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| **Title** |
| **26 April 2019. - Royal Decree amending the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco productsSource : PUBLIC HEALTH, THE FOOD CHAIN SAFETY AND THE ENVIRONMENT Publication: 20-06-2019 number:   2019012788 page: 63631       PDF:**[**original version**](http://www.ejustice.just.fgov.be/mopdf/2019/06/20_2.pdf#Page571)**File number : 2019-04-26/33Entry into force: 30-06-2019This text modifies the following text :**[**2016024043**](http://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=2016024043&la=N) |

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| **Article 1-19** |

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| **[Article](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+() [1](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.2). In the title of the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products, the words ‘tobacco products’ are replaced by the words ‘tobacco-based products and herbal products for smoking’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.1)**[**2**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.3)**. In the title of Chapters 3 and 6 and of Articles 7, 8, 9, 10, 13 and 14 of the same Decree, the word ‘tobacco products’ shall each time be replaced by the words ‘tobacco-based products’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.2)**[**3**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.4)**. In Articles 2, 4, 5, 6, 7, 8, 10, 11 and 19 of the same Decree, the word ‘tobacco products’ shall each time be replaced by the words ‘tobacco-based products’. In Articles 2, 4, 5, 6, 11 and 14 of the same Decree, the word ‘tobacco product’ shall be replaced by the words ‘tobacco-based product’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.3)**[**4**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.5)**. The following modifications are made to Article 2 of the same Decree:  a) 14(1) is inserted, worded as follows:  ‘14(1) device: any device or component thereof necessary for the consumption and/or use of a novel tobacco-based product;’;  b) 35 (1) is inserted, worded as follows:  ‘35 (1) importer in Belgium of tobacco-based products: the owner or person with the right of disposal over tobacco-based products introduced into Belgian territory;’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.4)**[**5**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.6)**. The following modifications are made to Article 4 of the same Decree:  1. in paragraph 1 the words “twentieth of November” are replaced by the words ‘March first’;  2. paragraph 1 is supplemented by a new paragraph 4 which reads as follows:  ‘4 labelling’;  3. paragraph 6 is supplemented by the following sentence:  ‘This annual sales data must be provided to the Department no later than March first of the following year.’;  4. in paragraph 7, the word ‘annual’ is inserted before the words ‘compensation of 125 euros’;  5. paragraph 7 is supplemented by the following sentence:  ‘This fee must be paid before the first of March of each year.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.5)**[**6**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.7)**. In the same Decree, Article 4(1) is inserted, which reads as follows:  ‘Article 4(1). § 1. In accordance with Article 6(1) of Directive 2014/40/EU, the placement on the market of cigarettes and roll-your-own tobacco is subject to enhanced reporting obligations which apply to certain additives contained in cigarettes and roll-your-own tobacco included in a priority list.  § 2. The manufacturer or the importer – or the importer in Belgium if the former two do not have a registered office in Belgium – of cigarettes or roll-your-own tobacco containing an additive included in the priority list specified in paragraph 1 of this Article shall conduct in-depth studies to examine, for each additive, whether it:  1. contributes to the toxicity or addictiveness of the products concerned, and whether this has the effect of increasing the toxicity or addictiveness of any of the products concerned to a significant or measurable degree;  2. results in a characterising flavour;  3. facilitates inhalation or nicotine uptake;  4. leads to the formation of substances that have CMR properties, the quantities thereof, and whether this has the effect of increasing the CMR properties in any of the products concerned to a significant or measurable degree.  § 3. Those studies shall take into account the intended use of the products concerned and examine in particular the emissions resulting from the combustion process involving the additive concerned. The studies shall also examine the interaction of that additive with other ingredients contained in the products concerned. The manufacturer or the importer – or the importer in Belgium if the former two do not have a registered office in Belgium – using the same additive in their tobacco products may carry out a joint study when using that additive in a comparable product composition.  § 4. The manufacturer or the importer – or the importer in Belgium if the former two do not have a registered office in Belgium – shall draw up a report on the results of these studies. That report shall include an executive summary and a comprehensive overview compiling the available scientific literature on that additive and summarising internal data on the effects of the additive.  The manufacturer or importer – or importer in Belgium if the former two do not have a registered office in Belgium – shall submit this report to the Department no later than eighteen months after the additive concerned has been included in the priority list pursuant to paragraph 1. The Department may also request supplementary information from the manufacturer or importer – or importer in Belgium if the former two do not have a registered office in Belgium – regarding the additive concerned. This supplementary information shall form part of the report.  § 5. SMEs as defined in Commission Recommendation 2003/361/EC are exempt from the obligations of this Article if a report on the additive concerned has been drawn up by another manufacturer or another importer.  § 6. The composition of the priority list of additives subject to enhanced reporting as defined in this Article shall be determined by the Minister. The Minister may require further clarification regarding the studies to be provided in accordance with this Article.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.6)**[**7**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.8)**. Article 5 of the same decree is supplemented by a paragraph 9, worded as follows:  ‘§ 9. It is prohibited to place on the market any technical element such as filters and papers used to modify the smoke intensity, colour of emissions, smell or taste of tobacco-based products. This element must also not contain the additives mentioned in paragraph 3 of this Article.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.7)**[**8**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.9)**. In Article 7, paragraph 3 of the same decree, the provision under 1. is replaced by the following:  ‘1. For cigarette packets, waterpipe tobacco packets and roll-your-own tobacco in cuboid packets the general warning shall appear on the bottom part of one of the lateral surfaces of the unit packets, and the information message shall appear on the bottom part of the other lateral surface. These health warnings shall have a width of not less than 20 mm. This provision means that the thickness of the cigarette packet cannot be less than 20 mm’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.8)**[**9**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.10)**. The following modifications are made to Article 8 of the same Decree:  1. in paragraph 2, the provision under 1. is replaced by the following:  1. cover 65% of both the external front and back surface of the unit packet and any outside packaging.  Cylindrical packets:  - Shall have two combined health warnings, equidistant from each other, each covering 65% of their respective half of the curved surface.  - The combined health warnings shall occupy the full width of both surfaces to which they are applied.’;  2. in paragraph 2(5) the words “brand names or logos” are replaced by the word ‘brands’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.9)**[**10**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.11)**. The following modifications are made to Article 9, §1, of the same Decree:  1. paragraph 1 is replaced by the following:  ‘Tobacco products other than cigarettes and roll-your-own tobacco and waterpipe tobacco are exempted from the obligations set out in Article 7, §2 and § 3 and Article 8.’  2. paragraph 2 is supplemented by the following sentences:  ‘This reference shall specify the Ligne Tabac Stop [Tabac Stop Line] ‘0800 11100’ and the addresses: www.tabacstop.be - www.tabakstop.be. The font size of the reference to the services supporting the cessation of tobacco use must be the same as the font size of the general warning.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.10)**[**11**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.12)**. The following modifications are made to Article 11 of the same Decree:  1. paragraph 2 is supplemented by the following sentence:  ‘Any reference to pricing except for the price indicated on the tax stamp is prohibited.’;  2. the Article is supplemented by paragraphs 4 and 5, worded as follows:  ‘§ 4. Pursuant to the provisions of this Article, the Minister may draw up a list of prohibited brands of tobacco-based products, even if these tobacco-based products are already on the market. A transition period of one year for ceasing the marketing of prohibited brands shall be granted. The Minister shall determine the procedure to be followed to include a tobacco-based product on the list of prohibited brands. The Minister may draw up an authorisation procedure for tobacco-based product brands not yet on the market.’.  § 5. ‘The provisions of this Article apply to technical elements such as filters and papers used to consume or improve the consumption of tobacco-based products.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.11)**[**12**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.13)**. Article 12 of the same Decree is supplemented by paragraph 3, worded as follows:  ‘§ 3. Each tobacco-based product and any herbal product for smoking placed on the market must be packaged or have outside packaging.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.12)**[**13**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.14)**. Article 13 of the same Decree is replaced by the following:  ‘Article 13. Distance sales to consumers and distance purchases by consumers of tobacco-based products, herbal products and devices for smoking are prohibited.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.13)**[**14**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.15)**. Article 14 of the same Decree is replaced by the following:  ‘Article 14. § 1. The manufacturer or importer or importer in Belgium if the former two do not have a registered office in Belgium – of novel tobacco-based products shall submit an electronic notification to the Department six months before the intended placing on the market. It shall be submitted in electronic form. It shall be accompanied by a detailed description of the novel tobacco product concerned as well as instructions for its use and information on ingredients and emissions in accordance with Article 4.  § 2. The manufacturer or importer – or importer in Belgium if the former does not have a registered office in Belgium – of novel tobacco-based products submitting a notification of a novel tobacco product, shall also provide the Department with:  1. available scientific studies on toxicity, addictiveness and attractiveness of the novel tobacco product, in particular as regards its ingredients and emissions;  2. the available studies, executive summaries thereof and market research on the preferences of various consumer groups, including young people and current smokers;  3. other available and relevant information, including a risk/benefit analysis of the product, its expected effects on cessation of tobacco consumption, its expected effects on initiation of tobacco consumption and predicted consumer perception.  § 3. The manufacturer or importer – or importer in Belgium if the former two do not have a registered office in Belgium – of novel tobacco-based products shall submit any new or updated information on the studies, research and other information referred to in points 1 to 3 included of paragraph 2. The Department may require manufacturers or importer - or importer in Belgium if the former two do not have a registered office in Belgium – of novel tobacco products to carry out additional tests or submit additional information.  § 4. The manufacturer or importer - or importer in Belgium if the former two do not have a registered office in Belgium – shall send the Department proof of payment of a fee of 4,000 euros per novel product notified paid to the Department. This fee is irrecoverable.  § 5. The provisions of Articles 4, 5, 6, 11, 12, § 3, and 13 of this Decree shall apply to the novel tobacco-based product. The minister determines which provisions of the Articles 7, 8, 9 en 10 shall apply to the novel tobacco-based product. The Department shall communicate these to the applicant.  § 6. The provisions of this Article shall apply to devices’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.14)**[**15**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.16)**. The following modifications are made to Article 15 of the same Decree:  1. in paragraph 3 the words ‘Article 5’ are replaced by the words ‘Article 7’;  2. paragraph 4 is replaced by the following:  ‘§ 4. Unit packets and any outside packaging for herbal products for smoking may not contain any of the elements listed in Article 11, §1(1), (2) and (4), and shall not state that the product is exempt from additives or flavourings.’****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.15)**[**16**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.17)**. The following modifications are made to Article 16 of the same Decree:  1. paragraph 1 is replaced by the following:  ‘§ 1. The manufacturer or importer of herbal products for smoking – or importer in Belgium thereof if the former two do not have a registered office in Belgium – shall submit to the Department a list of all ingredients, and quantities thereof, used in the manufacture of the tobacco products, by brand name and type. The manufacturer or importer - or importer in Belgium shall also inform the Department when the composition of a product is modified in a way that affects the information submitted pursuant to this Article. The information required under this Article shall be submitted prior to the placing on the market of a new or modified herbal product for smoking.’  2. the Article is supplemented by paragraph 3, worded as follows:  ‘§ 3. The manufacturer or importer - or importer in Belgium thereof if the former does not have a registered office in Belgium – shall send the Department proof of payment of 165 euros per product notified or per modified composition paid to the Department. This fee is irrecoverable.’.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.16)**[**17**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.18)**. In Article 17(1) of the same Decree, the word “tobacco products” shall be replaced by the word “products”.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.17)**[**18**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#Art.19)**. Article 9 and 10 (2) of this Decree shall enter into force on 1 January 2020.****[Art.](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+("))" \l "Art.18) 19. The Minister for the Economy, the Minister for Public Health and the Minister for Small and Medium-sized Enterprises shall be responsible, each as regards the matters that concern them, for the implementation of this Decree.** |

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| **Issued in Brussels on 26 April 2019.PHILIPPEOn behalf of the King:The Minister for the Economy,K. PEETERSThe Minister for Health,M. DE BLOCKThe Minister for Small and Medium-sized Enterprises,D. DUCARME** |

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| **Introduction** | [**Text**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#text) | [**Table of contents**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#table of contents) | [**Start**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#top)  |
| **PHILIP, King of the Belgians,   To all those present and to come, Greetings.   Having regard to the Law of 24 January 1977 on the protection of consumer health with respect to foodstuffs and other products, Article 6, §1(a), as amended by the Law of 22 March 1989, Article 10(1), replaced by the Law of 9 February 1994, and paragraph 3, replaced by the Law of 10 April 2014 and Article 18, §1, replaced by the Law of 22 March 1989 and amended by the Law of 22 December 2003;   Having regard to the Royal Decree of 5 February 2016 on the manufacture and placement on the market of tobacco products;   Having regard to the communication to the European Commission, sent on 7 March 2018, 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 opinion of the Inspectors of Finance issued on n 6 September 2018 and 13 March 2019;   Having regard to the agreement reached by the Minister for Budget, dated 2 April 2019;   Having regard to Opinion No 65.468/3 of the Council of State, issued on 20 March 2019, pursuant to Article 84, §1(1), point 2, of the laws on the Council of State, consolidated on 12 January 1973;   On the proposal of the Minister for Economic Affairs, the Minister for Health and the Minister for Small and Medium-sized Enterprises, We have decreed and hereby decree:** |

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| **Report to the King** | [**Text**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#text) | [**Table of contents**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#table of contents) | [**Start**](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=2019042633&table_name=wet&&caller=list&N&fromtab=wet&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%22))#top)  |
| **REPORT TO THE KING   Sire,   This draft Royal Decree aims to amend the Royal Decree of 5 February 2016 on the manufacture and placing on the market of tobacco products, partially transposing Directive 2014/40/EU.   The envisaged changes mainly concern definitions, annual notification, regulation of ingredients, labelling, presentation of the product, distance selling and novel tobacco-based products. Finally, there are a number of changes aimed at correcting technical errors in transposition.   Certain amendments require further clarification.   With regard to the definition of a Belgian importer, this is necessary for Belgium to be able to comply with the obligations laid down in Directive 2014/40/EU, and in particular Article 5. This requires the possibility of imposing coercive measures (fines, confiscations,...) on a responsible company in the event of non-compliance with the legislation. The definition of importer as provided for in Directive 2014/40/EU does not allow the inspection authority to take action against importers in the European Union. It is therefore necessary to define ‘Belgian importer’ responsible for the introduction into Belgian territory, so that the Belgian authorities can bring a claim against a Belgian importer in the event of an infringement. Moreover, not all Member States have an inspection service available to deal with any requests for sanctions from the Belgian authorities.   As regards the regulation of ingredients, by analogy with the prohibition in paragraph 4 of Article 5, a prohibition is provided for the placing on the market of technical elements, which are not an initial component of tobacco-based products, which allow to change the combustion intensity, the colour of the emissions, smell or taste of tobacco-based products, in order to prevent manufacturers from placing on the market products that reduce the impact of the ban on tobacco-based products with distinctive flavours.   As regards the thickness of the packet of cigarettes, clarification is needed so that the thickness is not less than 20 mm. This requirement is clear from the interpretation advocated in the European Commission’s non-paper of 1/09/2017. Therefore, Belgium merely clarifies an already existing rule.   As regards the presentation of the products, the Minister is given the opportunity, on the one hand, to establish a list of prohibited tobacco-based brands and, on the other hand, to lay down an authorisation procedure for the brands of tobacco-based products which are not yet placed on the market. That possibility forms part of the application of Article 13 of Directive 2014/40/EU and merely specifies the practical arrangements for implementing that article. A similar provision has been in force in France since January 2017, following the entry into force of the decision of 19 May 2016 transposing Directive 2014/40/EU on manufacture, presentation and sale of tobacco and related products. This amendment allows brands such as ‘cheap tobacco’ (‘goedkope tabak’ in Dutch); “vogue”, “corset”,... to be prohibited.   As regards the presentation and content of the unit packets, it is clarified that each tobacco product and any herbal product intended for smoking must be packaged. This makes it possible to clearly prohibit the sale of cigarettes by the piece and to impose that each cigar is packaged in order to be sold. In addition, it further clarifies that tobacco, in particular water-pipe tobacco, should not be sold in bulk, as often happens in shishabars.   For novel tobacco-based products, the definition of ‘device’ was added to anticipate the marketing of new tobacco-based products to be consumed using a device. In addition, Article 14, which lays down rules for new tobacco-based products, has been amended to detail the procedure to be applied when a new tobacco-based product is placed on the market. That article also mentions the provisions of the Royal Decree that apply to such products (Articles 4, 5, 6, 11, 12, § 3 and 13). Finally, the Minister will decide which provisions of Articles 7, 8, 9 and 10 apply, in particular the labelling provisions. The Minister will therefore decide whether a newly notified tobacco-based product is equated with cigarettes, rolling tobacco and waterpipe tobacco, other smoking products or smokeless tobacco products.   Comment article by article Article 1. Article 1 aims to change the title of the Royal Decree to ‘Royal Decree of 5 February 2016 on the manufacture and marketing of tobacco-based and herbal products for smoking’.   Article 2. Article 2 seeks to replace the word ‘tobacco products’ with ‘tobacco-based products’ in the titles of the chapters of the Royal Decree. The term ‘tobacco products’ includes, inter alia, electronic cigarettes, whereas the term ‘tobacco-based products’ covers only the products, the composition of which contains tobacco, referred to in this Decree.   Art. 3. Article 3 aims to replace the word ‘tobacco products’ with ‘tobacco-based products’ in the Royal Decree. The term ‘tobacco products’ includes, inter alia, electronic cigarettes, whereas the term ‘tobacco-based products’ covers only those products, the composition of which includes tobacco, referred to in this Decree.   Art. 4. Article 4 aims to include the definitions of ‘device’ and ‘importer in Belgium’ in Article 2 of the Royal Decree.   Article 5. Article 5 aims to amend Article 4 relating to the notification, as regards the date on which the annual notification must be made, the file data, the annual sales data and the fee.   Article 6. Article 6 aims to add Article 4(1) on the application of the stricter information requirements for certain additives.   Article 7. Article 7 adds a paragraph 9 to Article 5, prohibiting technical elements that allow changes to be made to the smell, taste, combustion intensity or colour of emissions of tobacco-based products.   The remark of the Council of State on this article cannot be followed. The new paragraph 9 deals with technical elements, which, unlike the existing paragraph 5, are not initially a component of the tobacco-based product.   Article 8. Article 8 aims to clarify that the thickness of the cigarette pack shall not be less than 20 mm.     Article 9. Article 9 aims to clarify the use of combined health warnings on cylindrical packaging and to replace the words “brand names and logos” with the word “brands”.   Art. 10. Article 10 aims to clarify the exemptions for tobacco-based products for smoking other than cigarettes, rolling tobacco and waterpipe tobacco and includes a reference to the Tobacco Stop Line.   Article 11. Article 11 supplements paragraph 2 of Article 11 of the Royal Decree with a sentence prohibiting any indication of price, with the exception of the price indicated on the tax registration number. In addition, Article 11 is supplemented by a paragraph 4 which allows the Minister to draw up a list of the prohibited brands of tobacco-based products, if required. Finally, a paragraph 5 is added to apply the provisions of this Article to technical elements such as filters and paper, which allow the use of tobacco-based products or improve their use.   Art. 12. Article 12 is supplemented by a paragraph 3 stating that each tobacco-based product and any herbal product intended for smoking must be packaged or have an external packaging.   Art. 13. Article 13 aims to amend the prohibition on distance selling to prohibit the distance selling and distance purchase of tobacco-based products, herbal products for smoking and appliances for novel tobacco-based products.   Article 14. Article 14 replaces the current Article 14 of the Royal Decree in order to better regulate novel tobacco-based products.   Article 15. Article 15 aims to amend transposition errors related to herbal products intended for smoking.   Article 16. Article 16, (1), aims to replace paragraph 1 of Article 16 so that it is better drafted. In addition, the provision under (2) adds a fee for herbal products intended for smoking.   Art. 17. Article 17 aims to replace the word ‘tobacco products’ with the word ‘products’ in Article 17(1) of the Royal Decree, so that herbal products intended for smoking can be seized.   Art. 18. Article 18 aims at the entry into force of Articles 9 and 10 (2), on 1 January 2020.   Art. 19. Article 19 relates to the implementation of the Royal Decree.   We have the honour to be,   Sire,    of Your Majesty,    the most respectful and faithful servants,   the Minister of Economy,   K. PEETERS,   The Minister for Health,    M. DE BLOCK,   The Minister for Small and Medium-sized Enterprises,    D. DUCARME** |