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STATUTORY INSTRUMENTS

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**2016 No. 507**

**The Tobacco and Related Products Regulations 2016**

**PART 9**

**Penalties and enforcement**

**Enforcement**

**53.**—(1) It is the duty of each weights and measures authority in Great Britain and each district council in Northern Ireland to enforce these Regulations within their area.

(2) Paragraph (1) is subject to paragraphs (6) and (7).

(3) For the purposes of paragraph (1) and (6) to (8), the provisions of parts 2, 4 and 5 (enforcement) of the Consumer Protection Act 1987<sup>(1)</sup> (“the 1987 Act”), except for sections 12, 13 and 27, are to apply to these Regulations as if—

- (a) these Regulations were safety regulations<sup>(2)</sup> within the meaning of that Act; and
- (b) the persons on whom functions are conferred by this regulation were enforcement authorities within the meaning of that Act.

(4) The reference to six months in section 14(6) of the 1987 Act (imprisonment on summary conviction not to exceed six months), as that section has effect by virtue of paragraph (1), is to be read in its application to England and Wales and Northern Ireland as a reference to three months.

(5) In determining how to comply with paragraph (1) in relation to regulations 42 and 43 (electronic cigarette advertising), every enforcement authority must have regard to the desirability of encouraging control of advertising by such established means as it considers appropriate, having regard to all the circumstances of the particular case.

(6) The duty under paragraph (1) in relation to the following provisions is transferred to the Secretary of State, and each weights and measures authority in Great Britain and each district council in Northern Ireland is relieved of that duty—

- (a) regulation 14(4) (measurements and verifications of emission levels);
- (b) Part 4 (Reporting), except for regulation 27;
- (c) regulation 29 (ingredients information for herbal products for smoking);
- (d) regulation 31 (notification provisions for electronic cigarettes); and
- (e) regulation 32 (annual reporting for electronic cigarettes).

(7) The duty under paragraph (1) in relation to the following provisions is transferred to the Secretary of State, but each weights and measures authority in Great Britain and district council in Northern Ireland is not relieved of that duty—

- (a) regulation 27 (supply of tobacco products);
- (b) regulation 30(2) (supply of herbal products for smoking);

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(1) 1987 c.43. Relevant amendments are made by the Consumer Rights Act 2015 c. 15.

(2) The expression “safety regulations” is defined by section 45 of the Consumer Protection Act 1987.

- (c) regulation 35 (supply of electronic cigarettes etc.); and
- (d) regulation 40(5) (action to protect public health).

(8) Where paragraph (6) or (7) does not apply, the Secretary of State may direct, in relation to cases of a particular description or a particular case, that the enforcement duty is to be discharged by the Secretary of State or by the appropriate minister.

(9) In this regulation—

“appropriate minister” means—

- (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.