

UK MINISTERS ACTING IN DEVOLVED AREAS

201- The Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020

Laid in the UK Parliament: 28 September 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Draft Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	14/10/20
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	13/10/20

Background

These Regulations are proposed to be made by the UK Government pursuant to sections 8 and 8C of and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018.

Summary

The Regulations deal with matters arising out of, or related to, the Protocol on Ireland/Northern Ireland in the EU Withdrawal Agreement (“the Protocol”).

These Regulations amend the Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41) to take account of the inclusion of Directive 2014/40/EU in Annex 2 to the Protocol. The amendments are needed to ensure that the Tobacco and Related Products Regulations 2016 (which implemented the Directive) (S.I. 2016/507) will continue to function after IP completion day, and also to update the transitional provision made to allow certain products that have been placed on the market in the United Kingdom before IP completion day to continue to be supplied in Great Britain on and after that day.

These Regulations also amend the Electronic Cigarettes (Fees) Regulations 2016 (S.I. 2016/521) and the Tobacco and Related Products (Fees) Regulations 2017 (S.I. 2019/409)

so that a single notification and annual reporting fee remains payable if a product is to be supplied in both Great Britain and Northern Ireland.

Statement by Welsh Government

Legal Advisers agree with the statement laid by the Welsh Government dated 4 November 2020 regarding the effect of these Regulations.

These Regulations relate to the protection of health and are within devolved competence, however the UK Government made these Regulations without seeking consent. It is not clear why the UK Government failed to seek consent. The Minister for Mental Health, Wellbeing and the Welsh Language has written to the Minister of State for Health to raise concerns that consent was not sought and to provide consent.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.