



STATUTORY INSTRUMENTS.

**S.I. No. 608 of 2010**



EUROPEAN COMMUNITIES (TOBACCO PRODUCTS TAX)  
REGULATIONS 2010

**(Prn. A10/1892)**

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I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive 2010/12/EU of 16 February 2010<sup>1</sup>, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Tobacco Products Tax) Regulations 2010.

(2) These Regulations shall come into operation on 1 January 2011.

2. Section 104(4) of the Finance Act 2001 (No. 7 of 2001) is amended—

(a) in paragraph (a), by substituting “(as amended by Council Directive 2010/12/EU of 16 February 2010), the Minister for Finance” for “, the Minister for Finance”,

(b) by inserting after paragraph (a) the following:

“(aa) An order under paragraph (a) may, in addition to the circumstances outlined in that paragraph, be made where, as allowed under the third paragraph of Article 2(2) (as amended by Article 1(1) of Council Directive 2010/12/EU of 16 February 2010) of Council Directive 92/79/EEC of 19 October 1992, a Member State applies to cigarettes a rate of excise duty which is less than the minimum rate stipulated by the said Article 2(2).”, and

(c) in paragraph (b), by substituting “paragraph (a) or (aa)” for “paragraph (a)”.

3. Section 71 of the Finance Act 2005 (No. 5 of 2005) is amended—

(a) in subsection (1)—

(i) in the definition of “cigarettes”—

(I) by substituting “which are not cigars or cigarillos” for “which are not cigars”, and

(II) by substituting “Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010

<sup>1</sup>OJ No L 50, 27.2.2010, p. 1.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 24th December, 2010.*

relate” for “Council Directive No. 95/59/EC of 27 November 1995 relates”,

(ii) by substituting for the definition of “cigars” the following:

“ ‘cigars or cigarillos’ mean any of the following products provided they can be and, given their properties and normal consumer expectations, are exclusively intended to be smoked as they are—

(a) rolls of tobacco with an outer wrapper of natural tobacco,

(b) rolls of tobacco with—

(i) a threshed blend filler, and

(ii) an outer wrapper of the normal colour of a cigar, of reconstituted tobacco, covering the product in full, including where appropriate the filter but not, in the case of tipped cigars, the tip,

where the unit weight, excluding the filter or mouth-piece, is not less than 2.3 grammes and not more than 10 grammes, and the circumference over at least one-third of the length is not less than 34 millimetres,

(c) products consisting in part of substances other than tobacco but otherwise conforming to the criteria set out in paragraph (a) or (b),

and to which Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010 relate;”,

(iii) by substituting for the definition of “fine-cut tobacco for the rolling of cigarettes” the following:

“ ‘fine-cut tobacco for the rolling of cigarettes’ means smoking tobacco in which more than 25 per cent by weight of the tobacco particles have a cut width of less than 1.5 millimetres, and to which Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010 relate;”,

(iv) in the definition of “smoking tobacco”—

(I) by substituting “cigar, cigarillo or cigarette” for “cigar or cigarette”, and

(II) by substituting “Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010

relate” for “Council Directive No. 95/59/EC of 27 November 1995 relates”,

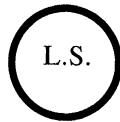
(v) in the definition of “tobacco products”, by inserting “cigarillos,” after “cigars,”,

(vi) by inserting the following definition after the definition of “tobacco products”:

“ ‘tobacco refuse’ means remnants of tobacco leaves and by-products obtained from tobacco processing or the manufacture of tobacco products.”, and

(b) by substituting the following for subsection (3):

“(3) Any cigarette which is greater than 8 centimetres in length (excluding any filter or mouthpiece) shall, for the purposes of tobacco products tax, be treated as if each 3 centimetres or part thereof of its length in excess of 8 centimetres were a separate cigarette.”.



GIVEN under my Official Seal,  
17 December 2010.

BRIAN LENIHAN,  
Minister for Finance.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations are for the purpose of giving effect to Council Directive 2010/12/EU of 16 February 2010, which amends Directives 92/79/EEC of 19 October 1992, 92/80/EEC of 19 October 1992 and 95/59/EC of 27 November 1995 on tobacco taxation, as well as Council Directive 2008/118/EC concerning the general arrangements for excise duty. They consist mainly of amendments to definitions set out in Section 71 of the Finance Act 2005 (No. 5 of 2005).

BAILE ÁTHA CLIATH  
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