



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Notification Number : 2018/0078/B (Belgium)

Royal Decree amending the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products

Date received : 23/02/2018

End of Standstill : 24/05/2018 (24/08/2018) (closed)

Message

Message 002

Communication from the Commission - TRIS/(2018) 00464

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2018/0078/B

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késéseket - Ma' jiftaħx il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201800464.EN)

1. MSG 002 IND 2018 0078 B EN 23-02-2018 B NOTIF

2. B

3A. SPF Economie, PME, Classes moyennes et Energie

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4. 2018/0078/B - C60A

5. Royal Decree amending the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products

6. Tobacco products

7. - 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



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tobacco and related products and repealing Directive 2001/37/EC Text with EEA relevance

8. The draft provides for an amendment to the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products, which partially transposes Directive 2014/40/EU.

The planned amendments mainly involve adding or modifying definitions, annual notification, regulations concerning ingredients, labelling, product presentation, distance sales and novel tobacco products. Finally, some amendments are made to correct technical errors in the transposition.

More specifically, the words 'tobacco products' are replaced by 'tobacco-based products' throughout the Royal Decree. As regards definitions, the concept of 'device' is added and the definition 'importer of tobacco-based products or related products' is modified. As regards the concept of importer, we have modified the definition of importer to ensure that there is a responsible person in Belgium to enable the inspectorate to take measures against companies in breach of the law. In fact, the definition as currently drafted does not allow for pursuit of importers or manufacturers in breach of the law. Since the Royal Decree entered into force, many companies have been in breach of the law and the inspectorate cannot do anything against them because of the current definition. This change is absolutely necessary and fundamental for public health. The Directive allows us to go further and make this change. Article 23 of the Directive indeed provides that Member States are responsible for implementation and control. Since some Member States have no inspection service (e.g. France), Belgium needs to take its own measures to ensure its citizens' health and ensure that the Directive is applied in full.

Amendments are made to Article 4 of the Royal Decree as regards notification, particularly in terms of the date on which the annual notification must be made, file data, annual sales data and fees. Moreover, Article 4(1) has been added regarding the application of enhanced reporting obligations for certain additives. As regards the regulations concerning ingredients, the exception granted to tobacco products containing a particular characterising flavour, for which the volume of sales across the European Union represents 3% or more in a given product category has been eliminated (entry into force three months after publication of the amending Royal Decree) and paragraph 9 has been added to Article 5 prohibiting the use of technical features and methods to modify the smell, taste, smoke intensity or colour of emissions from tobacco-based products.

Amendments have been made to Article 7 of the Royal Decree concerning the thickness of cigarette packets and roll-your-own tobacco in pouches.

Amendments have been made to Article 8 of the Royal Decree concerning combined health warnings on cylindrical packets and concerning the replacement of 'brand names and logos' by the word 'brands'.

Article 9 of the Royal Decree is supplemented by reference to the Ligne Tabac Stop [Tabac Stop Line].

Paragraph 2 of Article 11 of the Royal Decree is supplemented by a sentence prohibiting any reference to pricing except for the price indicated on the tax stamp. Moreover, a new paragraph 4 has been added to the same Article to allow the Minister to draw up a list of prohibited brands of tobacco-based products.

As regards Article 12 of the Royal Decree, a new paragraph 3 has been added to specify that each tobacco-based product must be packaged or have outside packaging.

Article 13 of the Royal Decree concerning distance sales has been remodelled.

A new paragraph 5 has been added to Article 14 of the Royal Decree to improve the regulation of novel tobacco-based products.

Some amendments have been made to Article 16 concerning herbal products for smoking, particularly concerning fees.

9. The words 'tobacco products' have been amended to align the text of the Royal Decree with the law underpinning it. The definition 'device' has been added in anticipation of the placement on the market of novel tobacco products that will be consumed using machines. The definition 'importer of tobacco-based products or related products' has been amended to reinforce the inspectorate's capacity for action in the event of a breach. The amendments made in terms of notification aim to clarify some elements in the procedure, particularly as regards the annual deadline for inserting sales data for the previous year or for paying the annual fees.



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Article 4(1) has been added to transpose Article 6 of Directive 2014/40 with delegation of authority to the Minister to transpose Decision 2016/787 of 18 May 2016 laying down a priority list of additives contained in cigarettes and roll-your-own tobacco subject to enhanced reporting obligations.

The longer transition period granted for tobacco products containing a particular characterising flavour for which the volume of sales across the European Union represents 3% or more in a given product category has been eliminated because this measure needs to be applied as quickly as possible to protect health, particularly that of young people. The prohibition on devices that can change the smell and taste of tobacco-based products aims to prevent manufacturers from placing products on the market that reduce the impact of the prohibition on tobacco-based products containing characterising flavours.

The amendments to Articles 6, 7, 8 and 9 of the Royal Decree aim to clarify how some provisions which have been interpreted differently should be applied.

Article 10 aims to clarify the fact that each tobacco-based product must be packaged. This will help clearly prohibit the sale of single cigarettes and require each cigar to be packaged for sale.

The prohibition in Article 11 of any reference to pricing aims to clarify the manner in which paragraph 2 should be interpreted on a specific point that has caused problems. The addition of paragraph 4, which is inspired by the implementation by France of Article 13 of Directive 2014/40/EU, will allow these provisions to be applied in a precise manner.

The amendment to Article 13 aims to clarify the fact that the prohibition on sale and purchase via the internet only relates to consumers.

The amendment to Article 14 aims to detail the procedure implemented when a novel tobacco-based product is introduced on the market and to specify which provisions of the Royal Decree apply in all cases to novel tobacco products.

The amendments to Article 16 aim to clarify the notification procedure for herbal products for smoking and to introduce obligatory fees to cover the administrative costs for processing files.

10. Reference(s) to basic text(s): Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products.

11. No

12. -

13. No

14. No

15. -

16. TBT aspect

No - the draft has no significant impact on international trade.

SPS aspect

No - the draft has no significant impact on international trade.

Commission européenne

Point de contact Directive (UE) 2015/1535



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