



- (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;
- “cigarette” means a roll of tobacco consumed by means of a combustion process and further defined in Article 3(1) of Council Directive 2011/64/EU of 21st June 2011 on the structure and rates of excise duty applied to manufactured tobacco<sup>(a)</sup>;
- “consumer” means an individual who is acting for purposes which are outside the individual’s trade, business, craft or profession;
- “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 retail outlet, the consumer is located in a Member State other than the Member State or the third country where that retail outlet is established; and for the purposes of this definition a retail outlet 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 retail outlet 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<sup>(b)</sup>;
- “external packaging” —
- (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 an outside packet of a tobacco product, means every surface of the packet that is visible before the packaging is opened;

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(a) O.J. L 176 5.7.2011 page 24.

(b) 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).

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;

“genuine use”, in relation to a trade mark, means genuine use in the United Kingdom by the proprietor or with the proprietor’s consent;

“hand rolling tobacco” means tobacco 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 outside packet of a tobacco product, means so much of that packet as does not comprise the external packaging of that packet;

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

(a) which contains a unit packet of that product, or an aggregation of such unit packets, and

(b) in which that product is, or is intended to be, presented for retail sale,

but does not include any wrapper;

“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 contained in an outside 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” means a cellophane or plastic wrapper—

(a) which encloses—

(i) a unit packet of a tobacco product,

(ii) an aggregation of such unit packets which is not contained in an outside packet, or

(iii) an outside packet of that product, and

(b) in which that product is, or is intended to be, presented for retail sale.

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

(3) References in these Regulations to the front and back surfaces of a unit packet or outside 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 outside packet of hand rolling tobacco which is cylindrical in shape are to the two opposite halves of the curved surface of the external packaging of the packet on the assumption that 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) with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, or
  - (ii) for consumption in the United Kingdom or through the travel retail sector,
- (b) offers or agrees to so supply it, or
- (c) exposes or possesses it for such supply.

(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.

## PART 2

### Provisions which apply to cigarettes only

#### **Permitted colour or shade of packaging of cigarettes**

**3.—**(1) No person may produce or supply any cigarettes in breach of any of the provisions of this regulation or Schedule 1 (exceptions to paragraphs (2) and (3)).

(2) The only colour or shade permitted on or for the external packaging of a unit packet or outside packet of cigarettes is Pantone 448 C with a matt finish, but this is subject to paragraph (4) and Schedule 1.

(3) The only colour or shade permitted on or for the internal packaging of a unit packet or outside packet of cigarettes, is either—

- (a) white, or

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(a) 1994 c. 26.

- (b) Pantone 448 C with a matt finish,

but this is subject to paragraph (4), Schedule 1 and paragraph 3(1) of Schedule 2.

(4) Nothing in paragraph (2) or (3) prohibits any warning, statement, text, picture, image, symbol or marking which is required by any enactment (whenever passed or made) other than these Regulations; but see paragraph 3 of Schedule 1 which imposes conditions in relation to any text required in accordance with regulation 7(4)(a)(i) of the General Product Safety Regulations 2005 (name and address of producer)(a).

#### **Material, shape, opening and contents of unit packet of cigarettes**

**4.**—(1) No person may produce or supply any cigarettes in breach of any of the provisions of this regulation.

(2) A unit packet of cigarettes must be made of carton or soft material.

(3) A unit packet of cigarettes must be cuboid in shape, although any such cuboid may have bevelled or rounded edges.

(4) A unit packet of cigarettes may contain an opening that can be re-closed or re-sealed after it is first opened but only if that opening is a flip top lid or a shoulder box hinged lid.

(5) A flip-top lid may be hinged only at the back of the packet.

(6) A shoulder box hinged lid may be hinged only along one of the two smallest sides of the packet.

(7) A unit packet of cigarettes must contain a minimum of 20 cigarettes.

#### **Appearance of cigarettes**

**5.**—(1) No person may produce or supply any cigarettes in breach of any of the following provisions.

(2) The only colour or shade permitted on or for the paper, casing, filter or other material forming part of a cigarette (apart from the tobacco contained in it) is plain white with a matt finish, but this is subject to the following provisions.

(3) Any paper or casing that surrounds the end of a cigarette that is not designed to be lit may be coloured in such a way as to imitate cork.

(4) A cigarette may have text printed on it to identify the brand name and variant name of the cigarette but only if each of the following conditions is met.

(5) Those conditions are—

- (a) that the text appears parallel to, and not more than 38 millimetres from, the end of the cigarette that is not designed to be lit,
- (b) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (c) that the first letter of any word is in upper-case type or lower-case type,
- (d) that the rest of any word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is black,
- (g) that the text is in a normal, weighted, regular typeface, and
- (h) that the size of the text is no larger than 8 point.

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(a) S.I. 2005/1803.

### **Further provisions about the packaging of cigarettes**

6. No person may produce or supply any cigarettes in breach of any of the provisions of Schedule 2 (further provisions about the packaging of cigarettes).

## **PART 3**

### **Provisions which apply to hand rolling tobacco only**

#### **Permitted colour or shade of packaging of hand rolling tobacco**

7.—(1) No person may produce or supply any hand rolling tobacco in breach of any of the provisions of this regulation or Schedule 3 (exceptions to paragraphs (2) and (3)).

(2) The only colour or shade permitted on or for the external packaging of a unit packet or outside packet of hand rolling tobacco is Pantone 448 C with a matt finish, but this is subject to paragraph (4), Schedule 3 and paragraph 3(1) of Schedule 4.

(3) The only colour or shade permitted on or for the internal packaging of a unit packet or outside packet of hand rolling tobacco is either—

- (a) white, or
- (b) Pantone 448 C with a matt finish,

but this is subject to paragraph (4), Schedule 3 and paragraph 3(2) of Schedule 4.

(4) Nothing in paragraph (2) or (3) prohibits any warning, statement, text, picture, image, symbol or marking which is required by any enactment (whenever passed or made) other than these Regulations; but see paragraph 3 of Schedule 3 which imposes conditions in relation to any text required in accordance with regulation 7(4)(a)(i) of the General Product Safety Regulations 2005 (name and address of producer).

#### **Form of, and weight of tobacco in, unit packet of hand rolling tobacco**

8.—(1) No person may produce or supply any hand rolling tobacco in breach of any of the provisions of this regulation.

(2) A unit packet of hand rolling tobacco may take only one of the following forms—

- (a) it may be cuboid in shape, although any such cuboid may have bevelled or rounded edges,
- (b) it may be cylindrical in shape, or
- (c) it may take the form of a pouch.

(3) A unit packet of hand rolling tobacco must contain at least 30 grams of tobacco.

#### **Further provisions about the packaging of hand rolling tobacco**

9. No person may produce or supply any hand rolling tobacco in breach of any of the provisions of Schedule 4 (further provisions about the packaging of hand rolling tobacco).

## **PART 4**

### **Provisions which apply to all tobacco products or to both cigarettes and hand rolling tobacco**

#### **Product presentation**

10.—(1) No person may produce or supply a tobacco product in breach of any of the following provisions.

(2) The labelling of—

- (a) the packaging in which a tobacco product is, or is intended to be, presented for retail sale, or
- (b) the product itself,

may not contain any element or feature falling within paragraph (3).

(3) An element or feature falls within this paragraph if it—

- (a) promotes a tobacco product or encourages its consumption by creating an erroneous impression about its characteristics, health effects, risks or emissions,
- (b) includes any information about the nicotine, tar or carbon monoxide content of a tobacco product,
- (c) suggests that a particular tobacco product—
  - (a) is less harmful than others,
  - (b) aims to reduce the effect of some harmful components of smoke,
  - (c) has vitalising, energizing, healing, rejuvenating, natural or organic properties, or
  - (d) has other health or lifestyle benefits,
- (d) refers to taste, smell or any flavourings or other additives, or the absence of any such thing,
- (e) resembles a food or a cosmetic product, or
- (f) suggests that a particular tobacco product has improved biodegradability or other environmental advantages.

(4) The packaging in which a tobacco product is, or is intended to be, presented for retail sale may not contain any element or feature which suggests economic advantage by including printed vouchers or offering discounts, free distribution, two-for-one or other similar offers.

(5) The elements and features referred to in paragraphs (2) to (4) include (but are not limited to) texts, symbols, names, trade marks, figurative signs and other types of sign.

(6) Nothing in this regulation affects or is affected by any other provision of these Regulations.

### **Packaging of cigarettes or hand rolling tobacco not to produce noise or scent**

**11.—**(1) No person may produce or supply any cigarettes or hand rolling tobacco if any part of the packaging in which the product is, or is intended to be, presented for retail sale—

- (a) makes a noise, or
- (b) contains or produces a smell,

that is not normally associated with the packaging of cigarettes or, as the case may be, hand rolling tobacco.

(2) Paragraph (1) does not prohibit any smell in the packaging of cigarettes or hand rolling tobacco which results from any manufacturing process which is designed to give the cigarettes or hand rolling tobacco a characterising flavour that is not prohibited.

### **Packaging of cigarettes or hand rolling tobacco not to change after retail sale**

**12.—**(1) No person may produce or supply any cigarettes or hand rolling tobacco if the packaging in which the product is, or is intended to be, presented for retail sale includes any features which are designed to change the packaging after retail sale.

(2) Such features include (but are not limited to)—

- (a) heat activated inks,
- (b) inks or embellishments designed to appear gradually over time,
- (c) inks that appear fluorescent in certain light,

- (d) panels designed to be scratched or rubbed to reveal an image or text,
- (e) removable tabs, and
- (f) fold-out or slide-out panels.

## PART 5

### Miscellaneous provisions

#### *Trade marks and registered designs*

#### **Regulations not to affect registration of trade marks for tobacco products or related services**

**13.**—(1) For the avoidance of doubt, nothing in these Regulations forms an obstacle to registration of a trade mark under the Trade Marks Act 1994(a) because the goods or services to which the trade mark is to be applied are tobacco products or related services.

(2) For the avoidance of doubt, nothing in these Regulations—

- (a) causes any trade mark to be contrary to public policy or to accepted principles of morality for the purposes of section 3(3)(a) of that Act (absolute grounds for refusal of registration),
- (b) amounts to an enactment or rule of law which prohibits the use of a trade mark for the purposes of section 3(4) of that Act(b), or
- (c) amounts to a rule of law by which the use in the United Kingdom of any trade mark is liable to be prevented for the purposes of section 5(4) of that Act (relative grounds for refusal of registration).

(3) For the purposes of sections 3(6), 47(4) and 48(1) of that Act (which relate to applications made in bad faith) an application for the registration of a trade mark in relation to tobacco products or related services is not to be regarded as made in bad faith in relation to those goods or services if or to the extent that the application would not be so regarded were these Regulations not in force.

(4) For the purposes of section 32(3) of that Act (application for registration of trade mark), an applicant for the registration of a trade mark in relation to tobacco products or related services is to be regarded as having a *bona fide* intention that the trade mark should be used by the applicant, or with the applicant's consent, in relation to those goods or services if or to the extent that the applicant would have had such an intention were these Regulations not in force.

(5) For the avoidance of doubt, nothing in these Regulations has the effect of giving rise to a ground for the declaration of invalidity of a trade mark under section 47(1) of that Act (grounds for invalidity of registration) because the trade mark is registered in relation to tobacco products or related services.

#### **Regulations not to affect oppositions based on trade marks for tobacco products or related services**

**14.**—(1) Paragraph (2) applies for the purposes of section 6(3) of the Trade Marks Act 1994 (meaning of “earlier trade mark”) if the trade mark within section 6(1)(a) or (b)(c) is registered in relation to tobacco products or related services.

(2) A *bona fide* use of the trade mark in relation to those goods or services is to be regarded as having taken place during the two years mentioned in section 6(3) if there would have been such

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(a) 1994 c. 26.

(b) Section 3(4) was amended by S.I. 2011/1043.

(c) Section 6(1)(a) was amended, and section 6(1)(b) was substituted, by S.I. 2004/2332.



use of the trade mark in relation to those goods or services during that period were these Regulations not in force.

(3) Paragraph (4) applies for the purposes of section 6A(3)(a) of that Act (raising of relative grounds in opposition proceedings in case of non-use)(a) if the earlier trade mark there mentioned is registered in relation to tobacco products or related services.

(4) Genuine use of the trade mark in relation to those goods or services is to be regarded as having taken place within the period of five years mentioned in section 6A(3)(a) if there would have been such use of the trade mark in relation to those goods or services within that period were these Regulations not in force.

### **Proper reasons for non-use of trade marks for tobacco products or related services**

**15.**—(1) Paragraph (2) applies for the purposes of section 46(1)(a) or (b) of the Trade Marks Act 1994 (revocation of registration) if the trade mark there mentioned is registered in relation to tobacco products or related services.

(2) If any provision of these Regulations causes any non-use of the trade mark in relation to those goods or services for any period, such provision is to be regarded as a proper reason for that non-use, provided that the trade mark would have been put to genuine use in relation to those goods or services during that period were these Regulations not in force.

(3) Paragraph (4) applies for the purposes of—

- (a) section 6A(3)(b) of that Act (raising of relative grounds in opposition proceedings in case of non-use), or
- (b) section 47(2A)(c) and (2B)(b) of that Act (grounds for invalidity of registration)(b),

if the earlier trade mark there mentioned is registered in relation to tobacco products or related services.

(4) If any provision of these Regulations causes any non-use of the earlier trade mark in relation to those goods or services for any period, such provision is to be regarded as a proper reason for that non-use, provided that the trade mark would have been put to genuine use in relation to those goods or services during that period were these Regulations not in force.

### **Regulations not to affect registration of designs for tobacco products etc**

**16.**—(1) For the avoidance of doubt, nothing in these Regulations has the effect that a design may or must be refused registration or declared invalid under the Registered Designs Act 1949(c) because—

- (a) the design concerns features of appearance of a tobacco product or its packaging, or
- (b) the design will not be or is not visible during normal use of a tobacco product or its packaging because of any provision of these Regulations;

but sub-paragraph (b) applies only if the design would be or would have been so visible were these Regulations not in force.

(2) For the avoidance of doubt, nothing in these Regulations causes any design concerning features of appearance of a tobacco product or its packaging to be contrary to public policy or to accepted principles of morality for the purposes of section 1D of that Act (designs contrary to public policy or morality)(d).

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(a) Section 6A was inserted by S.I. 2004/946.

(b) Section 47(2A) and (2B) were inserted by S.I. 2004/946.

(c) 1949 c. 88.

(d) Section 1D was inserted by S.I. 2001/3949.

(3) Paragraph (4) applies for the purposes of section 11ZA(1A)(a) of that Act (grounds for invalidity of registration)(a) if the design to which the later design there mentioned is compared concerns features of appearance of a tobacco product or its packaging.

(4) The design is to be regarded as having been made available to the public on or after the relevant date mentioned in section 11ZA(1A)(a) if it would have been so made available on or after that date were these Regulations not in force.

(5) For the avoidance of doubt, nothing in these Regulations amounts to, or permits, any Crown use of registered designs concerning tobacco products or their packaging.

(6) In this regulation—

“Crown use” has the same meaning as in paragraph 2A of Schedule 1 to the Registered Designs Act 1949 (compensation for loss of profit)(b);

“design” and “registered design” have the same meaning as in that Act.

### *Offences and enforcement*

#### **Offences**

**17.—**(1) A person who produces or supplies a tobacco product in breach of any provision of these Regulations is guilty of an offence.

(2) A person guilty of an offence under this regulation—

- (a) is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine, or both, or
- (b) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both.

#### **Offences by bodies corporate and Scottish partnerships**

**18.—**(1) If an offence under these Regulations committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the officer’s part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if that person were a director of the body corporate.

(4) If an offence under these Regulations committed by a partnership in Scotland is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the partner’s part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4) “partner” includes a person purporting to act as a partner

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(a) Section 11ZA was inserted by S.I. 2001/3949 and amended by S.I. 2006/1974 and S.I. 2007/3378.

(b) Paragraph 2A of Schedule 1 was inserted by section 271(1) of the Copyright, Designs and Patents Act 1988 (c. 48) and amended by S.I. 2001/3949.

## Defence

**19.** In any proceedings for an offence under these Regulations against a person who supplies any tobacco product in breach of any provision of these Regulations, it is a defence that the person neither knew nor had reasonable grounds for suspecting that the tobacco product was supplied in breach of that provision.

## Enforcement

**20.—**(1) For the purpose of enforcement, the provisions of the Consumer Protection Act 1987<sup>(a)</sup> (apart from sections 12 and 13) are to apply to these Regulations as if these Regulations were safety regulations within the meaning of that Act.

(2) The reference to six months in section 14(6) of the Consumer Protection Act 1987 (imprisonment on summary conviction not to exceed six months), as that section has effect by virtue of paragraph (1), is to be read as a reference to three months.

(3) The appropriate minister may direct, in relation to cases of a particular description or a particular case, that any duty imposed on—

- (a) a local weights and measures authority in Great Britain, or
- (b) a district council in Northern Ireland,

under section 27 of the Consumer Protection Act 1987<sup>(b)</sup> (as that section has effect by virtue of paragraph (1)) is to be discharged instead by the appropriate minister.

### *Consequential amendments*

## Consequential amendments

**21.—**(1) In section 3(1) of the Children and Young Persons (Protection from Tobacco) Act 1991 (sale of unpackaged cigarettes)<sup>(c)</sup>, omit “pre-packed quantities of 10 or more cigarettes in”.

(2) In article 4(1) of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (sale of unpackaged cigarettes)<sup>(d)</sup>, omit “pre-packed quantities of 10 or more cigarettes in”.

(3) Regulation 4 of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 (statements of yields on packets of cigarettes) is revoked<sup>(e)</sup>.

### *Transitional provision*

## Transitional provision

**22.—**(1) These Regulations do not apply to the supply before 21st May 2017 of a tobacco product produced before 20th May 2016 if the product complies with the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 at the date of supply.

(2) For the purposes of paragraph (1), those Regulations are to continue to apply notwithstanding the revocation of any those Regulations by any enactment (whenever passed or made), including regulation 21(3) of these Regulations.

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(a) 1987 c. 43.  
(b) Section 27 was amended by S.I. 2008/1277.  
(c) 1991 c. 23.  
(d) S.I. 1991/ 2872 (N.I. 25).  
(e) S.I. 2002/3041.

## Review

### Review

23.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how Directive 2014/40/EU of 3rd April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC<sup>(a)</sup> (Articles 13 and 14 of which are implemented by regulations 4, 8 and 10 of these Regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with...

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

## SCHEDULES

### SCHEDULE 1

Regulation 3

#### Exceptions to regulation 3(2) and (3) (colour and shade of packaging of cigarettes)

##### Text which states brand name and variant name

1.—(1) The external packaging of a unit packet or outside packet of cigarettes may have text printed on it which states the brand name and variant name of the cigarettes but only if each of the following conditions is met.

(2) Those conditions are—

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(a) O.J. L 127 29.4.2014 page 1

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the brand name does not take up more than one line,
- (h) that the variant name does not take up more than one line,
- (i) that the variant name appears immediately below the brand name and has the same orientation as it,
- (j) that the size of the brand name is no larger than 14 point,
- (k) that the size of the variant name is no larger than 10 point,
- (l) that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
  - (i) the front surface of the unit packet or outside packet,
  - (ii) one of the smallest surfaces of the packet, and
  - (iii) the other smallest surface of the packet,
- (m) that the brand name and variant name are located at the centre of any such surface or, where such a surface contains a health warning, at the centre of the area of the surface not taken up by the health warning, and
- (n) that the text on any surface which contains a health warning is orientated in accordance with the warning.

**Text which states the number of cigarettes.**

2.—(1) The external packaging of a unit packet or outside packet of cigarettes may have text printed on it—

- (a) which states the number of cigarettes contained in the packet, and
- (b) which may be followed by the word “Cigarettes”,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the number is expressed in numeric characters,
- (b) in the case of the outside packet of an aggregation of unit packets, that the number so expressed is either—
  - (i) the total number of cigarettes in the outside packet, or
  - (ii) the number of unit packets in the outside packet multiplied by the number of cigarettes in each unit packet, with the multiplication symbol being expressed as an “x”,
- (c) that the first letter of the word “Cigarettes” is in upper-case type or lower-case type,
- (d) that the rest of that word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (g) that the text is in a normal, weighted, regular typeface,
- (h) in the case of a unit packet, that the size of the text is no larger than 10 point,
- (i) in the case of an outside packet, that the size of the text is no larger than 14 point,

- (j) that the text appears only once, and
- (k) that the text on any surface which contains a health warning is orientated in accordance with the warning.

### **Text which gives details about producer**

**3.—**(1) A unit packet or outside packet of cigarettes may have text printed on its external or internal packaging (but not on both its external and internal packaging) which states all or any of the following—

- (a) the words “The producer’s contact details are:”,
- (b) the name of the producer,
- (c) the address of the producer,
- (d) the email address of the producer, and
- (e) the telephone number of the producer,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand or, in the case of an email address, an @ sign,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text—
  - (i) if it appears on the external packaging, is Pantone Cool Gray 2 C with a matt finish, or
  - (ii) if it appears on the internal packaging, is one of the following, namely Pantone Cool Gray 2 C with a matt finish, Pantone 448 C with a matt finish or black with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the size of the text is no larger than 10 point,
- (h) that the text appears only once, and
- (i) that the text does not appear on the front surface of the unit packet or outside packet.

### **Barcode**

**4.—**(1) The external packaging of a unit packet or outside packet of cigarettes may contain a barcode but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—
  - (i) black and white, or
  - (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on the front surface of the unit packet or outside packet.

### **Calibration mark**

**5.**—(1) The external packaging of a unit packet or outside packet of cigarettes may contain a calibration mark but only if both of the following conditions are met.

(2) Those conditions are—

- (a) that the calibration mark appears only so far as it is necessary for the automated manufacture of the packaging of the cigarettes, and
- (b) that the calibration mark, if visible or otherwise detectable, is as inconspicuous as possible so far as is consistent with its function in connection with that automated manufacture.

## **SCHEDULE 2**

Regulation 6

### **Further provisions about the packaging of cigarettes**

#### **Surfaces**

**1.**—(1) Any surface of the external or internal packaging of a unit packet or outside packet of cigarettes—

- (a) must be smooth and flat, and
- (b) must contain no ridges, embossing or other irregularities of shape or texture.

(2) Sub-paragraph (1) is subject to—

- (a) paragraph 3(2), and
- (b) any provision to the contrary made by any enactment (whenever passed or made) other than these Regulations.

#### **Inserts etc**

**2.**—(1) No insert or additional material may be attached to or included with the packaging of a unit packet or outside packet of cigarettes.

(2) Sub-paragraph (1) does not prohibit a barcode in relation to which each of the conditions in paragraph 4(2) of Schedule 1 is met from taking the form of an adhesive label.

#### **Lining**

**3.**—(1) If a unit packet of cigarettes contains a lining as part of its internal packaging—

- (a) the lining must be a silver coloured foil with a white paper backing, and
- (b) there must be no variation in the tone or shade of the foil.

(2) Paragraph 1 does not prohibit such a lining from being textured over any entire surface with small dots or squares embossed on the lining if—

- (a) that texture is required for the purpose of—
  - (i) the automated manufacture of the lining, or
  - (ii) the packing of cigarettes into the packet, and
- (b) the dots or squares—
  - (i) are equidistant from each other,
  - (ii) are of uniform size, and
  - (iii) do not form a picture, pattern, image or symbol that is recognisable as anything other than a lining.

## Wrappers

4.—(1) Each of the following, namely—

- (a) a unit packet of cigarettes,
- (b) an aggregation of such unit packets which is not contained in an outside packet, and
- (c) an outside packet of cigarettes,

may be enclosed by a wrapper but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the wrapper is clear and transparent,
- (b) that the wrapper is not coloured or marked,
- (c) that any surface of the wrapper—
  - (i) is smooth and flat, and
  - (ii) does not contain any ridge, embossing or other irregularity of shape or texture that is not a necessary result of the manufacturing process, and
- (d) that there is nothing attached to the wrapper,

but this is subject to the following provisions.

(3) A wrapper which encloses an aggregation of unit packets within sub-paragraph (1)(b) may have solid, black rectangles or squares but only so far as they are necessary, and of the minimum size necessary, to cover any barcode on the unit packets enclosed within the wrapper.

(4) A wrapper may have a tear tape if each of the conditions in sub-paragraph (5) is met.

(5) Those conditions are—

- (a) that the tear tape is either—
  - (i) clear and transparent and not coloured or marked, or
  - (ii) black in colour,
- (b) that the tear tape forms a continuous straight line which is of a constant width not exceeding 3 millimetres, and
- (c) that the tear tape is parallel to any straight edge of the packet enclosed by the wrapper.

(6) Sub-paragraph (5)(a)(i) does not prohibit the tear tape from including a single, solid black line which—

- (a) is not more than 15 millimetres long, and
- (b) indicates where the tear strip begins.

(7) A wrapper may have a barcode (and that barcode may take the form of an adhesive label) but only if each of the following conditions is met.

(8) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—
  - (i) black and white, or
  - (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on that part of the wrapper which covers the front of the unit packet, aggregation of unit packets or outside packet.



## SCHEDULE 3

Regulation 7

### Exceptions to regulation 7(2) and (3) (colour and shade of packaging of hand rolling tobacco)

#### **Text which states brand name and variant name**

1.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may have text printed on it which states the brand name and variant name of that product but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the brand name does not take up more than one line,
- (h) that the variant name does not take up more than one line,
- (i) that the variant name appears immediately below the brand name and has the same orientation as it,
- (j) that the size of the brand name is no larger than 14 point,
- (k) that the size of the variant name is no larger than 10 point,
- (l) in the case of a unit packet which is cuboid in shape or an outside packet which is not cylindrical in shape, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
  - (i) the front surface of the packet,
  - (ii) one of the smallest surfaces of the packet, and
  - (iii) the other smallest surface of the packet,
- (m) in the case of a unit packet or outside packet which is cylindrical in shape, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
  - (i) the front surface of the packet,
  - (ii) the back surface of the packet, and
  - (iii) the lid of the packet,
- (n) in the case of a unit packet which takes the form of a pouch, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
  - (i) the front surface of the packet,
  - (ii) the back surface of the packet, and
  - (iii) if the pouch takes the form of a rectangular pocket with a flap that covers the opening, the hidden surface of the packet,
- (o) that the brand name and variant name are located at the centre of any such surface or, where such a surface contains a health warning, at the centre of the area of the surface not taken up by the health warning, and
- (p) that the text on any surface which contains a health warning is orientated in accordance with the warning.

### **Text which states the weight of tobacco**

2.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may have text printed on it—

- (a) which states the weight of tobacco in grams contained in the packet, and
- (b) which may be followed by the word “Rolling Tobacco” or “Hand Rolling Tobacco”,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the weight of tobacco is expressed in numeric characters followed by the letter “g”,
- (b) in the case of the outside packet of an aggregation of unit packets, that the weight so expressed is either—
  - (i) the total weight of tobacco in the outside packet, or
  - (ii) the number of unit packets in the outside packet multiplied by the weight of tobacco in each unit packet, with the multiplication symbol being expressed as an “x”,
- (c) that the first letter of any word is in upper-case type or lower-case type,
- (d) that the rest of any word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (g) that the text is in a normal, weighted, regular typeface,
- (h) in the case of a unit packet, that the size of the text is no larger than 10 point,
- (i) in the case of an outside packet, that the size of the text is no larger than 14 point,
- (j) that the text appears only once, and
- (k) that the text on any surface which contains a health warning is orientated in accordance with the warning.

### **Text which gives details about producer**

3.—(1) A unit packet or outside packet of hand rolling tobacco may have text printed on its external or internal packaging (but not on both its external and internal packaging) which states all or any of the following—

- (a) the words “The producer’s contact details are:”,
- (b) the name of the producer,
- (c) the address of the producer,
- (d) the email address of the producer, and
- (e) the telephone number of the producer,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand or, in the case of an email address, an @ sign,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text—
  - (i) if it appears on the external packaging, is Pantone Cool Gray 2 C with a matt finish, or

- (ii) if it appears on the internal packaging, is one of the following, namely Pantone Cool Gray 2 C with a matt finish, Pantone 448 C with a matt finish or black with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the size of the text is no larger than 10 point,
- (h) that the text appears only once, and
- (i) that the text does not appear on the front surface of the unit packet or outside packet.

#### **Text about cigarette papers and filters**

**4.—**(1) If, in accordance with paragraph 2(2) of Schedule 4, a unit packet of hand rolling tobacco includes both cigarette papers and filters or either cigarette papers or filters, the external packaging of the unit packet, and of any outside packet in which it is contained, may have printed on it such of the following texts as is applicable—

- (a) “includes cigarette papers and filters”,
- (b) “includes cigarette papers”, or
- (c) “includes filters”,

but only if each of the conditions in sub-paragraph (3) is met.

(2) If, in accordance with paragraph 2(2) of Schedule 4, an outside packet of hand rolling tobacco includes both cigarette papers and filters or either cigarette papers or filters, the external packaging of the outside packet may have printed on it such of the following texts as is applicable—

- (a) “includes cigarette papers and filters”,
- (b) “includes cigarette papers”, or
- (c) “includes filters”,

but only if each of the conditions in sub-paragraph (3) is met.

(3) Those conditions are—

- (a) that the text is in lower-case type,
- (b) that the text is printed in Helvetica type,
- (c) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (d) that the text is in a normal, weighted, regular typeface,
- (e) that the text appears below any variant name (or, if there is no variant name, below any brand name),
- (f) that the size of the text is no larger than 10 point, and
- (g) that the text appears only once.

#### **Barcode**

**5.—**(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may contain a barcode but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—
  - (i) black and white, or
  - (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,

- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on the front surface of the unit packet or outside packet.

### **Calibration mark**

**6.**—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may contain a calibration mark but only if both of the following conditions are met.

(2) Those conditions are—

- (a) that the calibration mark appears only so far as it is necessary for the automated manufacture of the packaging of the hand rolling tobacco, and
- (b) that the calibration mark, if visible or otherwise detectable, is as inconspicuous as possible so far as is consistent with its function in connection with that automated manufacture.

## **SCHEDULE 4**

Regulation 9

### **Further provisions about the packaging of hand rolling tobacco**

#### **Surfaces**

**1.**—(1) Any surface of the external or internal packaging of a unit packet or outside packet of hand rolling tobacco—

- (a) must be smooth and, in the case of a unit packet or outside packet which is cuboid in shape, flat, and
- (b) must contain no ridges, embossing or other irregularities of shape or texture.

(2) Sub-paragraph (1) does not prohibit the inclusion—

- (a) in the case of a unit packet of hand rolling tobacco in the form of a pouch, of any feature which occurs as a necessary part of the process of sealing the pouch during its manufacture, or
- (b) in the case of a unit packet or outside packet of hand rolling tobacco which is cylindrical in shape, of any feature which is necessary to affix the bottom of the cylinder or to enable the lid of the cylinder to be opened and closed.

(3) Sub-paragraph (1) is subject to—

- (a) paragraph 3(3), and
- (b) any provision to the contrary made by any enactment (whenever passed or made) other than these Regulations.

#### **Inserts etc**

**2.**—(1) No insert or additional material may be attached to or included with the packaging of a unit packet or outside packet of hand rolling tobacco.

(2) Sub-paragraph (1) does not prohibit the inclusion in a unit packet or outside packet of hand rolling tobacco of—

- (a) cigarette papers, or
- (b) filters,

provided they are not visible before the packet is opened.

(3) Sub-paragraph (1) does not prohibit a barcode in relation to which each of the conditions in paragraph 5(2) of Schedule 3 is met from taking the form of an adhesive label.

## **Tab and seal**

3.—(1) If a unit packet of hand rolling tobacco has a tab for resealing the packet, the tab must be clear and transparent and not coloured or marked.

(2) If a unit packet of hand rolling tobacco which is cylindrical in shape contains a foil seal as part of its internal packaging, the foil seal must be silver coloured with no variation in tone or shade.

(3) Paragraph 1 does not prohibit such a foil seal from being textured over any entire surface with small dots or squares embossed on the seal if the dots or squares —

- (a) are equidistant from each other,
- (b) are of uniform size, and
- (c) do not form a picture, pattern, image or symbol that is recognisable as anything other than a foil seal.

## **Wrappers**

4.—(1) Each of the following, namely—

- (a) a unit packet of hand rolling tobacco,
- (b) an aggregation of such unit packets which is not contained in an outside packet, and
- (c) an outside packet of such tobacco,

may be enclosed by a wrapper but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the wrapper is clear and transparent,
- (b) that the wrapper is not coloured or marked,
- (c) that any surface of the wrapper—
  - (i) is smooth and, in the case of a unit packet or outside packet which is cuboid in shape, flat, and
  - (ii) does not contain any ridge, embossing or other irregularity of shape or texture that is not a necessary result of the packaging process, and
- (d) that there is nothing attached to the wrapper,

but this is subject to the following provisions.

(3) A wrapper which encloses an aggregation of unit packets within sub-paragraph (1)(b) may have solid, black rectangles or squares but only so far as they are necessary, and of a minimum size necessary, to cover any barcode on the unit packets enclosed within the wrapper.

(4) A wrapper may have a tear tape if each of the conditions in sub-paragraph (5) is met.

(5) Those conditions are—

- (a) that the tear tape is either—
  - (i) clear and transparent and not coloured or marked, or
  - (ii) black in colour,
- (b) that the tear tape forms a continuous straight line which is of constant width not exceeding 3 millimetres, and
- (c) that the tear tape is parallel to any straight edge of the packet enclosed by the wrapper.

(6) Sub-paragraph (5)(a)(i) does not prohibit the tear tape from including a single, solid black line which—

- (a) is not more than 15 millimetres long, and
- (b) indicates where the tear strip begins.

(7) A wrapper may have a barcode (and that barcode may take the form of an adhesive label) but only if each of the following conditions is met.

(8) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—
  - (i) black and white, or
  - (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on that part of the wrapper which covers the front of the unit packet, aggregation of unit packets or outside packet.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for the retail packaging of cigarettes and hand rolling tobacco to be standardised.

These Regulations implement Articles 13 and 14 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (OJ No. L 127 29.4.2014, p1).

These Regulations are made in exercise of powers contained in the Children and Families Act 2014 and the European Communities Act 1972 and came into force on ...

Regulations 3 and 7 prescribe the only colours that are permitted to be used on any part of the external and internal surfaces of the retail packaging of cigarettes and hand rolling tobacco respectively. These two regulations do not prohibit anything that is required by any other enactment, which includes, but is not limited to, mandatory health warnings, security features and fiscal marks. They are also subject to the text that is permitted under Schedules 1 and 3 respectively.

Regulation 4 sets out requirements for unit packets of cigarettes. It stipulates the material that such packets must be made from, the shape that the packet must be, what openings are permitted and the minimum amount of cigarettes permitted in each unit packet. Regulation 8 sets out requirements for unit packets of hand rolling tobacco. It stipulates the shapes or type of packet that are permitted and the minimum weight of tobacco that must be in each packet. These two regulations implement Article 14 of Directive 2014/40/EU.

Regulation 5 sets out requirements for the appearance of individual cigarettes, including the permitted colour for cigarettes (other than the tobacco contained in it), the permitted text and the requirements for that text.

Regulation 10 applies to all tobacco products. It prohibits elements or features of the labelling of the packaging or of the tobacco products themselves that has one of the effects set out in paragraph (3). Paragraph (4) prohibits retail packaging that suggests economic advantage. This regulation implements Article 13 of Directive 2014/40/EU.

Regulation 11 prohibits packaging for cigarettes and hand rolling tobacco that produces a noise or scent that is not normally associated with that packaging. This does not prohibit any smell resulting from a manufacturing process designed to give the cigarettes or hand rolling tobacco a permitted smell or flavour.

Regulation 12 prohibits features of the packaging of cigarettes or hand rolling tobacco that are designed to change after the product has been sold to the consumer.

Regulations 13, 14 and 15 make provisions in respect of trade marks relating to tobacco products, that are registered or for which there is an application for registration under the Trade Marks Act 1994. Regulation 16 makes provisions in respect of the registration of designs for tobacco products under the Registered Designs Act 1994.

Regulations 17, 18, 19 and 20 make provision for offences and their enforcement.

Regulation 21 amends section 3(1) of the Children and Young Persons (Protection from Tobacco) Act 1991 and article 4(1) of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 to remove the requirement that packets of cigarettes have at least 10 cigarettes in each packet. Paragraph (3) revokes regulation 4 of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 which requires packets of cigarettes to carry a statement of the tar, nicotine and carbon monoxide yields of the cigarettes contained in it. Such statements are now prohibited by Article 13(1)(a) of Directive 2014/40/EU.

Schedule 1 sets out what text is permitted on the retail packaging of cigarettes. Schedule 3 sets out what text is permitted on the retail packaging of hand rolling tobacco. These schedules also set out the colour, typeface, size, location and orientation of the permitted text, and make provision for the use of barcodes and calibration marks on that packaging.

Schedules 2 and 4 make further provisions about the packaging of cigarettes and hand rolling tobacco in respect of the surfaces of the packaging, any lining inside packets of cigarettes, tabs or seals on packets of hand rolling tobacco and in respect of any wrappers. The schedules prohibit inserts or additional materials that are not an integral part of the packaging, required as part of the packaging process or required to protect the product.

A draft of these Regulations has been notified to the European Commission as a technical standard, pursuant to Directive 98/34/EC of the European Parliament and of the Council (OJ No L204, 21.7.98, p 37) laying down a procedure for the provision of information in the field of technical standards and regulations, as amended.

A regulatory impact assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament.