STATUTORY INSTRUMENTS

2015 No. 829

PUBLIC HEALTH

The Standardised Packaging of Tobacco Products Regulations 2015

Made - - - -	*19th March 2015*
Coming into force - -	*20th May 2016*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to measures relating tobacco, tobacco products, nicotine, nicotine products and herbal products for smoking [F2].

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 94 and 135(2) and (3) of the Children and Families Act 2014 [F3] and section 2(2) of the European Communities Act 1972.

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 135(6) of the Children and Families Act 2014 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972 [F4].

F1 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by the Schedule to the European Union (Amendment) Act 2008 (c. 7).
F2 S.I. 2014/2705
F3 2014 c. 6.
F4 Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 was amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Standardised Packaging of Tobacco Products Regulations 2015.

(2) These Regulations come into force on 20th May 2016.

Interpretation

2.—(1) In these Regulations—

"appropriate minister"—

(a) in relation to England, means the Secretary of State,

(b) in relation to Wales, means the Welsh Ministers,

(c) in relation to Northern Ireland, means the Department of Health, Social Services and Public Safety, and

(d) in relation to Scotland, means the Scottish Ministers;

"brand name", in relation to a particular tobacco product, means the primary name by which the product is known;

"calibration mark" means a mark that is used only for the purpose of the automated manufacture of any packaging;

"characterising flavour", in relation to a tobacco product, means a clearly noticeable smell or taste, other than one of tobacco, which—

(a) results from an additive or a combination of additives, including (but not limited to) fruit, spice, herbs, alcohol, candy, menthol or vanilla, and

(b) is noticeable before or during the consumption of the tobacco product;

"cigar" means a tobacco product that can be consumed by means of a combustion process and (given its properties and normal consumer expectations) is exclusively intended to be smoked as it is, and which is either—

(a) a roll of tobacco (or of tobacco and another substance) which has an outer wrapper of natural tobacco, or

(b) a roll of tobacco (or of tobacco and another substance) which—

(i) has an outer wrapper—

(a) of the normal colour of a cigar,

(b) made of reconstituted tobacco, and

(c) covering the product in full (including the filter but not, in the case of a cigar with a mouthpiece, the mouthpiece),

(ii) is filled with a threshed blend of tobacco (or of tobacco and another substance),

(iii) has a unit weight, not including any filter or mouthpiece, of not less than 2.3 grams and not more than 10 grams, and

(iv) has a circumference, over at least one third of its length, of not less than 34 millimetres;

"cigarette" means a tobacco product that can be consumed by means of a combustion process and which is either—

(a) a roll of tobacco (or of tobacco and another substance) which is capable of being smoked as it is, but which is not a cigar, or

(b) a roll of tobacco (or of tobacco and another substance) which is designed to be, by simple non-industrial handling—

(i) wrapped in cigarette paper, or

(ii) inserted into a cigarette-paper tube;

[[F5]"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;**]**

"consumer" means an individual who is acting for purposes which are outside the individual's trade, business, craft or profession;

"container packet", in relation to a tobacco product, means any packaging—

(a) in which that product is, or is intended to be, presented for retail sale, and

(b) which encloses (whether wholly or partially)—

(i) a unit packet of that product, or

(ii) an aggregation of such unit packets;

and where there is more than one separate layer of such packaging each such layer is to be regarded as a separate container packet for the purposes of these Regulations; but any reference in this definition to packaging does not include a wrapper;

[[F6]"cross-border distance sale", in relation to a tobacco product, means a distance sale to a consumer where, at the time the consumer orders the product from a retailer, the consumer is located in the United Kingdom and the retailer is established in another country;**]**

"enactment" means an enactment contained in, or in an instrument made under—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) a Measure or Act of the National Assembly for Wales, or

(d) Northern Ireland legislation, within the meaning of the Interpretation Act 1978 [F7];

"external packaging"—

(a) in relation to a unit packet of a tobacco product (other than a unit packet mentioned in paragraph (b)), means every surface of the packet that is visible before the packet is opened,

(b) in relation to a unit packet of hand rolling tobacco in the form of a pouch, means every surface of the pouch that is visible before the pouch is opened, together with the hidden surface of the pouch in a case where the pouch takes the form of a rectangular pocket with a flap that covers the opening, and

(c) in relation to a container packet of a tobacco product, means every surface of the packet that is visible before the packet is opened;

and for the purposes of this definition "visible" includes visible through any wrapper permitted by paragraph 4 of Schedule 2 or 4 or any tab which complies with paragraph 3(1) of Schedule 4;

"hand rolling tobacco" means a tobacco product which is not a cigarette and which can be used after retail sale for making cigarettes;

"hidden surface", in relation to a pouch of hand rolling tobacco in the form of a rectangular pocket with a flap that covers the opening, means the surface of the pouch which—

(a) becomes visible when the flap is opened, but

(b) is not the underside surface of the flap or any surface of the inside of the pocket;

"internal packaging", in relation to a unit packet or container packet of a tobacco product, means so much of that packet as does not comprise the external packaging of that packet;

[[F8]"NI tobacco product" has the meaning given in regulation 2 of the Tobacco and Related Products Regulations 2016;**]**

"packaging", in relation to a tobacco product, has its ordinary meaning and (without limiting that meaning) includes any material that is—

(a) an integral part of the packaging of the product,

(b) required as part of the packaging process, or

(c) required to protect the product;

"pouch" means a unit packet of hand rolling tobacco in the form of—

(a) a rectangular pocket with a flap that covers the opening, or

(b) a standing pouch;

"retail sale" means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;

"tobacco" means leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;

"tobacco product" means a product that can be consumed and consists, even partly, of tobacco, whether genetically modified or not;

"travel retail sector" means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom;

"unit packet", in relation to a tobacco product, means the smallest individual packaging (whether enclosed by a container packet or not) in which that product is, or is intended to be, presented for retail sale, but does not include any wrapper;

"variant name", in relation to a particular tobacco product, means any name by which that product is distinguished from other tobacco products under the same brand name;

"wrapper", in relation to a tobacco product, means a cellophane or plastic wrapper—

(a) in which that product is, or is intended to be, presented for retail sale, and

(b) which encloses (whether wholly or partially)—

(i) a unit packet of that product,

(ii) an aggregation of such unit packets which is not contained in a container packet, or

(iii) a container packet of that product.

(2) Expressions used in these Regulations and in the Trade Marks Act 1994 [F9] have the same meaning as in that Act.

(3) References in these Regulations to the front and back surfaces of a unit packet or container packet of a tobacco product are to the two largest surfaces of the external packaging of the packet, but—

(a) in relation to a unit packet of hand rolling tobacco in the form of a pouch, the hidden surface is to be disregarded for the purposes of this paragraph, and

(b) this paragraph is subject to paragraph (4).

(4) References in these Regulations to the front and back surfaces of a unit packet or container packet of hand rolling tobacco which is cylindrical in shape are to what are the two opposite halves of the curved surface of the external packaging of the packet if the curved surface is divided equally along a vertical plane.

(5) For the purposes of these Regulations a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person—

(a) manufactures the product,

(b) puts a name, trade mark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or

(c) imports it into the United Kingdom,

and "producer" is to be construed accordingly.

(6) For the purposes of these Regulations a person supplies a tobacco product if, in the course of a business, the person—

(a) supplies the product—

(i) for consumption in the United Kingdom or through the travel retail sector, or

(ii) with a view to the product being supplied for consumption in the United Kingdom 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.

(7) In the case of a cross-border distance sale of a tobacco product [F10]..., the tobacco product is to be treated for the purposes of these Regulations as supplied, and presented for retail sale, in the United Kingdom.

F5 Words in reg. 2 substituted (31.12.2020) by The Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1496), regs. 1(2), **13(2)(a)**

F6 Words in reg. 2(1) substituted (31.12.2020) by The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **4(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 1978 c. 30. The definition of "Northern Ireland legislation" in section 24(5) was amended by paragraph 3 of Schedule 13 to the Northern Ireland Act 1998 (c. 47).

F8 Words in reg. 2 inserted (31.12.2020) by The Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1496), regs. 1(2), **13(2)(b)**

F9 1994 c. 26.

F10 Words in reg. 2(7) omitted (31.12.2020) by virtue of The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **4(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 2

Provisions which apply to cigarettes only

Permitted colour or shade of packaging of cigarettes

3.—(1) No person may produce or supply any cigarettes in breach of any of the provisions of this regulation or Schedule 1 (exceptions to paragraphs (2) and (3)).

(2) The only colour or shade permitted on or for the external packaging of a unit packet or container packet of cigarettes is Pantone 448 C with a matt finish, but this is subject to paragraph (4) and Schedule 1.

(3) The only colour or shade permitted on or for the internal packaging of a unit packet or container packet of cigarettes, is either—