
STATUTORY INSTRUMENTS

2015 No. 829

The Standardised Packaging of
Tobacco Products Regulations 2015

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Standardised Packaging of Tobacco Products Regulations 2015.

(2) These Regulations come into force on 20th May 2016.

Interpretation

2.—(1) In these Regulations—

“appropriate minister”—

- (a) in relation to England, means the Secretary of State,
- (b) in relation to Wales, means the Welsh Ministers,
- (c) in relation to Northern Ireland, means the Department of Health, Social Services and Public Safety, and
- (d) in relation to Scotland, means the Scottish Ministers;

“brand name”, in relation to a particular tobacco product, means the primary name by which the product is known;

“calibration mark” means a mark that is used only for the purpose of the automated manufacture of any packaging;

“characterising flavour”, in relation to a tobacco product, means a clearly noticeable smell or taste, other than one of tobacco, which—

- (a) results from an additive or a combination of additives, including (but not limited to) fruit, spice, herbs, alcohol, candy, menthol or vanilla, and
- (b) is noticeable before or during the consumption of the tobacco product;

“cigar” means a tobacco product that can be consumed by means of a combustion process and (given its properties and normal consumer expectations) is exclusively intended to be smoked as it is, and which is either—

- (a) a roll of tobacco (or of tobacco and another substance) which has an outer wrapper of natural tobacco, or
- (b) a roll of tobacco (or of tobacco and another substance) which—
 - (i) has an outer wrapper—
 - (a) of the normal colour of a cigar,

- (b) made of reconstituted tobacco, and
- (c) covering the product in full (including the filter but not, in the case of a cigar with a mouthpiece, the mouthpiece),
- (ii) is filled with a threshed blend of tobacco (or of tobacco and another substance),
- (iii) has a unit weight, not including any filter or mouthpiece, of not less than 2.3 grams and not more than 10 grams, and
- (iv) has a circumference, over at least one third of its length, of not less than 34 millimetres;

“cigarette” means a tobacco product that can be consumed by means of a combustion process and which is either—

- (a) a roll of tobacco (or of tobacco and another substance) which is capable of being smoked as it is, but which is not a cigar, or
- (b) a roll of tobacco (or of tobacco and another substance) which is designed to be, by simple non-industrial handling—
 - (i) wrapped in cigarette paper, or
 - (ii) inserted into a cigarette-paper tube;

“consumer” means an individual who is acting for purposes which are outside the individual’s trade, business, craft or profession;

“container packet”, in relation to a tobacco product, means any packaging—

- (a) in which that product is, or is intended to be, presented for retail sale, and
- (b) which encloses (whether wholly or partially)—
 - (i) a unit packet of that product, or
 - (ii) an aggregation of such unit packets;

and where there is more than one separate layer of such packaging each such layer is to be regarded as a separate container packet for the purposes of these Regulations; but any reference in this definition to packaging does not include a wrapper;

“cross-border distance sale”, in relation to a tobacco product, means a distance sale to a consumer where, at the time the consumer orders the product from a retailer, the consumer is located in a member State other than the member State or the third country where the retailer is established; and for the purposes of this definition a retailer is deemed to be established in a member State—

- (a) in the case of an individual, if the individual’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;

“enactment” means an enactment contained in, or in an instrument made under—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation, within the meaning of the Interpretation Act 1978(1);

“external packaging”—

(1) 1978 c. 30. The definition of “Northern Ireland legislation” in section 24(5) was amended by paragraph 3 of Schedule 13 to the Northern Ireland Act 1998 (c. 47).

- (a) in relation to a unit packet of a tobacco product (other than a unit packet mentioned in paragraph (b)), means every surface of the packet that is visible before the packet is opened,
- (b) in relation to a unit packet of hand rolling tobacco in the form of a pouch, means every surface of the pouch that is visible before the pouch is opened, together with the hidden surface of the pouch in a case where the pouch takes the form of a rectangular pocket with a flap that covers the opening, and
- (c) in relation to a container packet of a tobacco product, means every surface of the packet that is visible before the packet is opened;

and for the purposes of this definition “visible” includes visible through any wrapper permitted by paragraph 4 of Schedule 2 or 4 or any tab which complies with paragraph 3(1) of Schedule 4;

“hand rolling tobacco” means a tobacco product which is not a cigarette and which can be used after retail sale for making cigarettes;

“hidden surface”, in relation to a pouch of hand rolling tobacco in the form of a rectangular pocket with a flap that covers the opening, means the surface of the pouch which—

- (a) becomes visible when the flap is opened, but
- (b) is not the underside surface of the flap or any surface of the inside of the pocket;

“internal packaging”, in relation to a unit packet or container packet of a tobacco product, means so much of that packet as does not comprise the external packaging of that packet;

“packaging”, in relation to a tobacco product, has its ordinary meaning and (without limiting that meaning) includes any material that is—

- (a) an integral part of the packaging of the product,
- (b) required as part of the packaging process, or
- (c) required to protect the product;

“pouch” means a unit packet of hand rolling tobacco in the form of—

- (a) a rectangular pocket with a flap that covers the opening, or
- (b) a standing pouch;

“retail sale” means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;

“tobacco” means leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;

“tobacco product” means a product that can be consumed and consists, even partly, of tobacco, whether genetically modified or not;

“travel retail sector” means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom;

“unit packet”, in relation to a tobacco product, means the smallest individual packaging (whether enclosed by a container packet or not) in which that product is, or is intended to be, presented for retail sale, but does not include any wrapper;

“variant name”, in relation to a particular tobacco product, means any name by which that product is distinguished from other tobacco products under the same brand name;

“wrapper”, in relation to a tobacco product, means a cellophane or plastic wrapper—

- (a) in which that product is, or is intended to be, presented for retail sale, and
- (b) which encloses (whether wholly or partially)—

- (i) a unit packet of that product,
- (ii) an aggregation of such unit packets which is not contained in a container packet, or
- (iii) a container packet of that product.

(2) Expressions used in these Regulations and in the Trade Marks Act 1994(2) have the same meaning as in that Act.

(3) References in these Regulations to the front and back surfaces of a unit packet or container packet of a tobacco product are to the two largest surfaces of the external packaging of the packet, but—

- (a) in relation to a unit packet of hand rolling tobacco in the form of a pouch, the hidden surface is to be disregarded for the purposes of this paragraph, and
- (b) this paragraph is subject to paragraph (4).

(4) References in these Regulations to the front and back surfaces of a unit packet or container packet of hand rolling tobacco which is cylindrical in shape are to what are the two opposite halves of the curved surface of the external packaging of the packet if the curved surface is divided equally along a vertical plane.

(5) For the purposes of these Regulations a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person—

- (a) manufactures the product,
- (b) puts a name, trade mark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or
- (c) imports it into the United Kingdom,

and “producer” is to be construed accordingly.

(6) For the purposes of these Regulations a person supplies a tobacco product if, in the course of a business, the person—

- (a) supplies the product—
 - (i) for consumption in the United Kingdom or through the travel retail sector, or
 - (ii) with a view to the product being supplied for consumption in the United Kingdom 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.

(7) In the case of a cross-border distance sale of a tobacco product where the consumer is located in the United Kingdom, the tobacco product is to be treated for the purposes of these Regulations as supplied, and presented for retail sale, in the United Kingdom.