STATUTORY INSTRUMENTS.

S.I. No. 614 of 2021

EUROPEAN UNION (MANUFACTURE, PRESENTATION AND SALE OF TOBACCO AND RELATED PRODUCTS) (AMENDMENT) REGULATIONS 2021

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EUROPEAN UNION (MANUFACTURE, PRESENTATION AND SALE OF TOBACCO AND RELATED PRODUCTS) (AMENDMENT) REGULATIONS 2021

I, STEPHEN DONNELLY, Minister for Health, 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 further effect to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products, make the following regulations:

Citation

1. (1) These Regulations may be cited as the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) (Amendment) Regulations 2021.

(2) The Principal Regulations, the Regulations of 2017, the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) (Amendment) Regulations 2018 (S.I. No. 132 of 2018), the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) (Amendment) (No. 2) Regulations 2018 (S.I. No. 365 of 2018), the Regulations of 2018 and these Regulations may be cited together as the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2017 to 2021.

Definitions

2. In these Regulations—

"Principal Regulations" means the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (S.I. No. 271 of 2016);

"Regulations of 2017" means the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) (Amendment) Regulations 2017 (S.I. No. 252 of 2017);

"Regulations of 2018" means the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) (Amendment) (No. 3) Regulations 2018 (S.I. No. 504 of 2018).

Amendment of Regulation 2 of Principal Regulations

3. Regulation 2 (as amended by Regulation 3 of the Regulations of 2018) of the Principal Regulations is amended by inserting after the definition of "information society services" the following definition:

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 26*th November,* 2021.

"'Market Surveillance Regulation' means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019[1];".

Amendment of Regulation 3 of Principal Regulations

4. Regulation 3 (as amended by Regulation 4 of the Regulations of 2018) of the Principal Regulations is amended—

(*a*) by inserting after paragraph (1A) the following paragraph:

"(1B) The Executive is designated, pursuant to Article 10 of the Market Surveillance Regulation, as the market surveillance authority in the State for the purposes of these Regulations and the Directive.", and

(*b*) by inserting after paragraph (2) the following paragraph:

"(2A) The Executive shall cooperate with market surveillance authorities in other Member States.".

Amendment of Regulation 38 of Principal Regulations

5. Regulation 38 of the Principal Regulations is amended by substituting for paragraph (h) the following:

"(h) it shall include the following additional subsections:

'(4A) An authorised officer may, for the purposes of obtaining any information which may be required in relation to a matter under investigation under these Regulations, at all reasonable times—

(*a*) pay or make tender of payment for a relevant product, or

(*b*) confirm any other information in relation to a relevant product for the purposes of the investigation.

(4B) An authorised officer may require an economic operator to provide information on—

(*a*) the supply chain of a relevant product,

(*b*) the details of the distribution network of a relevant product,

(*c*) quantities of a relevant product on the market, and

(*d*) other product models that have the same technical characteristics as the relevant product in question,

where relevant for compliance with these Regulations.

(4C) An authorised officer may require an economic operator to provide information for the purpose of ascertaining the

[1] OJ No. L 169, 25.6.2019, p. 1.

ownership of a website, where the information in question is related to the subject matter of an investigation being undertaken for the purpose of these Regulations.

(4D) An authorised officer may, where no other effective means are available to eliminate a serious risk (within the meaning of the Market Surveillance Regulation)—

(*a*) require the removal of content referring to a relevant product from an online interface or require the explicit display of a warning to end users when they access an online interface, or

(*b*) where a request under paragraph (a) has not been complied with, require an information society service provider to restrict access to the online interface, including by requesting a relevant third party to implement such measures.

(4E) A word or expression which is used in subsection (4B), (4C) or (4D) and which is also used in the Market Surveillance Regulation has, unless the context otherwise requires, the same meaning in the said subsections as it has in the Market Surveillance Regulation.'".

Amendment of Regulation 41 of Principal Regulations

6. Regulation 41 of the Principal Regulations is amended, in paragraph (1), by inserting "or fails to comply with a request under Regulation 38(h)," after "or 36,".

Amendment of Regulation 43 of Principal Regulations

7. Regulation 43 (as amended by Regulation 13 of the Regulations of 2017) of the Principal Regulations is amended, in paragraph (6), by inserting "or an authorised officer" after "Executive".

L.S.

GIVEN under my Official Seal,
23 November, 2021.

STEPHEN DONNELLY,
Minister for Health.

EXPLANATORY NOTE

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

These Regulations amend the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 to give effect to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products.

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