
STATUTORY INSTRUMENTS

2019 No. 594

The Tobacco Products (Traceability and Security Features) Regulations 2019

PART 1

Preliminary

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tobacco Products (Traceability and Security Features) Regulations 2019.

(2) These Regulations come into force on 20th May 2019.

(3) Subject to paragraph (4), regulation 6 has effect in relation to—

(a) cigarettes or hand-rolling tobacco supplied in the United Kingdom on or after 20th May 2019, and

(b) tobacco products (other than cigarettes or hand-rolling tobacco) supplied in the United Kingdom on or after 20th May 2024.

(4) Regulation 6 does not have effect in relation to—

(a) cigarettes or hand-rolling tobacco manufactured, or imported into the United Kingdom, before 20th May 2019 unless the product in question is supplied in the United Kingdom on or after 20th May 2020, and

(b) tobacco products (other than cigarettes or hand-rolling tobacco) which are manufactured, or imported into the United Kingdom, before 20th May 2024 unless the product in question is supplied in the United Kingdom on or after 20th May 2026.

(5) Regulations 7 to 10 have effect in relation to—

(a) cigarettes or hand-rolling tobacco—

(i) manufactured in the United Kingdom on or after 20th May 2019, or

(ii) manufactured in a country which is not a member State that are imported into the United Kingdom on or after that date for supply in the United Kingdom or another member State, and

(b) tobacco products (other than cigarettes or hand-rolling tobacco)—

(i) manufactured in the United Kingdom on or after 20th May 2024, or

(ii) manufactured in a country which is not a member State that are imported into the United Kingdom on or after that date for supply in the United Kingdom or another member State.

(6) Regulation 13 has effect in relation to—

(a) cigarettes or hand-rolling tobacco—

(i) manufactured in the United Kingdom on or after 20th May 2019, or

- (ii) imported into the United Kingdom on or after that date,
for supply in the United Kingdom, and
- (b) tobacco products (other than cigarettes or 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 the United Kingdom.

Interpretation

2. In these Regulations—

“anti-tampering device” has the meaning given in Article 2(7) of the Commission Implementing Regulation;

“authentication elements” are the authentication elements set out in the Annex to the Commission Implementing Decision;

“authentication elements provider” means a person meeting the description in regulation 15(1);

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

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

“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—

- (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—
 - (aa) of the normal colour of a cigar,
 - (bb) made of reconstituted tobacco, and
 - (cc) 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;

“cigarillo” means a cigar with a unit weight of not more than 3 grams;

“the Commission” means the Commission of the European Union;

“the 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⁽¹⁾;

“the 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⁽²⁾;

“consumer” means a person who is acting for purposes which are outside that person’s trade, business, craft or profession;

“cross-border distance sale” means a distance sale to a consumer where, at the time the consumer orders a tobacco product from a retailer, the consumer is located in a member State other than the member State or third country where the retailer is established, 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;

“deactivation notice” means a notice given under regulation 18(4);

“economic operator” has the meaning given in Article 2(2) of the Commission Implementing Regulation;

“external auditor” means a person appointed in accordance with regulation 9(1)(b);

“hand-rolling tobacco” means a tobacco product—

- (a) in relation to which more than 25% by weight of the tobacco particles have a cut width of less than 1.5 millimetres,
- (b) which is sold or intended to be sold for making into cigarettes by hand, including making into cigarettes by hand with the aid of a mechanical device, or
- (c) which is of a kind used for making into cigarettes by hand, including making into cigarettes by hand with the aid of a mechanical device;

“HMRC” means Her Majesty’s Revenue and Customs;

“manufacturer” means a person who—

- (a) manufactures tobacco products, or
- (b) puts a name, trademark, or other distinguishing mark, on tobacco products by which the person is held out to be the manufacturer or originator,

and “manufacture” is to be construed accordingly;

“officer” means a person appointed under section 2(1) of the Commissioners for Revenue and Customs Act 2005⁽³⁾;

“prescribed” means prescribed in a direction of the Commissioners for Her Majesty’s Revenue and Customs made under regulation 24;

“primary repository” means a data storage facility required under Article 26(1) of the Commission Implementing Regulation to be established by manufacturers and importers of tobacco products;

“retail sale” means sale to a consumer;

“retailer” means a person who sells, or offers or agrees to sell, a tobacco product to a consumer;

(1) OJNo. L 96, 16.04.2018, p. 57.

(2) OJ No. L 96, 16.04.2018, p. 7.

(3) 2005 c. 11.

“security feature” means the security feature required to be carried by unit packets of tobacco products by regulation 13;

“supplied in the United Kingdom” and “supplied in another member State” have the meanings given in regulations 3 and 4 respectively;

“tobacco product” means a product that can be consumed and consists, in whole or in part, of tobacco;

“travel retail sector” means retail outlets in a member State at which tobacco products may be purchased only by people travelling on journeys to destinations outside that member State, and the terms “travel retail sector of the United Kingdom” and “travel retail sector of a member State other than the United Kingdom” are to be construed accordingly;

“the UK ID Issuer” means the entity appointed for the United Kingdom in accordance with Article 3(1) of the Commission Implementing Regulation⁽⁴⁾;

“unique identifier” has the meaning given in Article 2(1) of the Commission Implementing Regulation;

“unit packet” in relation to a tobacco product, means the smallest individual packaging in which that product is, or is intended to be, presented for retail sale, but does not include any transparent wrapper.

Meaning of tobacco products supplied in the United Kingdom

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

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

and “supply in the United Kingdom” is to be construed accordingly.

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

Meaning of tobacco products supplied in another member State

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

- (a) supplies the product—
 - (i) for consumption in a member State other than the United Kingdom or through the travel retail sector of a member State other than the United Kingdom,
 - (ii) with a view to it being supplied for consumption in a member State other than the United Kingdom or through the travel retail sector of a member State other than the United Kingdom,

(4) The contract award notice for the appointment of the UK ID Issuer was published in the 42nd issue of the Official Journal of the EU (supplementary S series) for 2019, reference number: 2019/S 042-096012. It is available at <https://ted.europa.eu/udl?uri=TED:NOTICE:96012-2019:TEXT:EN:HTML> and <https://www.delta-esourcing.com/delta/respondToList.html;jsessionid=47E23C9D5C6DA38BB18D3AE18AFF0A0E?noticeId=342424410>.

(b) offers or agrees to supply it in those circumstances, or
(c) exposes or possesses it for supply in those circumstances,
and “supply in another 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 other than the United Kingdom, the product is to be treated for the purposes of these Regulations as supplied in another member State.

Competent ID issuer for the purposes of Article 4(1) of the Commission Implementing Regulation

5. For the purposes of Article 4(1) of the Commission Implementing Regulation, the competent ID issuer in relation to tobacco products manufactured in another member State for supply in the United Kingdom is required to be the UK ID issuer.