

# **Amendment to the Tobacco and Smoking Products Act regulating non-tobacco nicotine products and nicotine devices**

## **Draft Law**

We, Willem-Alexander, by the Grace of God, King of the Netherlands, Prince of Orange-Nassau, etc., etc., etc.

Greetings to all who shall see or hear the following. Be it known:

Thus, We have considered that it is desirable to lay down rules for non-tobacco nicotine products and nicotine devices in the context of public health;

We therefore, having heard the Advisory Division of the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## **Article I**

The Tobacco and Smoking Products Act is amended as follows:

### **A**

Article 1 is amended as follows:

1. Paragraph 1 is amended as follows:

a. The definition of related product now reads:

*related product*: electronic vapour product, herbal product intended for smoking, electronic heating device, non-tobacco nicotine product, with the exception of non-tobacco nicotine product for oral use, and nicotine device;

b. After the definition of nicotine, the following definition is inserted:

*nicotine device*: refillable device, or part of that device, which can be used to consume a non-tobacco nicotine product;

c. After the definition of nicotine-containing liquid, the following two definitions are inserted:

*non-tobacco nicotine product*: a product containing nicotine and not tobacco, intended for nicotine consumption and which is not an electronic vapour product or herbal product intended for smoking;

*non-tobacco nicotine product for oral use*: non-tobacco nicotine product intended for oral use, in powder or particulate form, in a combination thereof or in any other form, particularly those presented in sachet portions or porous sachets, with the exception of products intended for inhalation;

d. The definition of smoking ban now reads:

*smoking ban*: the prohibition of smoking tobacco products, consuming tobacco products other than by smoking, consuming the vapour of electronic cigarettes or nicotine-free electronic cigarettes or consuming non-tobacco nicotine products for oral use;

e. After the definition of tobacco for oral use, 'and' is deleted.

2. Paragraph 2 now reads:

2. The provisions under or pursuant to this Act shall not apply to an electronic cigarette, refill pack, non-tobacco nicotine product or nicotine device for which a marketing authorisation is required under Article 40(1) of the Law on medicinal products or an electronic cigarette or nicotine device for which a CE marking is required under Article 7 of the Medical Devices Decree.

### **B**

Article 2 is amended as follows:

1. Paragraph 1 now reads:

1. By or pursuant to a general administrative order, requirements for tobacco products, electronic vapour products, nicotine-containing liquid and non-nicotine-containing liquid are imposed in the interests of public health. The requirements may relate to:

a. maximum emission levels;

b. ingredients; and

c. technical requirements.

2. Two paragraphs are added, reading:

8. By or pursuant to a general administrative order, requirements for non-tobacco nicotine products may be imposed in the interests of public health. The second sentence and points (a) to (c) of paragraph 1 shall apply.

9. By general administrative order, methods of examination may be identified which exclusively determine whether or not the requirements imposed on a product pursuant to paragraphs 1 or 8 of this Article have been met.

C

Article 3 is amended as follows:

1. In paragraph 1, the words 'Article 2(1), (2) and (5)' are replaced by 'Article 2(1), (2) and (5) to (8)'.

2. In paragraph 2, the words ', with the exception of electronic heating devices and non-tobacco nicotine products' are inserted after 'related products,'.

D

In Article 3a, the words 'or non-tobacco nicotine products for oral use' are inserted after 'tobacco for oral use'.

E

In Article 3b(1), the words ', non-tobacco nicotine products and nicotine devices' are inserted after 'electronic heating devices'.

F

In Article 3e(1), the words ', non-tobacco nicotine products and nicotine devices' are inserted after 'electronic heating devices'.

G

Article 5a is amended as follows:

1. The full stop at the end of paragraph 1(d) is replaced by a semicolon and a new subparagraph is added, reading:

e. a non-tobacco nicotine product or nicotine device which was already on the market before the entry into force of Article I(G) of the Act of xxx amending the Tobacco and Smoking Products Act regulating non-tobacco nicotine products (Official journal xxxx, xx), under the name, brand or symbol, or with the distinctive sign of another product or service.

2. The full stop at the end of paragraph 2(d) is replaced by a semicolon and a subparagraph is added, reading:

e. another product or service which was already on the market before the entry into force of Article I(G) of the Act of xxx amending the Tobacco and Smoking Products Act regulating non-tobacco nicotine products (Official journal xxxx, xx), under the name, brand or symbol, or with the distinctive sign of a non-tobacco nicotine product or nicotine device.

3. In paragraph 4, the words 'or electronic heating device' are replaced by ', electronic heating device, non-tobacco nicotine product or nicotine device'.

4. Paragraph 6 is amended as follows:

a. In the preamble, the words 'or an electronic heating device' are replaced by ', an electronic heating device, a non-tobacco nicotine product or a nicotine device'.

b. The full stop at the end of subparagraph (d) is replaced by a semicolon and a subparagraph is added, reading:

e. a non-tobacco nicotine product or nicotine device which was on the market before the entry into force of Article I(G) of the Act of xxx amending the Tobacco and Smoking Products Act regulating non-tobacco nicotine products (Official journal xxxx, xx), under the name, brand or symbol, or with the distinctive sign of a herbal product intended for smoking.

H

In Article 11b(2)(a), the words ', non-tobacco nicotine products, nicotine devices' are inserted after 'electronic heating devices'.

I

In Article 14, ', 3a' is inserted after 'Article 3(2)'.  
  
J

In the Annexe, category A is amended as follows:

1. The sentence 'Article 5a(4), by others than manufacturers, wholesalers and importers of tobacco products, electronic heating devices or herbal products intended for smoking;' is replaced by 'Article 5a(4), by others than manufacturers, wholesalers and importers of tobacco products, electronic heating devices, non-tobacco nicotine products, nicotine devices or herbal products intended for smoking;'.  
2. The sentence 'Article 5a(6), by others than manufacturers, wholesalers and importers of tobacco products, electronic heating devices or electronic vapour products;' is replaced by 'Article 5a(6), by others than manufacturers, wholesalers and importers of tobacco products, electronic heating devices, electronic vapour products, non-tobacco nicotine products or nicotine devices;'.

## **Article II**

This Act shall come into force at a time to be decided by Royal Decree, which may differ for the various articles or subparagraphs thereof. We hereby order that it shall be published in the Official Journal and that all Ministries, authorities, commissions and officials concerned ensure its proper implementation.

Issued by

The State Secretary for Health,  
Welfare and Sport,