

Subsidiary Legislation made under s.11C.

Tobacco Control Regulations 2020

LN.2020/215

Commencement (LN.2020/242)

All except ss.8-11

30.6.2020

Commencement (LN.2023/164) ss.8-11

29.6.2023

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2019-01

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In exercise of the powers conferred on him by section 11C of the European Union (Withdrawal) Act 2019, the Chief Minister has made these Regulations-

PART 1

INTRODUCTORY

Title.

1. These Regulations may be cited as the Tobacco Control Regulations 2020.

Commencement.

2. These Regulations come into operation on the day appointed by the Chief Minister by notice in the Gazette, and different days may be appointed for different provisions and for different purposes.

Interpretation.

3. In these Regulations, unless the context otherwise requires-

“cigarette” means a tobacco product that can be consumed by means of a combustion process and which is-

- (a) a roll of tobacco (or of tobacco and another substance) capable of being smoked as it is, but which is not a cigar or a cigarillo; or
- (b) a roll of tobacco (or of tobacco and another substance) which is designed to be, by simple non-industrial handling-
 - (i) wrapped in cigarette paper, or
 - (ii) inserted into a cigarette-paper tube;

“hand-rolling tobacco” means a tobacco product-

- (a) in relation to which more than 25% by weight of the tobacco particles have a cut width of less than 1.5 millimetres;
- (b) which is sold or intended to be sold for making into cigarettes by hand, including making into cigarettes by hand with the aid of a mechanical device; or

- (c) which is of a kind used for making into cigarettes by hand, including making into cigarettes by hand with the aid of a mechanical device;
- “package” means any covering, wrapper, box, container, carton or other enclosure that contains a tobacco product and includes a box, carton, cylinder, packet, pouch or tin;
- “smokeless tobacco product” means an tobacco product that consists of cut, ground, powdered or leaf tobacco that is intended for nasal use;
- “tobacco” or “tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking or snuffing;
- “tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products.

PART 2

FOCAL POINT FOR TOBACCO CONTROL

Establishment of focal point for tobacco control.

4.(1) A focal point for tobacco control is established, consisting of-

- (a) the Minister with responsibility for Health;
- (b) the Minister for Public Health;
- (c) the Collector of Customs; and
- (d) such other persons as the Chief Minister may appoint.

(2) The focal point for tobacco control shall carry out such functions as are prescribed under these Regulations.

Functions.

5. The functions of the focal point for tobacco control are to-

- (a) develop and implement appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke;

- (b) adopt and implement measures for testing, measuring and regulating the contents and emissions of tobacco products in accordance with guidelines issued by the Conference of Parties of the Framework Convention on Tobacco Control;
- (c) promote and strengthen public awareness of tobacco control issues, using all available communication tools;
- (d) promote broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;
- (e) promote public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles;
- (f) promote public access to a wide range of information on the tobacco industry;
- (g) promote effective and appropriate training or sensitization and awareness programmes on tobacco control and addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision makers, administrators and other relevant persons;
- (h) promote awareness and participation of public and private agencies and non-governmental organisations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control;
- (i) promote public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption;
- (j) develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account circumstances and priorities in Gibraltar;
- (k) take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence;
- (l) take effective measures to prevent tobacco product sales to minors.

Impartiality of focal point.

6. In developing and implementing public health policies under regulation 5, the focal point for tobacco control must ensure that these policies are not influenced by commercial or other vested interests of the tobacco industry.

Duty to co-operate.

7. The focal point for tobacco control must cooperate, as far as reasonably practicable, with competent international and regional intergovernmental organisations and bodies to achieve the objectives of the Framework Convention on Tobacco Control and any protocol under that convention that applies to Gibraltar.

PART 3

PACKAGING AND LABELLING

Health warning on tobacco products or smokeless tobacco products.

8.(1) A person must not sell, offer for sale or possess for the purpose of sale any tobacco product or smokeless tobacco product unless the package bears a health warning-

- (a) prescribed by the competent authority; and
 - (b) consisting of the information message “Tobacco smoke contains over 70 substances known to cause cancer”.
- (2) The health warnings referred to in subregulation (1) must-
- (a) cover 50% of the two principal display surface areas and be located on each package in such a way that the warning is not damaged when the package is opened; and
 - (b) be selected on the basis set out in the notice under subregulation (3).
- (3) The competent authority must prescribe-
- (a) health warnings under subregulation (1); and
 - (b) the selection and use of health warnings on a rotating basis;

by administrative notice, and that notice must be made available to the public.

(4) The health warning prescribed by the competent authority may be in the form of or include pictures or pictograms.

(5) Under this regulation, the competent authority is the Collector of Customs.

(6) The Chief Minister may, by notice in the Gazette, designate such other person as he considers fit to be the competent authority for Gibraltar under this regulation.

Prohibition on obscuring health warning.

9.(1) A person must not sell, offer for sale or possess for the purpose of sale a tobacco product or smokeless tobacco product with its health warning illegible, covered or obscured.

(2) A person must not sell, offer for sale or possess for the purpose of sale any product or device that is used or intended to be used to cover, obscure or alter the health warning required under regulation 8.

False information on package.

10.(1) A person must not sell, offer for sale or possess for the purpose of sale a tobacco product or smokeless tobacco product if the package contains-

- (a) any information that is false, misleading, deceptive, or likely or intended, directly or indirectly, to create an incorrect impression about the characteristics, health effects, health hazards or emissions of such products;
 - (b) any claim suggesting or implying that its use or exposure to its smoke is not hazardous or less hazardous than other tobacco products or smokeless tobacco products or brands.
- (2) The restrictions in subregulation (1) include but are not limited to the use of-
- (a) words or descriptors, whether or not a part of the brand name, such as “ultra light”, “light”, “mild”, “low tar”, “slim” or similar words or descriptors;
 - (b) any graphics associated with, or likely to be associated with, such words or descriptors;
 - (c) any package design characteristics associated with or like or intended to be associated with such descriptors.

Language of labelling information.

11. A person must not sell, offer for sale or possess for the purpose of sale any tobacco product or smokeless tobacco product unless the labelling information is in English.

Prohibition on sale of tobacco.

12.(1) A person must not sell, offer for sale or possess for the purpose of sale-

- (a) individual cigarettes; or
- (b) a package of cigarettes containing less than 20 cigarettes;
- (c) a package of hand-rolling tobacco containing less than 30 grams of tobacco.

(2) This regulation does not apply to cigars.

Offences and penalties under Part 3.

13.(1) A person who contravenes regulation 8(1) and (2), 9, 10, 11 and 12 commits an offence and is liable on summary conviction to a fine of up to level 4 on the standard scale.

(2) Where an offence against this Part has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person purporting to act in any such capacity, that person as well as the body corporate shall be deemed to be guilty of that offence and is liable to be proceeded against and punished accordingly.