
STATUTORY INSTRUMENTS

1992 No. 2783

CONSUMER PROTECTION

The Cigarettes (Maximum Tar Yield) (Safety) Regulations 1992

Made - - - - *6th November 1992*
Laid before Parliament *9th November 1992*
Coming into force - - *30th November 1992*

In exercise of the powers conferred by section 11 of the Consumer Protection Act 1987⁽¹⁾, for the purpose of securing that goods that are unsafe are not made available to persons generally, and after consultation, in accordance with section 11(5) of that Act, with organisations appearing to be representative of interests substantially affected by these Regulations and other persons considered appropriate, of the powers conferred by subsection (2) of section 2 of the European Communities Act 1972⁽²⁾ and of all other powers enabling me in that behalf, I hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Cigarettes (Maximum Tar Yield) (Safety) Regulations 1992 and shall come into force on 30th November 1992.

Interpretation

2.—(1) In these Regulations—

“ISO 3400” means the International Standard entitled Cigarettes — Determination of alkaloids in smoke condensates — Spectrometric method ISO 3400:1989 (E) second edition published by the International Organisation for Standardisation on 1st July 1989;

“ISO 4387” means the International Standard entitled Cigarettes — Determination of total and dry particulate matter using a routine analytical smoking machine — Glass fibre filter smoke trap method ISO 4387:1987 (E) first edition published by the International Organisation for Standardisation on 15th April 1987;

“ISO 8243” means the International Standard entitled Cigarettes — Sampling ISO 8243:1988 (E) first edition published by the International Organisation for Standardisation on 15th February 1988;

(1) 1987 c. 43.

(2) 1972 c. 68. See S.I.1991/755 designating the Secretary of State for the purposes of that subsection in relation to measures relating to the sampling of tobacco products.

“the Labelling Regulations” means the Tobacco Products Labelling (Safety) Regulations 1991(3);

“the permitted maximum” means—

- (a) before 1st January 1998, 15 milligrams of tar;
- (b) on and after 1st January 1998, 12 milligrams of tar;

“producer”, in relation to cigarettes, means a person who in the course of a business—

- (a) manufactures them; or
- (b) puts a name, trademark or other distinguishing mark on them, by which he holds himself out to be their manufacturer or originator; or
- (c) imports them into the United Kingdom,

with a view to the cigarettes being supplied for consumption in the United Kingdom, and “produced” shall be construed accordingly;

“tar” means the raw anhydrous nicotine-free condensate of smoke.

(2) In these Regulations—

- (a) any reference to a Standard is a reference to that Standard as it has effect on the date on which these Regulations are made (including any amendment to that Standard taking effect on or before that date); and
- (b) where any Standard mentioned specifies relevant requirements by reference to another Standard, that reference is to be construed for the purposes of these Regulations as a reference to that other Standard as it has effect on the date on which these Regulations are made (including any amendment to that other Standard taking effect on or before that date).

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation is a reference to the paragraph bearing that number in that regulation.

Supply of cigarettes

3.—(1) Subject to paragraph (2) no person shall—

- (a) supply, or
- (b) offer to supply, or
- (c) agree to supply, or
- (d) expose for supply, or
- (e) possess for supply

any cigarette the tar yield of which, determined in accordance with ISO 3400, ISO 4387 and ISO 8243 exceeds the permitted maximum.

(2) Paragraph (1) does not apply where the cigarette is or is to be supplied for consumption outside the United Kingdom.

Determination of tar yield

4.—(1) The functions of the Secretary of State under regulation 9(1) of the Labelling Regulations include the testing of cigarettes to establish their tar yield for the purposes of these Regulations.

(2) Where the Secretary of State considers, having tested cigarettes in accordance with regulation 9(1) of the Labelling Regulations, that the tar yield of those cigarettes exceeds the permitted maximum, he may notify the producer—

- (a) that the tar yield of those cigarettes exceeds the permitted maximum; and
- (b) of the tar yield of those cigarettes which the Secretary of State considers to be accurate.

(3) A producer may within one month beginning with the date on which he receives notification under paragraph (2) inform the Secretary of State in writing that he does not agree that the tar yield of the cigarettes in question exceeds the permitted maximum, and where he does so he may make representations with a view to agreeing the correct tar yield with the Secretary of State.

(4) Where following the making of such representations the producer and the Secretary of State agree, within the period of nine months beginning with the date on which the producer received notification under paragraph (2), the correct figure for the tar yield of the cigarettes in question, in any proceedings to enforce these Regulations it shall be presumed until the contrary is proved that the tar yield of cigarettes of the same composition is that agreed figure.

(5) Where following the making of such representations the Secretary of State and the producer fail, within the period of nine months beginning with the last date on which the producer received notification under paragraph (2)(b), to agree the correct figure for the tar yield of the cigarettes in question, in any proceedings to enforce these Regulations it shall be presumed until the contrary is proved that the tar yield of cigarettes of the same composition is—

- (a) the figure notified to the producer under paragraph (2)(b), or
- (b) if different, the figure most recently notified to him before the expiry of that period by the Secretary of State for the purpose of seeking agreement.

Transitional provisions

5. Regulation 3(1) shall not apply to the supply, offer or agreement to supply, or exposure or possession for supply of cigarettes produced—

- (a) before 31st December 1992 where the supply takes place or is to take place before 31st December 1994, and
- (b) before 31st December 1997 where the supply takes place or is to take place before 31st December 1999 and the tar yield of the cigarettes does not exceed 15 milligrams.

Signed by authority of the Secretary of State for Health

6th November 1992

Brian Mawhinney
Minister,
Department of Health

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [90/239/EEC](#) concerning the maximum tar yield for cigarettes (OJNo. L137/36). The Regulations are made in exercise of powers contained in the Consumer Protection Act 1987 and in the European Communities Act 1972.

Regulation 3 prohibits supplying, offering to supply, agreeing to supply, exposing for supply or possessing for supply in the UK any cigarettes the tar yield of which exceeds the limit referred to in regulation 3. From 1st January 1998 the limit is set at a lower figure (see the definition of “the permitted maximum” in regulation 2(1)).

Regulation 4 specifies the procedure to be followed when the Secretary of State’s tests show tar yields exceed the permitted maximum from those notified to him by the producer under the Tobacco Product Labelling (Safety) Regulations 1991.

Transitional provisions are provided for in regulation 5.

Copies of the International Standards referred to in the Regulations may be obtained from the British Standards Institute, Linford Wood, Milton Keynes MK14 6LE.