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STATUTORY INSTRUMENTS

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**2023 No. 606**

**The Tobacco Products (Traceability and Security Features) (Amendment) Regulations 2023**

**Amendment of regulation 18**

5.—(1) Regulation 18 (circumstances in which economic operator identifier codes may be deactivated) is amended as follows.

(2) In paragraph (2), for sub-paragraph (a) substitute—

“(a) has failed to comply with regulation 6(1) and this is a second, third or subsequent contravention,”.

(3) In paragraph (3), in sub-paragraph (b)(i) omit “and the occasions on which tobacco products were seized as a result of those failures”.

(4) In paragraph (4)(b), after paragraph (i) insert—

“(ia) in cases where paragraph (2)(a) applies—

(aa) a period of six months in the case of a Category A, B, or C contravention which is a second contravention; or

(bb) a period of five years in any other case; or”.

(5) After paragraph (6) insert—

“(7) Where paragraph (2)(a) applies, if an appeal is made against the decision to give a deactivation notice, or the period of deactivation, the deactivation must be suspended until the final determination of the appeal, but only in a case to which paragraph (8) applies.

(8) This paragraph applies where the person who is the subject of the deactivation notice satisfies the Commissioners that the primary function of the facility linked to the identifier code in respect of which the deactivation is made is the supply of tobacco products.

(9) For the purposes of paragraph (8), the primary function includes (but is not limited to) a case where more than fifty per cent of the gross income of the facility over the six months immediately preceding the date of the deactivation notice issued under paragraph (4) is derived from the sale of, or services related to, tobacco products.”.