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STATUTORY INSTRUMENTS

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**2020 No. 1496**

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

**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—

**“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.