.

(a) OJ No. L 96, 16.04.2018, p. 57.

(b) S.I. 2015/829, amended by S.I. 2019/594; there are other amending instruments but none is relevant.

(c) S.I. 2016/507; relevantly amended by S.I. 2019/41 from IP completion day. S.I. 2019/41 will be amended immediately before IP completion day by S.I. 2020/1316.

Chapter 1 (subject matter and definitions)

2. In Article 1 (subject matter), for “the traceability system provided for in Article 15 of Directive 2014/40/EU” substitute “a traceability system for tobacco products”.

3. In Article 2 (definitions)—

- (a) in the first paragraph for “Article 2 of Directive 2014/40/EU” substitute “regulation 2 of the Tobacco Products (Traceability and Security Features) Regulations 2019”,
- (b) before paragraph 1 insert—

“(A1) ‘the Commissioners’ means the Commissioners for Her Majesty’s Revenue and Customs;”,
- (c) after paragraph 1 insert—

“(1A) ‘associated unit level code’ means a unique identifier relating to a unit pack of tobacco products that has been issued by a person outside the United Kingdom;”,
- (d) in paragraph 4, for “Union to a third country” substitute “United Kingdom to another country”,
- (e) in paragraph 7, after “or of each unit level unique identifier” insert “, or each associated unit level code that has been paired with a unique identifier;”,
- (f) in paragraph 8 for “repositories system” substitute “data repository”,
- (g) in paragraphs 8 and 9, for “each” substitute “the”,
- (h) for paragraphs 13 and 14 substitute—

“(13) ‘data repository’ means a repository containing traceability data relating to tobacco products;”,
- (i) for paragraph 15 substitute—

“(15) ‘router’ means a device established within the data repository that transfers data to the repository;”,
- (j) omit paragraph 16,
- (k) in paragraph 17, for “databases common for all primary and secondary repositories” substitute “data stored in the data repository”,
- (l) for paragraph 18 substitute—

“(18) ‘working day’ means any day other than—

 - (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a) in any part of the United Kingdom;”.

Chapter 2 (technical specifications related to the Unique Identifier)

4. In Article 3 (ID issuer)—

- (a) for paragraph 1 substitute—

“1. The entity appointed by the Commissioners (the ‘ID Issuer’) is responsible for generating and issuing unique identifiers, in accordance with Articles 8, 9, 11 and 13.”,
- (b) in paragraph 2—
 - (i) for “Member States shall ensure that an” substitute “An”,
 - (ii) for “them” substitute “the Commissioners”,
- (c) in paragraph 4 for “Each” substitute “The”,

(a) 1971 c. 80.

- (d) omit paragraphs 5 to 7,
 - (e) for paragraph 8 substitute—
 - “8. The ID Issuer must at all times have in place an exit plan—
 - (a) that establishes the procedure to be followed to guarantee the continuity of the operation of the service, in the event that a successor entity is to be appointed to carry out the service, until the new ID issuer is appointed, and
 - (b) that has been approved by the Commissioners.”.
- 5.** Omit Article 4 (competent ID issuers for generating and issuing unique identifiers).
- 6.** In Article 5 (validity of unique identifiers and deactivation)—
- (a) in paragraph 1—
 - (i) for “ID issuers” substitute “the ID Issuer”,
 - (ii) for “or aggregated” in both places it occurs substitute “, or to be paired with associated unit level codes to be used to mark unit packets, or mark aggregated”,
 - (b) in paragraph 2, for “repositories system” substitute “data repository”,
 - (c) in paragraph 3—
 - (i) omit from “manufacturers and importers may” to “. Other”,
 - (ii) after “deactivation request” in the second place it occurs insert “to the data repository”.
- 7.** In Article 6 (marking by means of unit level UIs)—
- (a) for paragraph 1 substitute—
 - “1. Manufacturers and importers must mark each unit packet manufactured or imported into the United Kingdom with:
 - (a) a unique identifier (‘unit level UI’) compliant with Article 8, or
 - (b) an associated unit level code that relates to the same unit packet that has been paired with a unit level UI compliant with Article 8.”,
 - (b) in paragraph 2—
 - (i) for “outside the Union” substitute “outside the United Kingdom”,
 - (ii) after “unit level UI,” insert “or the associated unit level code that is paired with a unit level UI”,
 - (iii) for “in the Union” substitute “into the United Kingdom”.
- 8.** In Article 7 (verification of unit level UIs)—
- (a) in paragraph 1—
 - (i) for “is directly” substitute “, or of associated unit level codes that are paired with unit level UIs, are directly”,
 - (ii) after “those unit level UIs” insert “, or those associated unit level codes that are paired with unit level UIs,”,
 - (b) in paragraph 2, for “the relevant Member States and the Commission” substitute “HMRC”,
 - (c) in paragraph 3—
 - (i) after “readability of the unit level UI,” insert “, or of the associated unit level code that is paired with a unit level UI”,
 - (ii) after “re-apply the unit level UI” insert “or the associated unit level code that is paired with a unit level UI”,
 - (d) in paragraph 5, for “Member States” substitute “HMRC”,
 - (e) in paragraph 6, omit point (a).

9. In Article 8 (structure of unit level UIs)—

- (a) in paragraph 1—
 - (i) for “unit packet of tobacco products shall be marked with a unit level UI. It” substitute “unit level UI”,
 - (ii) in point (c)(vii), for “the Union” substitute “the United Kingdom”,
- (b) in paragraph 2, for “ID issuers” substitute “The ID issuer”,
- (c) in paragraph 4, in the second subparagraph omit from “Where ID issuers” to “and compression.”.

10. In Article 9 (request and issuing of unit level UIs)—

- (a) in paragraph 1, omit “competent”,
- (b) in paragraphs 3(b) and 4(b), for “primary repository of the requesting manufacturer or importer” substitute “data repository”,
- (c) in paragraph 4—
 - (i) for “a Member State” insert “HMRC”,
 - (ii) for “ID issuers” substitute “the ID issuer”.

11. After Article 9 insert—

“Article 9A

Request to pair associated unit level codes and unit level UIs

1. Manufacturers and importers may send a request to the ID issuer to pair associated unit level codes, referred to in Article 6(1)(b), with unit level UIs. Requests must be sent electronically, in accordance with Article 36.

2. A request under paragraph 1 must contain the information specified in point 3.A1 of Section 3 of Chapter 2 of Annex 2.”.

12. In Article 10 (marking by means of aggregated level UIs)—

- (a) in paragraph 1, for “Article 15(5) of Directive 2014/40/EU” substitute “Article 32(1)(c), (d) and (e) of this Regulation”,
- (b) in paragraphs 2 and 3, omit “competent”.

13. In the heading to Article 11 (structure of aggregated level UIs generated by ID Issuers) for “ID issuers” substitute “the ID Issuer”.

14. In Article 11—

- (a) in paragraph 1, omit “competent”,
- (b) in paragraph 2, for “ID issuers” substitute “The ID issuer”.

15. In Article 12 (link between UI levels)—

- (a) in paragraph 1, for “repositories system” substitute “data repository”,
- (b) omit paragraph 2,
- (c) in paragraph 3—
 - (i) omit “other than manufacturers and importers”,
 - (ii) for “secondary” substitute “data”.

16. In the heading to Article 13 (request and issuing of aggregated UIs generated by ID issuers) for “ID issuers” substitute “the ID Issuer”.

17. In Article 13—

- (a) in paragraph 1, omit “competent”,

- (b) in paragraph 3(b) for “primary repository of the requesting manufacturer or importer, as established under Article 26” substitute “data repository”,
- (c) in paragraph 4(b) for “secondary repository established under Article 27” substitute “data repository”,
- (d) in paragraph 6, for “competent ID issuers” substitute “the ID issuer”.

Chapter 3 (identifier codes for economic operators, facilities and machines)

18. In Article 14 (request for an economic operator code)—

- (a) in paragraph 1, omit from “competent for” to the end,
- (b) in paragraph 3, for “registered economic operator” substitute “economic operator registered with the ID Issuer”,
- (c) omit paragraph (4).

19. In Article 15 (issuing and registration of economic operator identifier codes)—

- (a) in paragraph 3 omit “competent”,
- (b) in paragraph 4—
 - (i) for “Member States” substitute “the Commissioners”,
 - (ii) for “their national laws” substitute “Part 6 of the Tobacco Products (Traceability and Security Features) Regulations 2019”,
 - (iii) for “the Member State” substitute “the Commissioners”.

20. In Article 16 (request for a facility identifier code)—

- (a) in paragraph 1, omit from “competent for” to the end,
- (b) in paragraph 3, for “registered economic operator” substitute “economic operator registered with the ID Issuer”,
- (c) in paragraph 4—
 - (i) in the first place it occurs for “the Union” substitute “the United Kingdom”,
 - (ii) omit from “established inside the Union” to “their products”,
 - (iii) omit “third country” in both places it occurs.

21. In Article 17 (issuing and registration of a facility identifier code)—

- (a) in paragraph 3, omit “competent”,
- (b) in paragraph 4, for “Member States” and for “the Member State” substitute “the Commissioners”.

22. In Article 18 (request for a machine identifier code)—

- (a) in paragraph 1, omit from “competent for” to the end,
- (b) in paragraph 3—
 - (i) in the first place it occurs for “Union” substitute “United Kingdom”,
 - (ii) omit from “established inside the Union” to “their products”,
 - (iii) omit “third country” in both places it occurs.

23. In Article 19 (issuing and registration of a machine identifier code)—

- (a) in paragraph 3 omit “relevant”,
- (b) in paragraph 4, for “Member States” and for “the Member State” substitute “the Commissioners”.

24. In Article 20 (transfer of offline flat-files and registries)—

- (a) in paragraph 1 for “ID issuers” substitute “The ID issuer”,

- (b) in paragraph 2 omit “per ID issuer”,
- (c) in paragraph 3—
 - (i) for “ID issuers” substitute “The ID issuer”,
 - (ii) for “secondary” substitute “data”,
- (d) in paragraph 4—
 - (i) for “Member States” substitute “The Commissioners”,
 - (ii) omit “and the total number of ID issuers”.

Chapter 4 (data carriers)

25. In Article 21 (data carriers for UIs)—

- (a) in paragraph 1 after “Unit level UIs” insert “, or associated unit level codes that are paired with unit level UIs,”,
- (b) in paragraph 2 after “encoding unit level UIs” insert “, or associated unit level codes that are paired with unit level UIs,”,
- (c) in paragraph 3 for “ID issuers are” substitute “the ID issuer is”.

26. In Article 23(1) (human-readable code) for “repositories system” substitute “data repository”.

Chapter 5 (repositories system)

27. In the heading to Chapter 5, for “REPOSITORIES SYSTEM” substitute “DATA REPOSITORY”.

28. In the heading to Article 24 (components of the repositories system), for “repositories system” substitute “data repository”.

29. In Article 24—

- (a) in paragraph 1—
 - (i) in the opening words, for “repositories system” substitute “data repository”,
 - (ii) in point (a)—
 - (aa) for “repositories which are” substitute “a repository which is”,
 - (bb) omit “(‘primary repositories’),”,
 - (iii) omit point (b),
 - (iv) in point (c) for “secondary repository system” substitute “data repository”,
- (b) in paragraph 2 omit from “, irrespective of” to the end.

30. In the heading to Article 25 (general characteristics of the repositories system), for “repositories system” substitute “data repository”.

31. In Article 25—

- (a) in paragraph 1—
 - (i) in the opening words for “repositories system” substitute “data repository”,
 - (ii) omit point (a),
 - (iii) in point (d)—
 - (aa) for “repositories system” substitute “data repository”,
 - (bb) for “ID issuers” substitute “the ID issuer”,
 - (iv) in points (e), (g) and (h), for “repositories system” substitute “data repository”,
 - (v) in point (f), for “Member States and the Commission” substitute “HMRC”,

- (vi) in point (j) for “repositories” substitute “data repository”,
- (vii) for point (k) substitute—
 - “(k) it must be accessible by HMRC. Administrators designated by the Commissioners must be granted access rights enabling them to create, manage, and withdraw user access rights for the data repository. Administrators designated by the Commissioners must be able to grant subsequent access rights to other users under their responsibility;”,
- (viii) in point (l)—
 - (aa) for “Member States and the Commission” substitute “HMRC”,
 - (bb) for “a repository” substitute “the data repository”,
- (b) in paragraph 2—
 - (i) for “repositories system” substitute “data repository”,
 - (ii) omit “Directive 2014/40/EU and”.

32. For the heading to Article 26 (primary repository) substitute “The data repository: establishment”.

33. In Article 26—

- (a) in paragraph 1—
 - (i) for “Each manufacturer and importer” substitute “The service provider appointed by the Commissioners”,
 - (ii) for “primary repository” substitute “data repository”,
 - (iii) omit from “To that end” to the end,
- (b) in paragraph 2—
 - (i) for “Each primary repository” substitute “The data repository”,
 - (ii) for “the manufacturer or importer who contracted the repository” substitute “manufacturers and importers”,
- (c) omit paragraphs 3 and 4,
- (d) in paragraph 5—
 - (i) for “Primary repositories” substitute “The data repository”,
 - (ii) for “provided by the secondary repository” substitute “established under Article 28(2)”,
- (e) in paragraph 6—
 - (i) for “Member States, the Commission, and external auditors approved by the Commission” substitute “HMRC”,
 - (ii) for “a primary” substitute “the data”.

34. For the heading to Article 27 (secondary repository) substitute “The data repository: technical requirements”.

35. In Article 27—

- (a) omit paragraph 1,
- (b) in paragraph 2—
 - (i) for “secondary” substitute “data”,
 - (ii) for “Member States and the Commission” substitute “HMRC”,
 - (iii) for “repositories system” substitute “data repository”,
 - (iv) in point (c) for “system” substitute “data repository”,
- (c) in paragraph 3 for “each Member State and the Commission” substitute “HMRC”,
- (d) in paragraph 4—

- (i) for “Member States and the Commission” substitute “HMRC”,
- (ii) for “national authorities and the Commission” substitute “HMRC”,
- (e) in paragraph 5—
 - (i) for “Member States and the Commission” substitute “HMRC”,
 - (ii) for “repositories system” substitute “data repository”,
- (f) in paragraph 6 for “the official languages of the Union” substitute “English”,
- (g) in paragraph 8 for “primary and secondary repositories” substitute “data repository”,
- (h) in paragraph 9 for “Member States” substitute “HMRC”,
- (i) in paragraph 10 for “secondary” substitute “data”,
- (j) in paragraph 11—
 - (i) for “Member States and the Commission shall” substitute “The Commissioners”,
 - (ii) for “secondary”, in both places it occurs, substitute “data”,
- (k) omit paragraph 12.

36. In the heading to Article 28 (coordination tasks of the provider of the secondary repository) for “secondary” substitute “data”.

37. In Article 28—

- (a) in paragraph 1—
 - (i) for “secondary”, in each place it occurs, substitute “data”,
 - (ii) for “providers operating primary repositories, ID issuers” substitute “the ID issuer”,
- (b) in paragraph 2—
 - (i) for “secondary”, in the first place it occurs, substitute “data”,
 - (ii) omit from “The common data dictionary shall be communicated” to the end,
- (c) in paragraph 3 —
 - (i) for “repositories system” substitute “data repository”,
 - (ii) for “secondary”, in the first place it occurs, substitute “data”,
 - (iii) omit from “and the common data dictionary” to the end.

38. In Article 29 (router)—

- (a) in paragraph 1 for “secondary” substitute “data”,
- (b) in paragraph 2 for “primary and secondary repositories” substitute “data repository”,
- (c) in paragraph 3 for “an ID issuer” substitute “the ID Issuer”,
- (d) in paragraph 4—
 - (i) omit “other than manufacturers and importers”,
 - (ii) omit “pursuant to Article 15 of Directive 2014/40/EU and”,
 - (iii) omit from “shall transfer it to” to “of those data”,
 - (iv) for “secondary repository system” substitute “data repository”.

39. In the heading to Article 30 (costs of the repositories system) for “repositories system” substitute “data repository”.

40. In Article 30—

- (a) in paragraph 1 for “repositories system” substitute “data repository”,
- (b) in paragraph 2—
 - (i) for “secondary” substitute “data”,
 - (ii) for “providers of the primary repositories” substitute “provider of the data repository”.

41. Omit Article 31 (deadline for the establishment of the repositories system).

Chapter 6 (recording and transmitting)

42. In Article 32 (recording and transmission of information on product movements)—

- (a) in paragraph 1—
 - (i) for “Union” substitute “United Kingdom”,
 - (ii) in point (a), after “unit level UIs” insert “, or of associated unit level codes that have been paired with unit level UIs,”,
- (b) in paragraph 2—
 - (i) for “Manufacturers and importers” substitute “Economic operators”,
 - (ii) for “primary repository contracted by them” substitute “router”,
 - (iii) omit from “All other economic operators” to the end,
- (c) in paragraphs 3 and 4—
 - (i) for “manufacturers and importers” substitute “economic operators”,
 - (ii) for “primary repository contracted by them” substitute “router”,
 - (iii) omit from “All other economic operators” to the end,
- (d) in paragraph 5 for “Union, Member States in which the dispatch facility is located” substitute “United Kingdom, the Commissioners”,
- (e) in paragraph 7 omit “the primary repository or”,
- (f) after paragraph 7 insert—

“(8) In the case of tobacco products that are marked with associated unit level codes paired with unit level UIs issued by the ID Issuer, where the information listed in Section 3 of Chapter 2 of Annex 2, as referred to in paragraphs 2, 4 and 5, refers to “unit packet level UIs” that reference is to be treated as a reference to the associated unit level code.”.

43. In Article 33 (recording and transmission of transactional information)—

- (a) in paragraph 1, for “To allow the determination of the transactional information referred to in Article 15(2), points (j) and (k) of Directive 2014/40/EU, economic” substitute “Economic”,
- (b) in paragraph 2—
 - (i) for “Manufacturers and importers” substitute “Economic operators”,
 - (ii) for “primary repository contracted by them” substitute “router”,
 - (iii) omit from “All other economic operators” to the end,
- (c) in paragraph 4 omit “the primary repositories or”,
- (d) after paragraph 4 insert—

“(5) In the case of tobacco products that are marked with associated unit level codes paired with unit level UIs issued by the ID Issuer, where the information listed in Section 4 of Chapter 2 of Annex 2, as referred to in paragraph 2, refers to “unit packet level UIs” that reference is to be treated as a reference to the associated unit level code.”.

44. In Article 34(4) (time frame for transmission of required information), omit point (a).

Chapter 7 (final provisions)

45. In Article 35 (independence)—

- (a) in paragraph 1 for “ID issuers, providers of repository services and” substitute “The ID issuer, the provider of the data repository and providers of”,
- (b) omit paragraphs 4, 6 and 9,

- (c) in paragraphs 3 and 5, for “ID issuers, providers of repository services” substitute “the ID issuer, the provider of the data repository”,
- (d) in paragraph 5 for “the relevant Member States and to the Commission” substitute “HMRC”,
- (e) in paragraph 7—
 - (i) for “ID issuers, providers of repository services” substitute “The ID issuer, the provider of the data repository”,
 - (ii) for “the relevant Member States and the Commission” substitute “HMRC”.

46. In Article 36 (security and interoperability of communications and data)—

- (a) in paragraph 1—
 - (i) omit point (b),
 - (ii) in point (c) for “secondary”, in both places it occurs, substitute “data”,
 - (iii) in point (c)(i) for “issuers” substitute “issuer”,
 - (iv) after point (c)(i) insert “and”,
 - (v) omit point (c)(ii) and the “and” after that point,
 - (vi) in point (c)(iii) omit “, i.e. economic operators other than manufacturers and importers”,
- (b) in paragraph 2, for “Providers of primary and secondary repositories” substitute “The provider of the data repository”.

47. Omit—

- (a) Article 37 (transitional provisions),
- (b) Article 38 (entry into force),
- (c) the application provision that is after Article 38,
- (d) Annex 1.

48. In Annex 2—

- (a) after the heading—
 - (i) in the first and second paragraphs for “ID issuers and providers of data repositories” substitute “the ID issuer and the provider of the data repository”,
 - (ii) in the third paragraph for “ID issuers and providers of data repositories” substitute “The ID issuer and the provider of the data repository”,
- (b) in Chapter 1 (field descriptions), in the table in Section 1 (data type)—
 - (i) in the rows marked “TPID” and “PN”, in the second column (description) for “EU-CEG” substitute “CEG”,
 - (ii) in the row marked “MRN”, in the second column for “Member State” substitute “country”,
 - (iii) after the row marked “upUI(s)” insert—

“upUI(M)	Unit packet level unique identifier coded with the invariant set of ISO646:1991 and composed of 2 blocks: ID Issuer’s prefix in accordance with ISO154592:2015, middle block in the format established by the ID issuer	LECNIzzzz000010000SLE”
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- (c) in Chapter 2 (messages)—

- (i) in the tables in point 1.1 (request for an economic operator identifier code) and point 1.2 (correction of information) of Section 1 (identifier codes), omit the rows marked “OtherEOID_R” and “OtherEOID_N”,
- (ii) in the tables in point 1.4 (request for a facility identifier code) and 1.5 (correction of information) of Section 1, in the row marked “OtherFID_R” in the seventh column (values) for “EU” substitute “UK”,
- (iii) in the table in point 2.1 (request for unit level UIs) of Section 2 (unique identifiers)—
 - (aa) in the row marked “EO_ID”, in the third column (comments) omit “EU” in both places it occurs,
 - (bb) in the rows marked “TP_ID” and “TP_PN”, in the third column for “EU-CEG” substitute “CEG”,
 - (cc) in the rows marked “TP_ID” and “TP_PN”, in the sixth column (priority) for “an EU country” substitute “the UK”,
 - (dd) in the row marked “Intended_Route2”, in the third column for “Member State” substitute “country” in both places it occurs,
 - (ee) in the row marked “Import” in the third column for “EU” substitute “UK”,
- (iv) after the section heading for Section 3 (recording and transmission of information) insert—

“3.A1.Pairing between marked codes and virtual paired codes

Field	Comments	Data Type	Cardinality	Priority	Values
EO_ID	Economic operator identifier code of the submitting entity	EOID	S	M	
Message_Time_Long	The time that the message is first submitted to the Gateway, Long format.	Time(L)	S	M	
Event_Time	Time of event occurrence	Time(s)	S	M	
upUI	List of paired codes		S	M	
upID	Code pairing detail		M	M	
upID Printed_Code	Unit packet level UID marked on packs	upUI(L)	S	M	
upID Paired_Code	Paired UID	upUI(M)	S	M”	

- (v) in the table in point 3.3 (dispatch of tobacco products from a facility) of Section 3—
 - (aa) in the row marked “Destination_ID1”, in the third column (comments), for “on the EU territory” substitute “in the UK”,
 - (bb) in the row marked “Transport_mode” in the third column omit “, see: Commission Regulation (EC) No 684/2009, Annex II, Code List 7”,

- (cc) in the row marked “Transport_s1” in the third column, omit “accepted by the Member State of the dispatch facility” and for “third” substitute “other”,
- (vi) in the table in point 3.5 (transloading)—
 - (aa) in the row marked “Destination_ID1” in the third column (comments) for “on the EU territory” substitute “in the UK”,
 - (bb) in the row marked “Transport_mode” in the third column omit “, see: Commission Regulation (EC) No 684/2009, Annex II, Code List 7”,
- (vii) in the tables in points 4.1 (issuing of the invoice) and 4.3(receipt of the payment) of Section 4 (transactional events) for “EU” substitute “UK” in each place it occurs.

SCHEDULE 2

Regulation 7

Amendment of the Commission Implementing Decision (EU) 2018/576

Amendment of the Commission Implementing Decision (EU) 2018/576

1. The Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products is amended as follows.

2. In Article 1, for “placed on the Union market” substitute “supplied in Great Britain”.

3. In Article 2 for “Article 2 of Directive 2014/40/EU” substitute “regulation 2 of the Tobacco Products (Traceability and Security Features) Regulations 2019”.

4. Omit Articles 3 to 7.

5. In Article 8—

- (a) in paragraph 1, for “Article 3(2)” substitute “regulation 15(1) and (2) of the Tobacco Products (Traceability and Security Features) Regulations 2019”,
- (b) omit paragraphs 2 to 6 and 8,
- (c) in paragraph 7, for “public” substitute “For the purpose of paragraph 1, public”.

6. Omit Articles 9 and 10.

SCHEDULE 3

Regulation 10

Amendment of the Tobacco Products (Traceability and Security Features) Regulations 2019

1. The 2019 Regulations are amended as follows.

Part 1 (preliminary)

2. In regulation 1—

- (a) in paragraphs (3)(b) and 4(b), after “supplied in” insert “any part of”,
- (b) for paragraph (5)(b)(ii), substitute —
 - “(ii) imported into the United Kingdom on or after that date for supply in any part of the United Kingdom.”,
- (c) in paragraph (6)(b), after “supply in” insert “any part of”.

3. In regulation 2—

- (a) in the definition of “authentication elements” for “Commission Implementing Decision” substitute “relevant Security Features Decision”,
- (b) omit the definition of “the Commission Implementing Decision”,
- (c) for the definition of “the Commission Implementing Regulation” substitute—
 - ““the Commission Implementing Regulation” means, except in regulation 13(4), the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products as it applies in the United Kingdom(a);”,
- (d) omit the definition of “cross-border distance sale”,
- (e) omit the definition of “external auditor”,
- (f) omit the definition of “primary repository”,
- (g) for the definitions “supplied in the United Kingdom” and “supplied in another member State” substitute—
 - ““supplied in any part of the United Kingdom” has the meaning given in regulation 3;”,
- (h) for the definition of “travel retail sector” substitute—
 - ““travel retail sector” means—
 - (a) the GB travel retail sector, or
 - (b) the NI travel retail sector;”,
- (i) at the appropriate place insert the following definitions—
 - ““customs suspensive procedure or arrangement” has the meaning given in regulation 3(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010(b) as those Regulations apply in respect of tobacco products entering the United Kingdom;
 - “the data repository” means the data storage facility established under Article 26(1) of the Commission Implementing Regulation;
 - “the EU Security Features Decision” means the Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement(c);
 - “the GB Security Features Decision” means the Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products(d);
 - “GB tobacco product” means a tobacco product which is manufactured for, or imported into the United Kingdom for, supply in Great Britain;
 - “the GB travel retail sector” means retail outlets in Great Britain at which tobacco products or related products may be purchased only by people travelling on journeys to destinations outside Great Britain;
 - “import” means the entry of tobacco products into the United Kingdom unless those products are placed under a customs suspensive procedure or arrangement on their entry, as well as their release from a customs suspensive procedure or arrangement, and “imported” is to be construed accordingly;

(a) EUR 2018/574, as applied to the United Kingdom and amended by regulation 3(1) of, and Schedule 1 to, these Regulations.

(b) S.I. 2010/593, relevantly amended by S.I. 2019/474 (which substituted a new definition of “customs suspensive procedure or arrangement”, in turn replacing the substitution of that definition contained in S.I. 2019/13). That amending instrument has not yet been commenced. Further instruments amending or modifying S.I. 2010/593 are planned before the end of the transition period. It is intended that these will establish where the definition of “customs suspensive procedure or arrangement” as it was originally enacted in S.I. 2010/593 will continue to apply to the entry of tobacco products into the United Kingdom, or where the definition as substituted by S.I. 2019/474 will apply.

(c) OJ No. L 96, 16.04.2018, p. 57.

(d) EUR 2018/576, as amended by Schedule 2 to these Regulations.

“NI tobacco product” means a tobacco product which is manufactured for, or imported into the United Kingdom for, supply in Northern Ireland;

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

“the relevant Security Features Decision” means—

- (a) in relation to GB tobacco product, the GB Security Features Decision, and
- (b) in relation to NI tobacco product, the EU Security Features Decision;”.

4. In the heading to regulation 3, after “supplied in” insert “any part of”.

5. In regulation 3—

- (a) in paragraph (1)—
 - (i) in the opening words, after “supplied in” insert “any part of”,
 - (ii) in sub-paragraphs (a)(i) and (ii)—
 - (aa) after “consumption in” insert “any part of”,
 - (bb) for “travel retail sector of the United Kingdom” substitute “travel retail sector”,
 - (iii) in the full-out words, after “supply in” insert “any part of”,
- (b) for paragraph (2) substitute—

“(2) In the case of a cross-border distance sale of a product, the product is to be treated for the purposes of these Regulations—

 - (a) where the consumer is located in Great Britain, as supplied and presented for retail sale in Great Britain;
 - (b) where the consumer is located in Northern Ireland, as supplied and presented for retail sale in Northern Ireland.
- (3) In this regulation, cross-border distance sale” means—
 - (a) in relation to Great Britain, a distance sale to a consumer (“C”) where, at the time C orders a product from a retailer, C is located in Great Britain and the retailer is established outside Great Britain;
 - (b) in relation to Northern Ireland, a distance sale to a consumer (“C”) where, at the time C orders a product from a retailer, C is located in Northern Ireland and the retailer is established outside Northern Ireland.”.

6. Omit regulations 4 and 5.

Part 2 (prohibition from supply of non-compliant tobacco products)

7. In regulation 6—

- (a) in paragraph (1) after “tobacco products in” insert “any part of”,
- (b) in paragraph (2)(a), after the words “has been issued by” insert “, or has been paired(a) with a unique identifier that has been issued by”,
- (c) in paragraph (2)(b)(ii), for “in another member State, Article 15(1) of the Tobacco Products Directive” substitute “outside the United Kingdom, regulation 7(2) as if it applied to that person”,
- (d) omit paragraph (5).

(a) Article 6(1)(b) of the applied Commission Implementing Regulation, as amended by Schedule 1 to these Regulations, allows for the pairing of a unique identifier with an associated unit level code for the purposes of marking tobacco products. “Associated unit level code” is defined at Article 1(1A), and the process for pairing is set out in Article 9A, of the applied Commission Implementing Regulation.

Part 3 (traceability system)

8. Omit regulation 9.

9. Omit regulation 11.

10. In regulation 12(5), for “primary repository established by the applicant” substitute “data repository”.

Part 4 (security feature system)

11. In regulation 13—

- (a) in paragraph (1), after “supply in” insert “any part of”,
- (b) in paragraph (2)—
 - (i) for “a” substitute “any”,
 - (ii) for “in accordance with Articles 3(3) and 6(2) of the Commission Implementing Decision” substitute “in relation to the application of a security feature to GB tobacco product or NI tobacco product”,
 - (iii) after subparagraph (a) omit “and”,
 - (iv) after subparagraph (b) insert—
 - “, and
 - (c) the replacement or modification of an authentication element where the Commissioners for Her Majesty’s Revenue and Customs have reason to believe that the integrity of that element has been compromised”.
- (c) after paragraph (5) insert—
 - “(6) In paragraph (4), “Commission Implementing Regulation” means—
 - (a) in relation to GB tobacco product, the Commission Implementing Regulation; or
 - (b) in relation to NI tobacco product, the Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products as it has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

12. For regulation 14, substitute—

“14.—(1) HMRC may give written notice to a manufacturer or importer requiring samples of tobacco products currently supplied in any part of the United Kingdom to be provided.

(2) Where notice has been given under paragraph (1), the manufacturer or importer must provide the samples to HMRC in unit packet format (including the applied security feature) within a period of 30 days beginning on the day on which notice is given.”.

Part 5 (independence of service providers)

13. In regulation 15—

- (a) for “Commission Implementing Decision”, in each place it occurs, substitute “relevant Security Features Decision”,
- (b) in paragraphs (3) and (4), for “and the Commission” substitute “and, in cases where the provider is providing authentication elements for NI tobacco product, the Commission”,
- (c) in paragraph (5)(b), before “the Commission” insert “where relevant,”.

14. In regulation 16—

- (a) in paragraphs (1)(b) and (2)(b) for “Commission Implementing Decision” substitute “relevant Security Features Decision”,

- (b) in paragraph (3)(b) for “a provider of a primary repository” substitute “the provider of the data repository”,
- (c) in paragraph 4(b) for “primary repositories” substitute “the data repository”.

Part 6 (deactivation of identifier codes)

- 15. Omit regulation 17.

Part 9 (administrative matters)

- 16. Omit regulation 24(3)(b).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made to address issues arising from the withdrawal of the UK from the European Union. These include matters arising out of, or related to, Part 3 (separation provisions) of, and the Protocol on Ireland/Northern Ireland (“the Protocol”) annexed to, the EU withdrawal agreement.

The Tobacco Products (Traceability and Security Features) Regulations 2019 (S.I. 2019/594) (“the 2019 Regulations”) were introduced to implement Article 15 (traceability), Article 16 (security feature) and Article 23 (enforcement) of Directive 2014/40/EU (“the Directive”). The technical standards for the EU traceability system and the EU security feature system are set out in Regulation 2018/574/EU and Decision 2018/576/EU, respectively. The 2019 Regulations, the retained EU Regulation and the retained EU Decision are all amended by these Regulations.

Part 1 makes introductory provision including, in regulation 1, where the effect provisions are set out.

Part 2 of the Regulations deals with retained EU law which deals with the majority of technical rules and standards for the traceability system and security feature system.

Regulation 3 applies the retained EU Regulation to the UK with amendments set out in Schedule 1. The retained EU Regulation is applied and amended for the purpose of setting out the technical standards for the UK traceability system with effect for tobacco products manufactured or imported into the UK on or after IP completion day. Regulations 4 and 5 make transitional provision requiring certain tobacco products manufactured before IP completion to be included in the scope of the UK traceability system. Regulation 6 saves all existing identifier codes and registers created for the purpose of the EU traceability system before IP completion day, and ensure the codes and registers are recognised for the purposes of the UK traceability system from IP completion day.

Regulation 7 and Schedule 2 make amendments to the retained EU Decision for the purpose of setting out the technical standards of security features to be applied to products supplied in Great Britain.

Part 3 deals with amendments to the 2019 Regulations and makes related saving provisions for the purposes of the Protocol.

Regulation 8 saves the 2019 Regulations as they have effect immediately before IP completion day to take account of the inclusion of Directive 2014/40/EU in Annex 2 to the Protocol. The saving ensures the continued implementation and enforcement of Article 15 (traceability) after IP completion day and the continued operation of the EU traceability system for the purposes of the Protocol. Regulation 9 excludes Part 4 and some of Part 5 from the Protocol saving. These Parts deal with the security features scheme. Separate provision is made in relation to those Parts for the purposes of the Protocol by regulation 10.

Regulation 10 of, and Schedule 3 to, these Regulations amend Parts 4 and 5 of the 2019 Regulations to take account of the inclusion of Directive 2014/40/EU in Annex 2 to the Protocol. The amendments ensure the continued implementation and enforcement of Article 16 (security feature) for the purposes of the Protocol.

In addition to that purpose, Regulation 10 of, and Schedule 3 to, these Regulations also amend the 2019 Regulations to ensure they continue to function effectively after IP completion day in providing for a UK-wide traceability system and a security feature system which covers tobacco product supplied in Great Britain.

Regulation 11 makes transitional provision in relation to tobacco products that are compliant with the EU traceability scheme before IP completion day (and referred to in Part 2) and supplied in the UK after IP completion day. Regulation 12 ensures notices given by HMRC before IP completion day in relation to the application of security features on tobacco products supplied in the UK continue to have effect in relation to tobacco products supplied in Great Britain after IP completion day.

Part 4 makes consequential amendments to the Standardised Packaging of Tobacco Products Regulations 2015 (S.I. 2015/829) to update references in those Regulations to legislation imposing marking requirements for the purposes of the UK traceability system and the EU traceability system.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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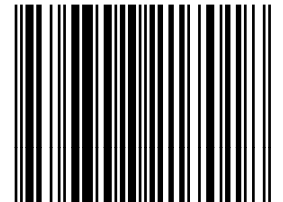
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