
STATUTORY INSTRUMENTS

2020 No. 1496

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

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⁽¹⁾ 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

(1) EUR 2018/574.

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),
- (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⁽²⁾ 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.

(2) EUD 2018/576.