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STATUTORY INSTRUMENTS

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**2023 No. 606**

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

**Insertion of new regulations 20A to 20C**

8. In Part 7 (enforcement), before regulation 21 insert—

**“Sanctions**

**20A.**—(1) A person who contravenes regulation 6(1) is liable to sanctions in accordance with regulations 20B and 21(2).

(2) For the purposes of these Regulations—

- (a) a Category A contravention means supplying 99 or fewer units of tobacco products in contravention of paragraph (1);
- (b) a Category B contravention means supplying 100 or more such units of tobacco products but fewer than 300;
- (c) a Category C contravention means supplying 300 or more such units of tobacco products but fewer than 500;
- (d) a Category D contravention means supplying 500 or more such units of tobacco products;
- (e) a second contravention is one that occurs before the end of 24 months beginning with the date of the first contravention;
- (f) a third contravention is one that occurs before the end of 24 months beginning with the date of the second contravention;
- (g) a subsequent contravention is any contravention that occurs after the third contravention and before the end of 24 months beginning with the date of a previous contravention.

(3) For the purposes of this regulation—

- (a) the date of a contravention is the date on which the supply of products in contravention of regulation 6(1) is discovered by—
  - (i) the Commissioners; or
  - (ii) a person investigating compliance in accordance with regulation 24A;
- (b) where a person contravenes regulation 6(1) and that contravention occurs more than 24 months after any previous contravention, that contravention is a first contravention for the purposes of this regulation;
- (c) in determining whether a contravention is a second, third or subsequent contravention, no account is to be taken of a previous contravention in respect of which a penalty under regulation 20B was not imposed.

(4) In this regulation “unit of tobacco products” means—

- (a) 20 cigarettes (whether or not they are packaged in packs of 20); or

- (b) 30 grams of hand-rolling tobacco.

### **Penalties**

**20B.**—(1) A penalty may be imposed by the Commissioners for a contravention of regulation 6(1) as follows.

(2) For a first contravention the penalty is—

- (a) Category A: £2,500;
- (b) Category B: £5,000;
- (c) Category C: £7,500;
- (d) Category D: £10,000.

(3) For a second contravention the penalty is—

- (a) Category A: £5,000;
- (b) Category B: £7,500;
- (c) Categories C and D: £10,000.

(4) For a third and any subsequent contravention the penalty is—

- (a) Category A: £7,500;
- (b) Categories B, C and D: £10,000.

(5) The penalty must be paid—

- (a) in accordance with the requirements of a notice issued under regulation 20C; and
- (b) no later than 30 days beginning with the date of issue of the notice.

(6) A penalty under this regulation is to be treated as an amount of duty due from the person liable for the penalty under the Tobacco Products Duty Act 1979, and may be recovered accordingly.

(7) Where more than one person is liable to a penalty for a contravention of regulation 6(1), the penalty may be imposed on any one of them.

(8) A person is not liable to a penalty under this regulation in respect of any failure or action in respect of which the person has been convicted of an offence under any provision of the customs and excise Acts.

### **Penalty notices**

**20C.**—(1) When a penalty is imposed under regulation 20B, the Commissioners must issue a penalty notice to the person on whom the penalty is imposed.

(2) The penalty notice must be issued within 12 months beginning with the date on which evidence of facts, sufficient in the opinion of the Commissioners to indicate the contravention, comes to the knowledge of the Commissioners, and must specify—

- (a) the date and particulars of the contravention;
- (b) the amount of the penalty and details of how, by when, and to whom the penalty must be paid; and
- (c) a warning about potential sanctions for further contraventions, including deactivation of the economic operator identifier code, where applicable, and the possibility of the forfeiture of compliant products.”.