

FEDERAL PUBLIC SERVICE FOR HEALTH, FOOD CHAIN SAFETY AND ENVIRONMENT

3 MAY 2024. - Royal Decree amending the Royal Decree of 28 October 2016 on the manufacture and placing on the market of electronic cigarettes

Report to the King
Sire,

This Draft Royal Decree amends the Royal Decree of 28 October 2016 on the manufacture and placing on the market of electronic cigarettes.

The proposed changes concern composition and labelling. In terms of composition, Article 4 has been amended to introduce a ban on the placing on the market of electronic cigarettes that are completely disposable. The full justification for this was provided in a notification report to the European Commission, pursuant to Article 24(3) of Directive 2014/40/EU 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. Moreover, the ban on the Belgian trade in disposable e-cigarettes is in line with the 2022-2028 Interfederal Strategy for a Smoke-Free Generation. Its main objective is to reduce the prevalence of smokers and counter the high popularity of tobacco and similar products among young people and young adults.

As regards labelling (Article 5), a number of changes were made to correct certain errors. It was also added that the package leaflet must include information on smoking cessation, in accordance with fiche 6.5 of the Interfederal Strategy discussed above.

Article-by-article commentary

Article 1. Article 4 is amended to introduce a ban on the placing on the market of electronic cigarettes that are completely disposable.

Article 2. Article 5 is amended to:

- Add a provision 8° to paragraph 9 to introduce a package leaflet containing information on smoking cessation;

- Correct an error in paragraph 15.

Article 3. Article 3 corrects a spelling error in the German health warning.

Article 4. Article 4 concerns the entry into force of the Decree.

Article 5. Article 5 concerns the competence of the Minister.

3 MAY 2024. - Royal Decree amending the Royal Decree of 28 October 2016 on the manufacture and placing on the market of electronic cigarettes

PHILIPPE, King of the Belgians,

To all who are now present and will be after, Our Greetings.

Having regard to the Law of 24 January 1977 on the protection of consumer health with regard to foodstuffs and other products, Article 6(1)(a), amended by the Law of 22 March 1989, and Article 10(1), replaced by the Law of 9 February 1994;

Having regard to the Royal Decree of 28 October 2016 on the manufacture and placing on the market of electronic cigarettes;

Having regard to the communications to the European Commission, sent on 9 December 2022 and 8 November 2023, pursuant to Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

Having regard to the notifications made to the European Commission on 9 December 2022 and 19 September 2023, and the European Commission's Implementing Decision of 18 March 2024, pursuant to Article 24(3) 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 and repealing Directive 2001/37/EC;

Having regard to the opinions of the Inspectorate of Finance, issued on 2 February 2024 and 28 February 2024;

Having regard to the agreement reached by the State Secretary for Budget, dated 26 March 2024;

Having regard to the request for opinion to the Council of State, pursuant to Article 84(1)(1)(2) of the Laws on the Council of State, coordinated on 12 January 1973;

Whereas the opinion request was registered on 22 April 2024 on the roll of the Legislation Section of the Council of State under number 76.195/3;

Having regard to the decision of the Legislation Section of 23 April 2024 not to issue an opinion within the requested time limit, pursuant to Article 84(5) of the Laws on the Council of State, coordinated on 12 January 1973;

Having regard to the 2022-2028 Interfederal Strategy for a Smoke-Free Generation of 14 December 2022;

Whereas the aim is to reduce the prevalence of use of tobacco products, including e-cigarettes;

Whereas the explosive influx of disposable electronic cigarettes onto the Belgian and European markets;

Whereas disposable electronic cigarettes are not marketed, promoted and used as means to stop smoking and have no place or added value in the Belgian smoking cessation policy;

Whereas, in addition to clear health risks, disposable electronic cigarettes also entail a significant ecological burden;

Whereas these products are popular among young people with no intention to stop smoking, and are also mainly promoted to them;

Whereas for disposable electronic cigarettes, a proportionally higher number of regulatory infringements are identified in this area;

On the proposal of the Minister for Public Health,

WE HAVE DECREED AND DECREE HEREWITH:

Article 1. In Article 4 of the Royal Decree of 28 October 2016 on the manufacture and placing on the market of electronic cigarettes, replaced by the Royal Decree of 7 November 2022, the following amendments are made:

(1) in paragraph 1, the provision under (2) shall be removed;

(2) a paragraph 1/1 shall be inserted as follows:

‘ § 1/1. Placing electronic cigarettes on the market in the form of an integral disposable product is prohibited.

An integral disposable product is a product that is pre-filled with a liquid and not refillable.’

Article 2. In Article 5 of the same Decree, replaced by the Royal Decree of 7 November 2022, the following amendments are made:

(1) Paragraph 9 is supplemented by the provision under point 8, which reads:

‘8° Information about stopping smoking.’

(2) In paragraph 15, the figure ‘13’ is replaced by the figure ‘12’.

Article 3. In Article 6/1(3) of the same Decree, inserted by the Royal Decree of 7 November 2022, the word ‘Ire>’ is replaced by the word ‘Ihre’.

Article 4. Article 1 shall enter into force on 1 January 2025.

Article 5. The Minister for Public Health shall be responsible for the implementation of this Decree.

Brussels, 3 May 2024.

PHILIPPE

By the King:

The Minister for Public Health,

F. VANDENBROUCKE