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of Health



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Riaghaltas na h-Alba



Department of
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and Public Safety
www.dhsspsni.gov.uk

Ymgynghoriad ar gyflwyno rheoliadau ynghylch pecynnu safonol ar gyfer cynnyrch tybaco

1. Diben yr ymgynghoriad hwn

- 1.1 Nid yw'r Llywodraeth wedi penderfynu'n derfynol hyd yma a ddylid cyflwyno pecynnu safonol ar gyfer cynnyrch tybaco. Bydd yr ymgynghoriad hwn yn llywio gwaith yr Adran Iechyd a'r Gweinyddiaethau Datganoledig o benderfynu a ddylid cyflwyno pecynnu safonol. Hoffem glywed barn pobl, busnesau a sefydliadau sydd â diddordeb. Rydym yn chwilio yn arbennig am wybodaeth newydd neu ychwanegol sy'n berthnasol i becynnu safonol ac sydd wedi dod i law ers ymgynghoriad 2012. Rydym yn eich gwahodd i ymateb i gwestiynau'r ymgynghoriad a nodir yn **atodiad A**.
- 1.2 Mae gan yr Adran Iechyd (Lloegr), Cyfarwyddiaeth y Prif Swyddog Meddygol (yr Alban), yr Adran Iechyd a Gwasanaethau Cymdeithasol (Cymru) a'r Adran Iechyd, Gwasanaethau Cymdeithasol a Diogelwch y Cyhoedd (Gogledd Iwerddon)¹ gyfrifoldebau unigol am wella iechyd y cyhoedd ledled y DU, gan gynnwys lleihau'r defnydd o dybaco trwy weithredu strategaethau cynhwysfawr ar reoli tybaco.
- 1.3 Yn 2012, bu'r Adran Iechyd a'r Gweinyddiaethau Datganoledig yn ymgynghori ar gynnig polisi a fyddai'n gofyn am becynnu safonol ar gyfer cynnyrch tybaco, gyda'r nod o 'wellu iechyd y cyhoedd trwy leihau'r defnydd o dybaco'.² Cafwyd ystod eang o ymatebion i'r ymgynghoriad hwn, a darparodd nifer o ymatebwyr atebion manwl. Roedd pob ymateb yn ddefnyddiol o ran llywio'r ystyriaethau pellach ynglŷn â chynigion ar gyfer pecynnu safonol.³ Cyhoeddwyd adroddiad cryno ar ymgynghoriad 2012 ym mis Gorffennaf 2013.⁴

¹ Defnyddir y term cyfunol 'yr Adran Iechyd a'r Gweinyddiaethau Datganoledig' yn y ddogfen ymgynghori hon.

² Gwefan GOV.UK, *Ymgynghoriad ar becynnu safonol ar gyfer cynnyrch tybaco*
www.gov.uk/government/consultations/standardised-packaging-of-tobacco-products

³ Gelwir pecynnu safonol ar gyfer cynnyrch tybaco yn "becynnu safonol" yn y ddogfen ymgynghori hon.

⁴ Gwefan GOV.UK, *Ymgynghoriad ar becynnu safonol ar gyfer cynnyrch tybaco: Adroddiad cryno*
www.gov.uk/government/uploads/system/uploads/attachment_data/file/212074/Summary_of_responses_to_consultation_-_standardised_packaging_tobacco.pdf

- 1.4 Mae Deddf Plant a Theuluoedd 2014 yn rhoi pwerau i'r Ysgrifennydd Gwladol reoleiddio ynglŷn â phecynnu cynnyrch tybaco ym maes manwerthu.⁵ Prif ddiben pecynnu safonol yw hyrwyddo iechyd y cyhoedd. Er mai mater datganoledig yw iechyd y cyhoedd, mae Deddf Plant a Theuluoedd 2014 yn darparu'r pŵer i'r Ysgrifennydd Gwladol wneud rheoliadau ar gyfer y DU gyfan gyda chydysyniad gweinidogion yn yr Alban, Gogledd Iwerddon a Chymru os oes gan y rheoliadau hynny ddarpariaethau sy'n dod o fewn cymhwysedd eu Senedd neu Gynulliad datganoledig.
- 1.5 Ym mis Tachwedd 2013, gofynnodd gweinidogion yr Adran Iechyd i Syr Cyril Chantler gynnal adolygiad annibynnol i ganfod a oedd cyflwyno pecynnu safonol ar gyfer tybaco yn debygol o gael effaith ar iechyd y cyhoedd, yn enwedig mewn cysylltiad â phlant.⁶ Yn adroddiad Adolygiad Chantler, a gyhoeddwyd ym mis Ebrill 2014, daethpwyd i'r casgliad y byddai pecynnu safonol, pe bai'n cael ei gyflwyno, yn cael effaith gadarnhaol ar iechyd y cyhoedd.⁷
- 1.6 Nodwyd yn adroddiad Adolygiad Chantler: *"Branded packaging plays an important role in encouraging young people to smoke"*, ac *"it is ... highly likely that standardised packaging would serve to reduce the rate of children taking up smoking"*. Daethpwyd i'r casgliad pellach a ganlyn yn yr adroddiad: *"The introduction of standardised packaging as part of a comprehensive policy of tobacco control measures would be very likely, over time, to contribute to a modest but important reduction in smoking prevalence, especially in children and young adults."*
- 1.7 Fel bod cymaint o eglurder â phosibl, mae'r ymgynghoriad yn cynnwys rheoliadau drafft yn **atodiad B** sy'n nodi'r gofynion arfaethedig a fyddai'n gymwys i becynnu safonol, pe bai'n cael ei gyflwyno. Ceir enghraifft yn **atodiad C** o edrychiad paced sigarêts pe bai'r rheoliadau drafft yn cael eu cyflwyno.

2. Cefndir yr ymgynghoriad

⁵ Gwefan GOV.UK, Adran 94 o Ddeddf Plant a Theuluoedd 2014
www.legislation.gov.uk/cy/ukpga/2014/6/contents/enacted

⁶ Fe'i gelwir yn "Adolygiad Chantler" yn y ddogfen ymgynghori hon.

⁷ Gwefan [King's College Llundain](http://www.kcl.ac.uk/health/packaging-review.aspx), *Standardised packaging of tobacco: Report of the independent review undertaken by Sir Cyril Chantler*.

www.kcl.ac.uk/health/packaging-review.aspx

Ymgynghoriad 2012 ar becynnu safonol

2.1 Roedd yr *Ymgynghoriad ar becynnu safonol ar gyfer cynnyrch tybaco* a gyhoeddwyd ym mis Ebrill 2012 yn gofyn am adborth ynghylch a fyddai cyflwyno pecynnu safonol yn cyfrannu at wella iechyd y cyhoedd drwy leihau'r defnydd o dybaco. Cynigiodd ymgynghoriad 2012 y dulliau a ganlyn o ymdrin â pheccynnu safonol:

- Bydd pob pecyn mewnol ac allanol mewn lliw(iau) penodedig.
- Bydd pob testun ar y pecyn, gan gynnwys enwau brand, mewn lliw a ffurfdeip safonol.
- Ni chaniateir unrhyw frandio, hysbysebu neu hyrwyddo ar y tu allan neu'r tu mewn i becynnau, wedi'u hatodi i'r pecyn nac ar y cynnyrch tybaco ei hun. I'r perwyl hwn, mae 'brandio' yn cynnwys logos, lliwiau neu nodweddion eraill sy'n gysylltiedig â brand tybaco.
- Rhaid i unrhyw ffoil o fewn pecyn fod o fformat a lliw safonol, heb unrhyw destun.
- Rhaid i becynnau fod o siâp safonol gydag agoriad safonol, ac wedi'u cynhyrchu â deunyddiau penodol o bosibl.
- Dim ond yr wybodaeth neu'r marciau canlynol a ganiateir ar bacedi:
 - Enw brand
 - Enw'r cynnyrch
 - Faint o gynnyrch sydd yn y pecyn
 - Enw a manylion cyswllt y gwneuthurwr
 - Un cod bar i hwyluso'r gwaith o werthu a rheoli stoc
 - Rhybuddion iechyd fel sy'n ofynnol ar hyn o bryd
 - Gwybodaeth am gynnwys tar, nicotin a charbon monocsid fel sy'n ofynnol ar hyn o bryd
 - Marc adnabod y cynnyrch fel sy'n ofynnol ar hyn o bryd
 - Gofynion marc cyllid fel sy'n ofynnol ar hyn o bryd
 - Marciau sy'n annelwig i'r llygad noeth er mwyn helpu i nodi cynhyrchion dilys y talwyd tollau amdanynt, neu unrhyw nodweddion eraill i atal twyll.
- Rhaid i unrhyw bapur lapio o amgylch y pecyn fod yn glir ac yn ddi-liw, heb unrhyw farciau amlwg eraill i'r llygad noeth.

2.2 Cyhoeddwyd asesiad effaith cyfnod ymgynghori i gyd-fynd ag ymgynghoriad 2012, a gofynnwyd nifer o gwestiynau yn yr ymgynghoriad yn benodol am yr asesiad effaith. Ar ben hynny, er mwyn llywio ymatebion i'r ymgynghoriad ac unrhyw bolisiau dilynol, comisiynodd yr Adran Iechyd adolygiad systematig o'r dystiolaeth ar becynnu safonol. Cafodd yr adolygiad gefnogaeth Consortiwm Ymchwil Iechyd y Cyhoedd (PHRC), sef rhwydwaith o ymchwilwyr wedi'i ariannu gan Raglen Ymchwil Polisi yr

Adran Iechyd.⁸

- 2.3 Cynhaliwyd ymgynghoriad 2012 rhwng mis Ebrill a mis Awst 2012, a chawsom fwy na 665,000 o ymatebion. Ym mis Gorffennaf 2013, cyhoeddodd yr Adran Iechyd adroddiad cryno ar yr ymgynghoriad a roddodd drosolwg o'r ymatebion i'r ymgynghoriad a ddaeth i law a'r prif themâu a gododd. Mae'r Adran Iechyd wedi cyhoeddi'r ymatebion sylweddol a gafwyd i ymgynghoriad 2012.⁹ Mae manylion yr ymatebion a gafwyd drwy ymgyrchoedd wedi'u cyhoeddi eisoes yn yr adroddiad cryno ar yr ymgynghoriad.

Adolygiad Chantler

- 2.4 Ym mis Tachwedd 2013, gofynnodd gweinidogion yr Adran Iechyd i Syr Cyril Chantler gynnal adolygiad annibynnol i ganfod a yw cyflwyno pecynnu safonol ar gyfer tybaco yn debygol o gael effaith ar iechyd y cyhoedd, yn arbennig mewn cysylltiad â phlant.
- 2.5 Bu Adolygiad Chantler yn ystyried y dystiolaeth sy'n berthnasol o ran canfod a fyddai cyflwyno pecynnu safonol yn creu budd i iechyd y cyhoedd. Ystyriwyd hefyd ddilysrwydd adolygiad systematig PHRC a gyhoeddwyd i gyd-fynd ag ymgynghoriad 2012. Fel rhan o Adolygiad Chantler, gwahoddwyd partïon â diddordeb i gyflwyno deunydd a seiliwyd ar dystiolaeth, a chymerodd dystiolaeth mewn dau gyfarfod. Bu Syr Cyril hefyd yn ymweld ag Awstralia i astudio profiad y wlad honno o gyflwyno pecynnu safonol. Cyhoeddwyd adroddiad Adolygiad Chantler ym mis Ebrill 2014.
- 2.6 Fel rhan o'i gylch gwaith, gofynnwyd i Syr Cyril gynghori'r Ysgrifennydd Gwladol dros Iechyd, gan ystyried y dystiolaeth bresennol ac unrhyw dystiolaeth newydd, ar fater a fyddai cyflwyno pecynnu safonol yn debygol o gael effaith ar iechyd y cyhoedd neu beidio, yn arbennig mewn cysylltiad ag iechyd plant. Yn adroddiad Adolygiad Chantler, daeth Syr Cyril i'r casgliad terfynol a ganlyn:

In conclusion, research cannot prove conclusively that a single intervention such as standardised packaging of tobacco products will reduce smoking

⁸ Gwefan *Public Health Research Consortium*, *Plain tobacco packaging: A systematic review*
http://phrc.lshtm.ac.uk/project_2011-2016_006.html

⁹ Ni fydd rhai ymatebion yn cael eu cyhoeddi, er enghraifft y rheini sy'n cynnwys gwybodaeth y gofynnodd yr ymatebwyr iddi gael ei thrin yn gyfrinachol.

prevalence. For various reasons, as cited, it is not possible to carry out a randomised, controlled trial. Even if it was possible, it would be extremely difficult to control for all the various confounding factors which are known to affect smoking. However, after a careful review of all of the relevant evidence before me, I am satisfied there is sufficient evidence derived from independent sources that the introduction of standardised packaging, as part of a comprehensive policy of tobacco control measures, would be very likely, over time, to contribute to a modest but important reduction in smoking prevalence, especially in children and young adults. Given the dangers of smoking, the suffering that it causes, the highly addictive nature of nicotine, the fact that most smokers become addicted when they are children or young adults and the overall cost to society, the importance of such a reduction should not be underestimated.

- 2.7 Rhoddodd Syr Cyril hefyd y cyngor a ganlyn wrth drafod a oes digon dystiolaeth i ddod i gasgliad am effaith bosibl pecynnu safonol ar gyfer tybaco ar iechyd y cyhoedd:

I make it plain at the outset that there are limitations to the evidence currently available as to the likely effect of standardised packaging on tobacco consumption. There has been, as opponents of standardised packaging have rightly pointed out to me in the course of this Review, no randomised controlled trial carried out to test the impact of standardised packaging on the take up of smoking amongst children. However, I do not consider that these limitations prevent me from reaching a view on the issue, in respect of which my advice has been sought.

- 2.8 Mae adroddiad Adolygiad Chantler a dogfennau perthnasol eraill, gan gynnwys y cylch gwaith, y datganiad dull, trawsgrifiad o nodiadau briffio a chyfarfodydd, dystiolaeth a gyflwynwyd, dystiolaeth atodol a llyfryddiaeth wedi'u cyhoeddi erbyn hyn.¹⁰

3. Amcanion polisi

¹⁰ Gwefan *King's College* Llundain, *Plain Packaging Review: Independent Review into standardised packaging of tobacco*
www.kcl.ac.uk/health/packaging-review.aspx

- 3.1 Y defnydd o dybaco yw un o'r heriau mwyaf i iechyd y cyhoedd ledled y DU o hyd. Ysmygu sy'n bennaf cyfrifol am afiachusrwydd y gellir ei atal a marwolaethau cyn pryd, ac mae'n gyfrifol am 100,000 o farwolaethau bob blwyddyn yn y DU. Bydd un o bob dau unigolyn sy'n ysmygu yn y tymor hir yn marw oherwydd afiechyd sy'n gysylltiedig ag ysmygu.¹¹ Mae ysmygu yn niweidiol nid yn unig i ysmygwyr ond i'r bobl o'u cwmpas, gan eu bod yn dod i gysylltiad â mwg ail-law. Mae tua 20% o oedolion y DU yn ysmygu.¹²
- 3.2 Mae'r Adran Iechyd a'r Gweinyddiaethau Datganoledig am weithredu i leihau'r achosion o ysmygu ymhlith pobl ifanc. Mae'r rhan fwyaf yn dechrau ysmygu pan fyddant yn blant ac yn eu harddegau, ac felly mae'n hollbwysig lleihau nifer y bobl ifanc sy'n dechrau ysmygu yn y lle cyntaf. Nodwyd yn adroddiad Adolygiad Chantler, er bod nifer y plant sy'n dechrau ysmygu wedi bod yn gostwng ers y 1990au, yr amcangyfrifir bod 207,000 o blant rhwng 11 a 15 oed, hyd yn oed erbyn hyn, yn dechrau ysmygu bob blwyddyn yn y DU. Agwedd bwysig wrth benderfynu a ddylid cyflwyno pecynnu safonol yw'r budd posibl i iechyd a lles pobl ifanc.
- 3.3 Mae'r Deyrnas Unedig yn rhan o Gonfensiwn Fframwaith Sefydliad Iechyd y Byd ar Reoli Tybaco (FCTC). Y Fframwaith hwn yw cytuniad cyntaf y byd ynghylch iechyd y cyhoedd. Mae'n gosod rhwymedigaethau ar bob parti i fodloni amcan y cytuniad o leihau i raddau sylweddol ac mewn modd parhaus y defnydd o dybaco a'r graddau y deuir i gysylltiad â mwg ail-law, a rhoi strategaethau rheoli tybaco cynhwysfawr ar waith.¹³ Mae'r Llywodraeth wedi cymryd ei rhwymedigaethau o dan y Fframwaith o ddifrif ers i'r Deyrnas Unedig lofnodi'r cytundeb yn 2004. Mae canllawiau ar weithredu'r Fframwaith yn annog partïon i ystyried mabwysiadu mesurau ynghylch pecynnu safonol.¹⁴

¹¹ Doll, R, Peto, R, Boreham, J, Sutherland, I "Mortality in relation to smoking: 50 years' observations on male British doctors" yn *British Medical Journal*, 2004, cyfrol 328, tt.1519–27.

¹² Gwefan y Swyddfa Ystadegau Gwladol, *Integrated Household Survey April 2011 to March 2012: Experimental Statistics*
www.ons.gov.uk/ons/dcp171778_280451.pdf

¹³ Gwefan *World Health Organisation's Framework Convention on Tobacco Control*, o Erthygl 3 (amcan) ac Erthygl 5 (rhwymedigaethau cyffredinol) Confensiwn Fframwaith Sefydliad Iechyd y Byd ar Reoli Tybaco
www.who.int/fctc

¹⁴ Gwefan *GOV.UK*, *Consultation on standardised packaging of tobacco products* (adran 4)
www.gov.uk/government/uploads/system/uploads/attachment_data/file/170568/dh_133575.pdf

3.4 Mae'r Adran Iechyd a'r Gweinyddiaethau Datganoledig i gyd yn gweithredu cynlluniau unigol ar gyfer rheoli tybaco.¹⁵ Pe bai trefn pecynnu safonol yn cael ei chyflwyno, byddai'n elfen o fewn y strategaethau cynhwysfawr ehangach hyn i gyfrannu at leihau cyfraddau ysmegu.

3.5 Amcanion polisi ynghylch pecynnu safonol fyddai gwella iechyd y cyhoedd drwy:

- annog pobl i beidio â dechrau defnyddio cynhyrchion tybaco
- annog pobl i roi'r gorau i ddefnyddio cynhyrchion tybaco
- helpu pobl sydd naill ai wedi, neu sy'n ceisio, rhoi'r gorau i ddefnyddio cynhyrchion tybaco i beidio â dechrau eu defnyddio eto
- lleihau apêl neu atyniad cynhyrchion tybaco
- lleihau'r posibilrwydd y gall elfennau o becynnau cynhyrchion tybaco ar wahân i rybuddion iechyd leihau effeithiolrwydd y rhybuddion hynny
- lleihau'r cyfleoedd i becynnau cynhyrchion tybaco gamarwain defnyddwyr o ran yr effeithiau a geir o'u defnyddio
- lleihau'r cyfleoedd i becynnau cynhyrchion tybaco greu canfyddiadau ffug am natur cynhyrchion o'r fath
- cael effaith ar agweddau, credoau, bwriadau ac ymddygiad sy'n gysylltiedig â gostyngiad yn y defnydd o gynhyrchion tybaco
- newid arferion cymdeithasol ynglŷn â'r defnydd o dybaco er mwyn hyrwyddo iechyd a lles.

4. Ystyriaethau ehangach sy'n berthnasol wrth wneud penderfyniadau

4.1 Daeth Adolygiad Chantler i'r casgliad y byddai pecynnu safonol, pe bai'n cael ei gyflwyno, yn debygol iawn o gael effaith gadarnhaol ar iechyd y cyhoedd. Wrth benderfynu a ddylid defnyddio'r pwerau yn Neddf Plant a Theuluoedd 2014 ynghylch gwneud rheoliadau ar becynnu safonol, bydd y Llywodraeth yn ystyried y manteision

¹⁵ Gwefan Llywodraeth yr Alban, *Creating a Tobacco Free Generation: A Tobacco Control Strategy for Scotland* (2013), www.scotland.gov.uk/Resource/0041/00417331.pdf; Department of Health, Social Services and Public Safety website, *Ten-Year Tobacco Control Strategy for Northern Ireland* (2012), www.dhsspsni.gov.uk/tobacco_strategy_-_final.pdf, Gwefan Llywodraeth Cymru, *Cynllun Gweithredu Cymru ar Reoli Tybaco* (2012), <http://wales.gov.uk/topics/health/improvement/index/tobaccoplan/?skip=1&lang=cy>, Gwefan GOV,UK, *Healthy Lives, Healthy People: A tobacco control plan for England*, (2011), www.gov.uk/government/publications/the-tobacco-control-plan-for-england

tebygol o safbwynt iechyd y cyhoedd ond hefyd y materion ehangach a amlygir gan y polisi hwn.

- 4.2 Bu Adolygiad Chantler yn ystyried yn benodol a yw'n debygol y byddai pecynnu safonol yn arwain at gynydd yn y defnydd o dybaco drwy leihau pris tybaco wrth i'r farchnad gael ei chyffredinoli neu drwy gynyddu'r defnydd o gynhyrchion tybaco anghyfreithlon rhad. Yn adroddiad Adolygiad Chantler, daeth Syr Cyril i'r casgliad a ganlyn:

It is my view that the risks of price effects undermining the objectives of a standardised packaging policy are small and that the impacts could be readily mitigated through taxation if, nevertheless, they were to materialise. I am not convinced by the tobacco industry's argument that standardised packaging would increase the illicit market, especially in counterfeit cigarettes. It seems to me that the solution to illicit use is instead to have an effective enforcement regime, and the enforcement agencies in the UK have already demonstrated that an effective enforcement regime and appropriate sanctions can keep illicit [tobacco products] to low levels, even in a relatively high tax jurisdiction.

- 4.3 Bydd amryw o ffynonellau gwybodaeth, gan gynnwys ymatebion i ymgynghoriadau, yn cael eu defnyddio i lywio penderfyniadau. Daeth gwybodaeth am effaith bosibl pecynnu safonol i law mewn ymateb i ymgynghoriad 2012. Rydym yn annog y rhai sy'n ymateb i'r ymgynghoriad hwn i ddarparu gwybodaeth newydd neu ychwanegol sy'n berthnasol i becynnu safonol ac sydd wedi dod i law ers ymgynghoriad 2012.

5. Rheoliadau Drafft ynghylch pecynnu safonol

- 5.1 Mae'r darpariaethau yn adran 94 o Ddeddf Plant a Theuluoedd 2014 yn galluogi'r Ysgrifennydd Gwladol i reoleiddio ynghylch pecynnu cynhyrchion tybaco ym maes manwerthu os yw'n ystyried y gall y rheoliadau yn eu cyfanrwydd gyfrannu at leihau'r risg o niwed i blant, neu gyfrannu at hyrwyddo iechyd neu les plant. Wrth wneud y penderfyniad caiff hefyd ystyried a fyddai'r rheoliadau'n lleihau'r risg o niwed i oedolion. Caiff gweinidogion hefyd bennu gofynion ar gyfer y cynhyrchion eu hunain, er enghraifft edrychiad sigarêts unigol.
- 5.2 Er nad yw'r Llywodraeth wedi penderfynu'n derfynol hyd yma a ddylid cyflwyno pecynnu safonol, mae rheoliadau drafft wedi'u cynnwys yn **atodiad B** i ddangos yr hyn a fyddai'n ofynnol. Mae'r rheoliadau drafft yn nodi gofynion arfaethedig ynghylch

pecynnu sigarêts a thybaco ar gyfer ei rolïo â llaw, a gofynïon ynghylch edrychiad sigarêts unïgol pe bai pecynnu safonol yn cael ei gyflwyno.

Trosolwg o'r rheoliadau drafft

- 5.3 Ni fyddai'r rheoliadau drafft yn effeithïo ar ofynïon eraill sy'n ymwneud â labelu cynhyrchïon tybaco, fel rhybuddïon iechyd a marciau cyllïd neu nodweddïon fel marciau dilysu a nodweddïon diogelwch. Mae darparïaethau'r rheoliadau yn berthnasol dim ond i'r rhannau o'r pecynnau sy'n weddïll ar ôl gweithredu'r gofynïon hynny.
- 5.4 Byddai'r rheoliadau drafft yn ei gwneud yn ofynnol defnyddïo lliwïau safonol penodedïg yn achos yr holl becynnu allanol a mewnol ac yn canïatáu dim ond testun penodedïg mewn ffurfdeïp safonol. Byddai'r rheoliadau drafft yn cael yr effaith a ganlyn ar bacedï sigarêts a physïau tybaco ar gyfer ei rolïo â llaw:

Lliw y Paced (Rheoliadau 3 a 7)

- Byddai wyneb y pacedï ar y tu allan (y pecynnu allanol) yn lliw brown undonog â gorffeniad di-sglein.
- Byddai wyneb y pacedï ar y tu mewn (y pecynnu mewnol) yn wyn neu'n frown undonog.

Nodweddïon a thestun a ganiateir (Atodlenni 1 a 3)

- Byddai testun ar becynnau mewn ffurfdeïp Helvetica lwyd, a byddai maint mwyaf penodedïg yn berthnasol iddo.
- Caïff enwau brand a mathau amrywiol ymddangos unwaith ar bob un o wynebau blaen, uchaf, a gwaelod pacedï sigarêts, unwaith ar bob un o'r wynebau blaen a chefn, ac ar yr wyneb sydd wedi'i chuddïo o dan y fflap ar byrsïau tybaco ar gyfer ei rolïo â llaw.
- Caïff cod bar ymddangos unwaith ar baced neu bwrs i hwyluso gwerthiant a rheoli stoc.
- Caïff manylïon cyswllt cynhyrchydd ymddangos unwaith ar baced neu bwrs.
- Caïff y paced neu bwrs gynnwys marc mesur a disgrifiad masnach (er enghraïfft: "20 sigarêt" neu "30g o dybaco ar gyfer ei rolïo â llaw").
- Os yw paced tybaco ar gyfer ei rolïo â llaw yn cynnwys hidlwyr neu bapurau sigarêts y tu mewn i'r paced, yna caïff y paced gynnwys testun sy'n rhoi'r wybodaeth hon (er enghraïfft: "yn cynnwys hidlwyr a phapurau sigarêts" neu "yn cynnwys papurau sigarêts").

Pacedï sigarêts (Rheoliad 4)

- Rhaid i bacedi sigarêts fod yn giwboid a chael eu gwneud o garton neu o ddeunydd meddal. Os bydd y pacedi'n gallu cael eu hail-gau neu eu hail-selio, rhaid iddynt naill ai gael caead sy'n troi, neu fod yn focs ysgwydd â chaead colynnog.
- Rhaid i baced sigarêts gynnwys o leiaf 20 sigarét.

Pacedi tybaco ar gyfer ei rollo â llaw (Rheoliad 8)

- Rhaid i bacedi tybaco ar gyfer ei rollo â llaw fod yn giwboid, yn siâp silindr, neu ar ffurf pwrs.
- Rhaid i baced tybaco ar gyfer ei rollo â llaw gynnwys o leiaf 30 gram o dybaco.

Darpariaethau eraill (Atodlenni 3 a 4 a Rheoliadau 11 a 12)

- Rhaid i wynebau pacedi fod yn llyfn heb unrhyw foglynnu na gwead anwastad.
- Rhaid i bapur lapio fod yn gwbl glir a thryloyw.
- Byddai eitemau a fewnosodir neu ddeunydd ychwanegol arall nad ydynt yn elfennau hanfodol o'r pecynnu yn cael eu gwahardd (ar wahân i hidlwyr a phapurau sigarêts sy'n cael eu cynnwys gyda phacedi o dybaco ar gyfer ei rollo â llaw).
- Ni fyddai caniatâd i becynnau gynnwys agweddau sy'n newid ar ôl prynu, na gwneud sŵn neu greu arogl nad yw fel arfer yn gysylltiedig â phecynnu ar gyfer tybaco.

Sigarêts unigol (Rheoliad 5)

- Byddai sigarêts yn wyn â phen gwyn neu ag effaith corcyn arno, a chânt gynnwys testun sy'n nodi enw'r brand (mewn ffurfdeip a lleoliad penodedig).

5.5 Ceir enghraifft yn **atodiad C** o edrychiad posibl paced sigarêts pe bai'r rheoliadau drafft yn cael eu cyflwyno.

5.6 Ar hyn o bryd, nid ydym yn cynnig gofynion sy'n ymwneud â maint na hyd sigarêts, nac â maint pacedi sigarêts.

5.7 Ar ôl ystyried y gwaith ymchwil a gyfrannodd at y broses o ddewis y lliw a nodir yn rheoliadau Awstralia ar gyfer pecynnu safonol,¹⁶ mae'r rheoliadau drafft yn nodi'r un

¹⁶ Gwefan *Department of Health and Ageing*, Llywodraeth Awstralia, *Market Research Reports on tobacco plain packaging and graphic health warnings*

www.yourhealth.gov.au/internet/yourhealth/publishing.nsf/content/mr-plainpack

llywiau â'r rhai sy'n ofynnol yn Awstralia (sef *Pantone 448C* yn achos pecynnau a *Pantone Cool Grey 2C* yn achos unrhyw destun a ganiateir). Mae'r rheoliadau drafft yn nodi mai Helvetica fyddai'r unig ffurfdeip y byddai caniatâd ei defnyddio i gyflwyno unrhyw destun a ganiateir. Mae hynny'n cyd-fynd â'r gofynion presennol ynghylch testun rhybuddion iechyd ar becynnau tybaco, felly mae'n ffurfdeip y mae'r diwydiant tybaco yn ei defnyddio eisoes.

- 5.8 Rydym yn cynnig y byddai'r gofynion ynghylch pecynnu safonol yn gymwys dim ond yn achos *pecynnau ar gyfer manwerthu* cynhyrchion tybaco. Golyga hyn becynnau tybaco a fydd yn cael eu defnyddio - neu y bwriedir eu defnyddio - i werthu'r cynnyrch i ddefnyddwyr. Mae'r rheoliadau drafft yn ymestyn hefyd i'r dull o becynnu aml-bacedi i'w manwerthu, fel cartonau o 10 paced sigarêts. Fel y nodwyd yn ymgynghoriad 2012, nid ydym yn cynnig rheoleiddio na gosod cyfyngiadau ar becynnau a ddefnyddir dim ond yn y fasnach dybaco, er enghraifft i reoli stoc mewn warws.

Cynhyrchion tybaco arbenigol

- 5.9 Mae'r pwerau yn Neddf Plant a Theuluoedd 2014 i'r Ysgrifennydd Gwladol wneud rheoliadau yn darparu ar gyfer cyflwyno gofynion safonol ynghylch pecynnu sy'n berthnasol i bob math o gynnyrch tybaco, neu i unrhyw un o'r cynhyrchion hynny. Ac eithrio Rheoliad 10, sy'n gymwys i bob math o gynnyrch tybaco ac sy'n gweithredu gofyniad o dan Gyfarwyddeb newydd yr UE ar Gynhyrchion Tybaco (gweler 5.14 – 5.17 isod), bwriedir i'r rheoliadau sy'n weddill ymdrin â phecynnau sigarêts a thybaco ar gyfer ei rollo â llaw yn unig ar hyn o bryd, ac nid cynhyrchion tybaco arbenigol fel sigârs.
- 5.10 Dengys data fod ysmegu sigârs a phibellau yn llawer llai cyffredin yn Lloegr nag ysmegu sigarêts ac ysmegu tybaco ar gyfer ei rollo â llaw, ac mai nifer fach iawn o blant a phobl ifanc sy'n defnyddio'r math hwn o dybaco. Yn 2011, roedd 18% o bobl rhwng 16 a 19 oed yn ysmegu sigarêts, ond 0.2% o'r grŵp oedran hwn a oedd yn ysmegu sigârs a 0.1% a oedd yn ysmegu pibellau. Ar hyn o bryd, mae bron pawb sy'n ysmegu sigârs yn ddynion ac yn hŷn na 25 oed, a'r duedd yw i ysmegwyr pibellau fod yn ddynion ac yn hŷn nag 20 oed.¹⁷

¹⁷ Gwefan y Swyddfa Ystadegau Gwladol (2013). *Opinions and Lifestyle Survey, Smoking Habits Amongst Adults, 2012*
www.ons.gov.uk/ons/rel/ghs/opinions-and-lifestyle-survey/smoking-habits-amongst-adults--2012/rpt-opinions-and-lifestyle-survey---smoking-habits-amongst-adults--2012.html

- 5.11 Mewn cyferbyniad â hynny, mae tybaco ar gyfer ei rollo â llaw yn boblogaidd iawn ymhlith ysmygwyr, gan gynnwys ysmygwyr iau. Yn 2011, dywedodd tua 30% o ysmygwyr yn y grŵp oedran 16-19 oed yn Lloegr eu bod gan amlaf yn ysmegu sigarêts sy'n cael eu rhoio â llaw.¹⁷ Ymhlith plant rhwng 11 a 15 oed sy'n dweud eu bod yn ysmygwyr ar hyn o bryd yn Lloegr, roedd 39% yn ysmegu sigarêts a gynhyrchwyd, roedd 24% yn ysmegu sigarêts a gafodd eu rhoio â llaw, ac roedd 37% yn ysmegu'r ddau fath.¹⁸
- 5.12 Rydym yn cynnig na ddylai pecynnu safonol fod yn berthnasol i gynhyrchion tybaco arbenigol ar hyn o bryd, o ystyried cyfraddau isel y defnydd a wneir ohonynt, yn enwedig ymhlith pobl ifanc. Gellid ymestyn rheoliadau ynghylch pecynnu safonol i gynhyrchion tybaco arbenigol yn y dyfodol pe bai angen. Er enghraifft, os yw'r farchnad dybaco yn newid a phobl ifanc yn cael eu hatynnu fwy a mwy at y mathau hyn o dybaco.

Cwmpas tiriogaethol y rheoliadau

- 5.13 Mae pwerau'r Ysgrifennydd Gwladol i wneud rheoliadau yn ymestyn ledled y Deyrnas Unedig a gellir gwneud rheoliadau sy'n gymwys yn yr Alban, Cymru, a Gogledd Iwerddon gyda chaniatâd gweinidogion yn yr Alban, Gogledd Iwerddon a Chymru os oes gan y rheoliadau hynny ddarpariaethau sy'n dod o fewn cymhwysedd eu Senedd neu Gynulliad datganoledig.

Y Gyfarwyddeb Cynhyrchion Tybaco Ewropeaidd

- 5.14 Mae'r Gyfarwyddeb Cynhyrchion Tybaco Ewropeaidd newydd wedi'i mabwysiadu a bydd angen ei throsi i gyfraith y DU erbyn 20 Mai 2016.¹⁹ Mae'r Gyfarwyddeb yn nodi nifer o ofynion newydd a fydd yn gymwys i bob math o dybaco a chynhyrchion cysylltiedig ledled yr EU, gan gynnwys:

¹⁸ Gwefan *Health and Social Care Information, Smoking, drinking and drug use among young people in England in 2012*
<http://www.hscic.gov.uk/catalogue/PUB11334>

¹⁹ Gwefan y Comisiwn Ewropeaidd, *Revision of the Tobacco Products Directive*
http://ec.europa.eu/health/tobacco/products/index_en.htm

- Llundiau rhybudd iechyd o faint mwy, sydd i orchuddio 65% o du blaen a chefn pacedi pob math o gynnyrch tybaco, a dimensiynau lleiaf penodedig o ran maint y rhybuddion ar bacedi sigarêts.²⁰
- Gofynion ynghylch y cynhwysion y gellir eu cynnwys mewn cynhyrchion tybaco, gan gynnwys gwahardd cyflasynnau sy'n nodweddu (er y caniateir tybaco blas menthol ar y farchnad tan 2020).
- Gofynion ynghylch olrhain a lleoli cynhyrchion tybaco a gofyniad sy'n ymwneud â nodweddion diogelwch i fynd i'r afael â masnachu anghyfreithlon.
- Gofynion newydd ynghylch sigarêts electronig a chynhyrchion ysmegu llysiuol.

5.15 Mae Erthyglau 13 a 14 o'r Gyfarwyddeb hefyd yn cynnwys nifer o ofynion sy'n ymwneud â chyflwyniad ac edrychiad cynhyrchion a'u pecynnau, gan gynnwys yr hyn a ganlyn:

- Rhaid i siâp pacedi sigarêts fod yn giwboid a chynnwys carton neu ddeunydd meddal.
- Gall paced sigarêts, ar wahân i baced meddal, ddim ond gael caead sy'n troi ac sydd â'r colyn ar y cefn (sef y math mwyaf cyffredin o agoriad paced a geir yn y DU) neu fod ar ffurf bocs ysgwydd â chaead colynnog (sy'n llai cyffredin yn y DU ond sy'n gyffredin mewn rhai gwledydd yn yr UE).
- Rhaid i bacedi tybaco ar gyfer ei rollo â llaw fod yn giwboid neu'n siâp silindr neu fod ar ffurf pwrs.
- Rhaid i baced sigarêts gynnwys o leiaf 20 sigarét a rhaid i baced tybaco ar gyfer ei rollo â llaw gynnwys o leiaf 30 gram o dybaco.
- Yn achos pob math o gynnyrch tybaco, ni fydd y labeli ar y pecynnau a'r cynnyrch tybaco ei hun yn cynnwys unrhyw elfen neu nodwedd sydd:
 - yn hyrwyddo cynnyrch tybaco neu sy'n annog ei ddefnyddio drwy greu argraff anghywir ynglŷn â'i nodweddion, effeithiau ar iechyd, risgiau neu allyriadau
 - yn cynnwys unrhyw wybodaeth am gynnwys nicotin, tar neu garbon monocsid y cynnyrch tybaco
 - yn awgrymu bod cynnyrch tybaco penodol yn llai niweidiol na rhai eraill, yn anelu at leihau effaith rhai elfennau niweidiol o'r mwg, bod ganddo nodweddion bywiogi, egniol, iachaol, adfywio, naturiol, organig neu fanteision eraill o ran iechyd neu ffordd o fyw

²⁰ Oherwydd lleoliad newydd y rhybudd llun ar gefn pacedi, bydd angen newid lleoliad presennol y marc cyllid. Bydd trefniadau'n cael eu gwneud maes o law i bennu lleoliad newydd y marc cyllid ar gynhyrchion tybaco.

- yn cyfeirio at flas, arogl, unrhyw gyflasynnau neu ychwanegion eraill neu eu diffyg
- yn debyg i fwyd neu gynnyrch cosmetig
- yn awgrymu bod cynnyrch tybaco penodol â nodweddion biobydradwy gwell neu fod ganddo fantais amgylcheddol o fath arall
- gwaherddir disgowntiau, talebau, dosbarthu di-dâl a chynigion fel rhai 'dau am bris un' yn achos pob cynnyrch tybaco.

5.16 Pe bai penderfyniad terfynol yn cael ei wneud i fwrw ymlaen â phecynnu safonol:

- Bydd y rheoliadau a wneir ar gyfer pecynnu safonol yn gweithredu hefyd Erthyglau 13 a 14 o'r Gyfarwyddeb Cynhyrchion Tybaco Ewropeaidd (gweler Rheoliadau 4, 8 a 10 o'r rheoliadau drafft yn **atodiad B**).
- Rydym yn cynnig gweithredu gofynion ynghylch pecynnu safonol ym mis Mai 2016 i gyd-daro â'r terfyn amser ar gyfer trosi'r Gyfarwyddeb Cynhyrchion Tybaco Ewropeaidd, a hynny er mwyn lleihau'r baich ar fyd busnes gymaint â phosibl.
- Rydym yn cynnig caniatáu cyfnod 12 mis ar gyfer gwerthu hen stoc a gynhyrchwyd cyn mis Mai 2016.

5.17 Os penderfynir peidio â bwrw ymlaen â phecynnu safonol, bydd agweddau cysylltiedig y Gyfarwyddeb Cynhyrchion Tybaco Ewropeaidd yn Erthyglau 13 a 14 yn cael eu gweithredu ynghyd â gofynion eraill y Gyfarwyddeb mewn rheoliadau eraill a wneir yn y dyfodol.

Gorfodi

5.18 Os bydd gweinidogion yn penderfynu bwrw ymlaen, bydd y rheoliadau drafft yn ei gwneud yn drosedd cynhyrchu neu gyflenwi cynhyrchion tybaco sydd â phecynnau manwerthu nad ydynt yn bodloni'r darpariaethau a nodir yn y rheoliadau. Rydym yn cynnig y byddai person sy'n cynhyrchu neu sy'n cyflenwi cynhyrchion tybaco mewn modd sy'n torri'r rheoliadau yn agored o'i gollfarnu'n ddiannod i gael ei garcharu am gyfnod nad yw'n hwy na thri mis, neu ddirwy o unrhyw swm, neu'r ddau, ac o'i gollfarnu ar dditiad, yn agored i gael ei garcharu am ddwy flynedd neu ddirwy neu'r ddau.

5.19 Fel yn achos nifer o gyfreithiau presennol ynghylch rheoli tybaco, swyddogion safonau masnachu awdurdodau lleol (neu swyddogion iechyd yr amgylchedd yng Ngogledd Iwerddon) a fyddai'n gyfrifol am orfodi. Byddai'r gweinidog priodol yn Lloegr neu ym mhob un o'r Gweinyddiaethau Datganoledig hefyd yn gallu gorfodi'r rheoliadau. Byddai'r ystod o bwerau sydd eisoes ar waith er mwyn gorfodi rheoliadau

diogelwch o dan Ddeddf Diogelu Defnyddwyr 1987 ar gael i'r swyddogion gorfodi a'r gweinidogion priodol.

- 5.20 Mae'r rheoliadau drafft yn darparu hefyd ar gyfer amddiffyniad i rywun sy'n cyflenwi cynhyrchion tybaco (er enghraifft perchennog siop fach) os nad oedd yn gwybod bod y pecynnau tybaco yn torri'r rheoliadau nac yn gwybod am sail resymol dros amau hynny.
- 5.21 Rydym yn croesawu sylwadau am y rheoliadau drafft a'r modd y byddai'r darpariaethau hyn yn gweithio'n ymarferol, yn ogystal ag unrhyw bwyntiau manwl yr hoffech eu dwyn i'n sylw.

6. Asesiad effaith

- 6.1 Cyhoeddwyd asesiad effaith cyfnod ymgynghori i gyd-fynd â dogfen ymgynghori 2012. Roedd yr ymgynghoriad hwn yn cynnwys 12 cwestiwn a oedd yn ymwneud yn benodol â'r asesiad effaith, i geisio casglu gwybodaeth i'n galluogi i ddeall ymhellach y manteision a'r costau tebygol o gyflwyno pecynnu safonol.
- 6.2 Mae'r asesiad effaith wedi'i ddatblygu ymhellach ac mae fersiwn ddiwygiedig wedi'i chyhoeddi i gyd-fynd â'r ddogfen ymgynghori hon. Mae'r fersiwn ddiwygiedig hon yn defnyddio'r wybodaeth a gafwyd yn ymgynghoriad 2012, cyfarfodydd penodol â chynrychiolwyr cwmnïau tybaco, y diwydiant cynhyrchu tybaco ehangach ac Adolygiad Chantler. Rydym yn croesawu safbwyntiau am yr asesiad effaith hwn.
- 6.3 Rydym hefyd wedi diwygio'r asesiad o'r effaith ar gydraddoldeb, sydd hefyd wedi'i gyhoeddi gyda'r ddogfen ymgynghori hon. Rydym yn croesawu unrhyw wybodaeth ychwanegol sy'n ymwneud ag unrhyw effaith bosibl ar unrhyw grŵp sydd â nodwedd warchoddedig o dan Ddeddf Cydraddoldeb 2010, neu faterion y dylid eu hystyried yn unol â'r dyletswyddau sector cyhoeddus.²¹

²¹ Rhaid i gyrrff y mae'r ddyletswydd gydraddoldeb yn berthnasol iddynt roi sylw dyledus i'r canlynol wrth ddarparu eu gwasanaethau a chyflawni'u swyddogaethau:

- Dileu achosion anghyfreithlon o wahaniaethu, aflonyddu, erlid ac unrhyw ymddygiad arall a waherddir gan Ddeddf Gydraddoldeb 2010.
- Hybu cyfle cyfartal rhwng pobl sy'n rhannu nodwedd warchoddedig benodol a phobl nad ydynt yn ei rhannu.
- Meithrin cysylltiadau da rhwng pobl sy'n rhannu nodwedd warchoddedig benodol a phobl nad ydynt yn ei rhannu.

Mae dyletswydd gydraddoldeb y sector cyhoeddus yn cwmpasu "nodweddion gwarchoddedig" oedran, anabledd, ailbennu rhywedd, beichiogrwydd a mamolaeth, hil (gan gynnwys tarddiad ethnig neu genedlaethol, lliw neu genedligrwydd), crefydd neu gred (gan gynnwys diffyg cred), rhyw a chyfeiriadedd rhywiol. Mae hefyd yn

7. Cwmpas tiriogaethol yr ymgynghoriad hwn

- 7.1 Trefnir yr ymgynghoriad hwn gan yr Adran Iechyd gyda chytundeb Gweinyddiaethau Datganoledig y DU. Bydd yr Adran Iechyd yn sicrhau bod pob ymateb i'r ymgynghoriad ar gael i'r gweinidogion sy'n gyfrifol am iechyd y cyhoedd yn y tair Gweinyddiaeth Ddatganoledig eu hystyried. Mae'n bosibl hefyd y byddwn yn rhannu rhai ymatebion ag Adrannau Llywodraeth eraill.

8. Sut i gyfrannu at yr ymgynghoriad

- 8.1 Mae cwestiynau'r ymgynghoriad i'w gweld yn **atodiad A**. Bydd yr ymgynghoriad yn mynd rhagddo am chwe wythnos, o 26/06/14 – 07/08/14 2014. Mae croeso i unrhyw unigolyn, busnes neu sefydliad sydd â diddordeb ymateb iddo.
- 8.2 Anogir ymatebwyr i fynegi barn ar-lein, ond mae croeso ichi anfon eich sylwadau fel a ganlyn hefyd:
- Llenwi ffurflen ar-lein yn: <http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1>
 - Llenwi'r ffurflen ymateb wedi'i lawrlwytho o: <http://www.gov.uk/government/consultations>
 - E-bostio eich ymateb i:
TobaccoPackaging@dh.gsi.gov.uk
 - Postio eich ymateb i:
Department of Health
Standardised Tobacco Packaging Consultation
PO Box 1126
Canterbury CT1 9NB

- 8.3 Diben yr ymgynghoriad hwn yw canfod barn pobl, busnesau a sefydliadau sydd â diddordeb, gan ganolbwyntio ar gael unrhyw wybodaeth newydd neu ychwanegol sy'n berthnasol i becynnu safonol ac sydd wedi dod i law ers ymgynghoriad 2012. Os yw eich ymateb yn cynnwys gwybodaeth sydd eisoes ar gael, gofynnwn ichi dynnu sylw at y rhannau hynny o'ch ymateb sy'n ymwneud â gwybodaeth nad oedd ar gael pan gynhaliwyd yr ymgynghoriad cyntaf, sef rhwng mis Ebrill a mis Awst 2012.
- 8.4 Gofynnwn ichi ddarparu cyfeiriadau at waith ymchwil neu dystiolaeth arall gyda'ch ymatebion. Os yw eich ymateb yn hir, gofynnir hefyd ichi ddarparu crynodeb nad yw'n hwy na thair ochr o bapur.
- 8.5 Mae'r ymgynghoriad hwn wedi'i gyhoeddi yn yr ieithoedd a ganlyn hefyd: Wrddw, Gwjarati, Pwnjabeg a Tamil. Mae'r cyfieithiadau hyn o'r ddogfen ar gael mewn fformat electronig yn <http://www.gov.uk/government/consultations>
- 8.6 Os hoffech gopi o'r ddogfen ymgynghori hon mewn fformat arall, neu os oes angen ichi ymateb mewn fformat arall am resymau hygrychedd, cysylltwch â ni gan ddefnyddio'r cyfeiriadau post neu e-bost a nodir ym mharagraff 8.2.
- 8.7 Ni fydd yr Adran Iechyd na'r Gweinyddiaethau Datganoledig yn gallu ymateb i sylwadau unigol a gyflwynwyd i'r ymgynghoriad.

9. Datgan cysylltiadau uniongyrchol neu anuniongyrchol â'r diwydiant tybaco gan ymatebwyr

- 9.1 Fel aelod o Gonfensiwn Fframwaith Sefydliad Iechyd y Byd ar Reoli Tybaco (FCTC), mae gan y Deyrnas Unedig rwymedigaeth i warchod datblygiadau polisi iechyd rhag buddiannau personol y diwydiant tybaco. Er mwyn bodloni'r rhwymedigaeth hon, **gofynnwn i bob ymatebydd ddatgelu a oes ganddynt unrhyw gysylltiad uniongyrchol neu anuniongyrchol â'r diwydiant tybaco, neu a ydynt yn derbyn arian gan y diwydiant hwnnw.** Byddwn yn dal i ystyried yn ofalus unrhyw ymatebion gan y diwydiant tybaco, a rhai â chysylltiadau â'r diwydiant tybaco, ac yn eu cynnwys yn y crynodeb a gyhoeddir o'r ymatebion i'r ymgynghoriad.

10. Y camau nesaf

10.1 Bydd pob ymateb sy'n dod i law erbyn y dyddiad cau, 07/08/14 yn cael ei ystyried yn ofalus. Byddwn yn cyhoeddi crynodeb o ymatebion yr ymgynghoriad ar wefan yr Adran Iechyd maes o law, cyn gynted ag y bydd ymgynghoriad wedi dod i ben.

10.2 Bydd penderfyniad terfynol ynghylch pecynnu safonol yn cael ei wneud maes o law, a hynny gan ystyried pob mater perthnasol.

11. Y broses ymgynghori

11.1 Os oes gennych chi unrhyw bryderon neu sylwadau ar y broses ymgynghori ei hun,

Cysylltwch â:

Consultations Co-ordinator

Department of Health

2E26, Quarry House

Leeds

LS2 7UE

E-bost: consultations.co-ordinator@dh.gsi.gov.uk

Peidiwch ag anfon unrhyw ymatebion ymgynghoriad i'r cyfeiriad hwn.

12. Gwybodaeth gyfrinachol

12.1 Rydym yn rheoli'r wybodaeth a ddarperir gennych wrth ymateb i'r ymgynghoriad yn unol â **Siarter Wybodaeth** yr Adran Iechyd.²²

12.2 Efallai y bydd gwybodaeth a dderbyniwn, yn cynnwys gwybodaeth bersonol, yn cael ei chyhoeddi neu ei datgelu yn unol â gweithdrefnau mynediad at wybodaeth (yn

²² Gwefan GOV.UK, Personal information charter

www.gov.uk/government/organisations/department-of-health/about/personal-information-charter

bennaf trwy Ddeddf Rhyddid Gwybodaeth 2000, Deddf Diogelu Data 1998 a Rheoliadau Gwybodaeth Amgylcheddol 2004).

- 12.3 Os ydych chi am i'r wybodaeth a ddarperir gennych gael ei thrin yn gyfrinachol, cofiwch fod rhaid i awdurdodau cyhoeddus gydymffurfio â Chod Ymarfer statudol o dan y Ddeddf Rhyddid Gwybodaeth, sy'n ymdrin â rhwymedigaethau cyfrinachedd, ymhlith pethau eraill. O gofio hynny felly, byddai'n ddefnyddiol pe baech yn esbonio pam eich bod yn ystyried eich gwybodaeth yn gyfrinachol. Os byddwn y derbyn cais i ddatgelu'r wybodaeth, byddwn yn ystyried eich esboniad yn llawn, ond ni allwn warantu y gellir cadw cyfrinachedd dan bob amgylchiadau. Ni fydd yr Adran Iechyd yn ystyried ymwadiad cyfrinachedd awtomatig a gynhrychir gan eich system TG yn un rhwymol.
- 12.4 Bydd yr Adran yn prosesu eich data personol yn unol â'r Ddeddf Diogelu Data a bydd hyn yn golygu na chaiff eich data personol eu ddatgelu i drydydd parti yn y rhan fwyaf o amgylchiadau.

Cwestiynau'r ymgynghoriad

1. A oes gennych chi unrhyw sylwadau am adroddiad Adolygiad Chantler yr hoffech eu dwyn i'n sylw?

2. A oes gennych chi unrhyw wybodaeth, yn enwedig unrhyw wybodaeth newydd neu ychwanegol ers ymgynghoriad 2012, sy'n ymwneud ag agweddau ehangach pecynnu safonol yr hoffech ei dwyn i'n sylw?

3. A oes gennych chi unrhyw sylwadau am y rheoliadau drafft, gan gynnwys unrhyw beth yr hoffech ei ddwyn i'n sylw ynghylch yr agweddau ymarferol ar weithredu'r rheoliadau fel y'u drafftiwyd?

4. A ydych yn gwybod am unrhyw wybodaeth neu dystiolaeth bellach a fyddai'n gwella'r rhagdybiaethau neu'r amcangyfrifon yr ydym wedi'u gwneud yn asesiad effaith y cyfnod ymgynghori?

Y Rheoliadau Drafft

Draft Regulations laid before Parliament under section 135(6) of the Children and Families Act 2014 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

No.

PUBLIC HEALTH

The Standardised Packaging of Tobacco Products Regulations . . .

Made - - - - - ***

Coming into force - - - - - ***

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽²³⁾ in relation to measures relating to the sale, packaging, labelling and sampling of tobacco products⁽²⁴⁾.

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 94 and 135(2) and (3) of the Children and Families Act 2014⁽²⁵⁾ and section 2(2) of the European Communities Act 1972.

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 135(6) of the Children and Families Act 2014 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972.

⁽²³⁾ 1972 c. 68.

⁽²⁴⁾ S.I. 1991/755.

⁽²⁵⁾ 2014 c. 6.

PART 1

Introduction

Citation and commencement

- 1.—(1) These Regulations may be cited as the Standardised Packaging of Tobacco Products Regulations
- (2) These Regulations come into force.....

Interpretation

- 2.—(1) In these Regulations—

“appropriate minister”—

- (a) in relation to England, means the Secretary of State,
- (b) in relation to Wales, means the Welsh Ministers,
- (c) in relation to Northern Ireland, means the Department of Health, Social Services and Public Safety, and
- (d) in relation to Scotland, means the Scottish Ministers;

“brand name”, in relation to a particular tobacco product, means the primary name by which the product is known;

“calibration mark” means a mark that is used only for the purpose of the automated manufacture of any packaging;

“cigarette” means a roll of tobacco consumed by means of a combustion process and further defined in Article 3(1) of Council Directive 2011/64/EU of 21st June 2011 on the structure and rates of excise duty applied to manufactured tobacco;

“consumer” means an individual who is acting for purposes which are outside the individual’s trade, business, craft or profession;

“cross-border distance sale”, in relation to a tobacco product, means a distance sale to a consumer where, at the time the consumer orders the product from a retail outlet, the consumer is located in a Member State other than the Member State or the third country where that retail outlet is established; and for the purposes of this definition a retail outlet is deemed to be established in a Member State—

- (a) in the case of an individual, if the individual has his or her place of business in that Member State, and
- (b) in any other case, if the retail outlet has its statutory seat, central administration or place of business, including a branch, agency or any other establishment, in that Member State;

“enactment” means an enactment contained in, or in an instrument made under—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation, within the meaning of the Interpretation Act 1978⁽²⁶⁾;

“external packaging” —

- (a) in relation to a unit packet of a tobacco product, means every surface of the packet that is visible before the packet is opened (but this is subject to paragraph (b)),

⁽²⁶⁾ 1978 c. 30.

(b) in relation to a unit packet of hand rolling tobacco in the form of a pouch, means every surface of the pouch that is visible before the pouch is opened, together with the hidden surface of the pouch in a case where the pouch takes the form of a rectangular pocket with a flap that covers the opening, and

(c) in relation to an outside packet of a tobacco product, means every surface of the packet that is visible before the packaging is opened;

and for the purposes of this definition “visible” includes visible through any wrapper permitted by paragraph 5 of Schedule 2 or 4 or any tab which complies with paragraph 3(1) of Schedule 4;

“hand rolling tobacco” means tobacco which can be used after retail sale for making cigarettes;

“hidden surface”, in relation to a pouch of hand rolling tobacco in the form of a rectangular pocket with a flap that covers the opening, means the surface of the pouch which—

(a) becomes visible when the flap is opened, but

(b) is not the underside surface of the flap or any surface of the inside of the pocket;

“internal packaging”, in relation to a unit packet or outside packet of a tobacco product, means so much of that packet as does not comprise the external packaging of that packet;

“outside packet”, in relation to a tobacco product, means any packaging—

(a) which contains a unit packet of that product, or an aggregation of such unit packets, and

(b) in which that product is, or is intended to be, presented for retail sale,

but does not include any wrapper;

“packaging”, in relation to a tobacco product, has its ordinary meaning and (without limiting that meaning) includes any material that is—

(a) an integral part of the packaging of the product,

(b) required as part of the packaging process, or

(c) required to protect the product;

“pouch” means a unit packet of hand rolling tobacco in the form of—

(a) a rectangular pocket with a flap that covers the opening, or

(b) a standing pouch;

“retail sale” means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;

“tobacco” means leaves and other natural, processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;

“tobacco product” means a product that can be consumed and consists, even partly, of tobacco, whether genetically modified or not;

“travel retail sector” means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom;

“unit packet”, in relation to a tobacco product, means the smallest individual packaging in which that product is, or is intended to be, presented for retail sale, but does not include any wrapper;

“variant name”, in relation to a particular tobacco product, means any name by which that product is distinguished from other tobacco products under the same brand name;

“wrapper”, in relation a tobacco product, means a cellophane or plastic wrapper—

(a) which encloses—

(i) a unit packet of that product,

(ii) an aggregation of such unit packets which is not contained in an outside packet, or

(iii) an outside packet of that product, and

(b) in which that product is, or is intended to be, presented for retail sale;

(2) Expressions used in these Regulations and in the Trade Marks Act 1994⁽²⁷⁾ have the same meaning as in that Act.

(3) References in these Regulations to the front and back surfaces of a unit packet or outside packet of a tobacco product are to the two largest surfaces of the external packaging of the packet, but—

(a) in relation to a unit packet of hand rolling tobacco in the form of a pouch, the hidden surface is to be disregarded for the purposes of this paragraph, and

(b) this paragraph is subject to paragraph (4).

(4) References in these Regulations to the front and back surfaces of a unit packet or outside packet of hand rolling tobacco which is cylindrical in shape are to the two opposite halves of the curved surface of the external packaging of the packet on the assumption that the curved surface is divided equally along a vertical plane.

(5) For the purposes of these Regulations a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person—

(a) manufactures the product,

(b) puts a name, trade mark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or

(c) imports it into the United Kingdom,

and “producer” is to be construed accordingly.

(6) For the purposes of these Regulations a person supplies a tobacco product if, in the course of a business, the person—

(a) supplies the product—

(i) with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, or

(ii) for consumption in the United Kingdom or through the travel retail sector,

(b) offers or agrees to so supply it, or

(c) exposes or possesses it for such supply.

(7) In the case of a cross-border distance sale of a tobacco product where the consumer is located in the United Kingdom, the tobacco product is to be treated for the purposes of these Regulations as supplied, and presented for retail sale, in the United Kingdom.

PART 2

Provisions which apply to cigarettes only

Permitted colour or shade of packaging of cigarettes

3.—(1) No person may produce or supply any cigarettes in breach of any of the provisions of this regulation or Schedule 1 (exceptions to paragraphs (2) and (3)).

(2) The only colour or shade permitted on or for the external packaging of a unit packet or outside packet of cigarettes is Pantone 448 C with a matt finish, but this is subject to paragraph (4) and Schedule 1.

⁽²⁷⁾ 1994 c. 26.

(3) The only colour or shade permitted on or for the internal packaging of a unit packet or outside packet of cigarettes, is either—

- (a) white, or
- (b) Pantone 448 C with a matt finish,

but this is subject to paragraph (4), Schedule 1 and paragraph 3(1) of Schedule 2.

(4) Nothing in paragraph (2) or (3) prohibits any warning, statement, text, picture, image, symbol or marking which is required by any enactment (whenever passed or made) other than these Regulations; but see paragraph 3 of Schedule 1 which imposes conditions in relation to any text required in accordance with regulation 7(4)(a)(i) of the General Product Safety Regulations 2005⁽²⁸⁾ (name and address of producer).

Material, shape, opening and contents of unit packet of cigarettes

4.—(1) No person may produce or supply any cigarettes in breach of any of the provisions of this regulation.

(2) A unit packet of cigarettes must be made of carton or soft material.

(3) A unit packet of cigarettes must be cuboid in shape, although any such cuboid may have bevelled or rounded edges.

(4) A unit packet of cigarettes may contain an opening that can be re-closed or re-sealed after it is first opened but only if that opening is a flip top lid or a shoulder box hinged lid.

(5) A flip-top lid may be hinged only at the back of the packet.

(6) A shoulder box hinged lid may be hinged only along one of the two smallest sides of the packet.

(7) A unit packet of cigarettes must contain a minimum of 20 cigarettes.

Appearance of cigarettes

5.—(1) No person may produce or supply any cigarettes in breach of any of the following provisions.

(2) The only colour or shade permitted on or for the paper, casing, filter or other material forming part of a cigarette (apart from the tobacco contained in it) is plain white with a matt finish, but this is subject to the following provisions.

(3) Any paper or casing that surrounds the end of a cigarette that is not designed to be lit may be coloured in such a way as to imitate cork.

(4) A cigarette may have text printed on it to identify the brand name and variant name of the cigarette but only if each of the following conditions is met.

(5) Those conditions are—

- (a) that the text appears parallel to, and not more than 38 millimetres from, the end of the cigarette that is not designed to be lit,
- (b) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (c) that the first letter of any word is in upper-case type or lower-case type,
- (d) that the rest of any word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is black,
- (g) that the text is in a normal, weighted, regular typeface, and
- (h) that the size of the text is no larger than 8 point.

⁽²⁸⁾ S.I. 2005/1803.

Further provisions about the packaging of cigarettes

6. No person may produce or supply any cigarettes in breach of any of the provisions of Schedule 2 (further provisions about the packaging of cigarettes).

PART 3

Provisions which apply to hand rolling tobacco only

Permitted colour or shade of packaging of hand rolling tobacco

7.—(1) No person may produce or supply any hand rolling tobacco in breach of any of the provisions of this regulation or Schedule 3 (exceptions to paragraphs (2) and (3)).

(2) The only colour or shade permitted on or for the external packaging of a unit packet or outside packet of hand rolling tobacco is Pantone 448 C with a matt finish, but this is subject to paragraph (4), Schedule 3 and paragraph 3(1) of Schedule 4.

(3) The only colour or shade permitted on or for the internal packaging of a unit packet or outside packet of such tobacco is either—

- (a) white, or
- (b) Pantone 448 C with a matt finish,

but this is subject to paragraph (4), Schedule 3 and paragraph 3(2) of Schedule 4.

(4) Nothing in paragraph (2) or (3) prohibits any warning, statement, text, picture, image, symbol or marking which is required by any enactment (whenever passed or made) other than these Regulations; but see paragraph 3 of Schedule 3 which imposes conditions in relation to any text required in accordance with regulation 7(4)(a)(i) of the General Product Safety Regulations 2005⁽²⁹⁾ (name and address of producer).

Form of, and weight of tobacco in, unit packet of hand rolling tobacco

8.—(1) No person may produce or supply any hand rolling tobacco in breach of any of the provisions of this regulation.

(2) A unit packet of hand rolling tobacco may take only one of the following forms—

- (a) it may be cuboid in shape, although any such cuboid may have bevelled or rounded edges,
- (b) it may be cylindrical in shape, or
- (c) it may take the form of a pouch.

(3) A unit packet of hand rolling tobacco must contain at least 30 grams of tobacco.

Further provisions about the packaging of hand rolling tobacco

9. — No person may produce or supply any hand rolling tobacco in breach of any of the provisions of Schedule 4 (further provisions about the packaging of hand rolling tobacco).

⁽²⁹⁾ S.I. 2005/1803.

PART 4

Provisions which apply to all tobacco products or to both cigarettes and hand rolling tobacco

Product presentation

10.—(1) No person may produce or supply a tobacco product in breach of any of the following provisions.

(2) The labelling of—

- (a) the packaging in which a tobacco product is, or is intended to be, presented for retail sale, or
- (b) the product itself,

may not contain any element or feature falling within paragraph (3).

(3) An element or feature falls within this paragraph if it—

- (a) promotes a tobacco product or encourages its consumption by creating an erroneous impression about its characteristics, health effects, risks or emissions,
- (b) includes any information about the nicotine, tar or carbon monoxide content of a tobacco product,
- (c) suggests that a particular tobacco product—
 - (a) is less harmful than others,
 - (b) aims to reduce the effect of some harmful components of smoke,
 - (c) has vitalising, energizing, healing, rejuvenating, natural or organic properties, or
 - (d) has other health or lifestyle benefits,
- (d) refers to taste, smell or any flavourings or other additives, or the absence of any such thing,
- (e) resembles a food or cosmetic product, or
- (f) suggests that a particular tobacco product has improved biodegradability or other environmental advantages.

(4) The packaging in which a tobacco product is, or is intended to be, presented for retail sale may not suggest economic advantage by including printed vouchers or offering discounts, free distribution, two-for-one or other similar offers.

(5) For the purposes of this regulation, prohibited elements and features include (but are not limited to) texts, symbols, names, trade marks, figurative signs and other types of sign.

(6) Nothing in this regulation affects or is affected by any of the other provision of these Regulations.

Packaging of cigarettes or hand rolling tobacco not to produce noise or scent

11.—(1) No person may produce or supply any cigarettes or hand rolling tobacco if any part of the packaging in which the product is, or is intended to be, presented for retail sale—

- (a) makes a noise, or
- (b) contains or produces a smell,

that is not normally associated with the packaging of cigarettes or, as the case may be, hand rolling tobacco.

(2) Paragraph (1) does not prohibit any smell in the packaging of cigarettes or hand rolling tobacco which results from any permitted additive which is designed to give the cigarettes or hand rolling tobacco a smell or flavour other than that of tobacco.

Packaging of cigarettes or hand rolling tobacco not to change after retail sale

12.—(1) No person may produce or supply any cigarettes or hand rolling tobacco if the packaging in which the product is, or is intended to be, presented for retail sale includes any features which are designed to change the packaging after retail sale.

(2) Such features include (but are not limited to)—

- (a) heat activated inks,
- (b) inks or embellishments designed to appear gradually over time,
- (c) inks that appear fluorescent in certain light,
- (d) panels designed to be scratched or rubbed to reveal an image or text,
- (e) removable tabs, and
- (f) fold-out panels.

PART 5

Miscellaneous provisions

Review

Review

13.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how Directive 2014/40/EU of 3rd April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (Articles 13 and 14 of which are implemented by regulations 4, 8 and 10 of these Regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with...

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Regulations not to affect registrability of trade marks for tobacco products

14.—(1) For the purposes of the Trade Marks Act 1994⁽³⁰⁾ and regulations made under that Act, an applicant for the registration of a trade mark in relation to goods or services which are or include tobacco products is to be taken as having a *bona fide* intention that the trade mark should be used by the applicant, or with the applicant's consent, in relation to those goods or services if the applicant would have such an intention but for the operation of these Regulations.

(2) For the purposes of the Trade Marks Act 1994 and regulations made under that Act, an applicant for the registration of a trade mark in relation to goods or services which are or include tobacco products is to be taken as not having made the application in bad faith if the applicant would be taken as not having made the application in bad faith were these Regulations not in force.

(3) For the avoidance of doubt, nothing in these Regulations has the effect that a trade mark is not eligible for registration under the Trade Marks Act 1994 by reason only of the fact that the goods or services in relation to which registration is sought are or include tobacco products.

(4) For the avoidance of doubt, these Regulations—

- (a) do not cause any trade mark to be contrary to public policy or to accepted principles of morality for the purposes of section 3(3)(a) of the Trade Marks Act 1994,
- (b) do not amount to an enactment or rule of law which prohibits the use of a trade mark for the purposes of section 3(4) of that Act, and
- (c) do not amount to a rule of law by which the use in the United Kingdom of any trade mark is liable to be prevented for the purposes of section 5(4) of that Act.

Regulations not to affect oppositions based on trade marks for tobacco products

15.—(1) For the purposes of section 6(3) of the Trade Marks Act 1994, a *bona fide* use of a trade mark falling within subsection 6(1)(a) or (b) of that Act is to be taken to exist if there would have been such use of the trade mark during the period of two years mentioned in section 6(3) but for the operation of these Regulations.

(2) For the purposes of section 6A of the Trade Marks Act 1994, in opposition proceedings the use conditions are to be taken as met in relation to an earlier trade mark falling within subsection (1)(b) of that section if—

- (a) the earlier trade mark is registered in relation to goods or services which are or include tobacco products, and
- (b) the use conditions would have been met in relation to the earlier trade mark because it would have been put to such genuine use as is mentioned in subsection (3)(a) of that section but for the operation of these Regulations.

Proper reasons for non-use of trade marks for tobacco products

16.—(1) If or to the extent that any provision of these Regulations causes the non-use of a registered trade mark, such provision is to be considered to be a proper reason for the non-use of the trade mark for the purposes of section 46(1) of the Trade Marks Act 1994, provided that—

- (a) the trade mark would have been put to genuine use in the United Kingdom by the proprietor or with his consent during the relevant period but for the operation of these Regulations,
- (b) such genuine use would have been in relation to the goods or services for which the trade mark is registered, and

⁽³⁰⁾ 1994 c. 26.

(c) the trade mark was not already liable to be revoked or declared invalid for any reason at the date these Regulations came into force.

(2) For the avoidance of doubt, a registered trade mark is not liable to be declared invalid under section 47(1) of the Trade Marks Act 1994 if or to the extent that—

(a) the trade mark would not have been liable to be declared invalid under section 47(1) of that Act but for the operation of these Regulations, and

(b) the trade mark was not already liable to be revoked or declared invalid for any reason at the date these Regulations came into force.

(3) For the avoidance of doubt, when determining whether the use conditions are met for the purposes of section 47(2B) of the Trade Marks Act 1994, if or to the extent that any provision of these Regulations causes the non-use of the earlier trade mark mentioned in section 47(2B), such provision is to be considered to be a proper reason for non-use of the earlier trade mark.

Regulations not to affect certain dealings with trade marks for tobacco products

17. For the avoidance of doubt, nothing in these Regulations affects the enforceability of any agreement relating to—

(a) the assignment of a registered trade mark,

(b) the grant of a licence under a registered trade mark, or

(c) any other transaction concerning a registered trade mark,

to the extent that the trade mark is registered in relation to goods or services which are or include tobacco products.

Regulations not to affect registrability of designs for tobacco products

18.—(1) For the avoidance of doubt, nothing in these Regulations has the effect that a design is to be refused registration under the Registered Designs Act 1949⁽³¹⁾ by reason only of the fact that—

(a) the design concerns features of appearance of a tobacco product or its packaging,

(b) the design involves the use of features whose use in relation to tobacco products or their packaging would be prohibited, restricted or limited under these Regulations, or

(c) the design is not visible during normal use of a tobacco product or its packaging by reason of a prohibition, restriction or limitation under these Regulations.

(2) For the avoidance of doubt, nothing in these Regulations causes any design concerning features of appearance of a tobacco product or its packaging to be contrary to public policy or to accepted principles of morality for the purposes of section 1D of the Registered Designs Act 1949.

(3) For the avoidance of doubt, nothing in these Regulations creates any new rights of Crown use in respect of registered designs concerning tobacco products or their packaging.

(4) Expressions used in this regulation and in the Registered Designs Act 1949 have the same meaning as in that Act.

⁽³¹⁾ 1949 c. 88.

Revocation

Revocation

19. Regulation 4 of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002⁽³²⁾ (statements of yields on packets of cigarettes) is revoked.

Offences and enforcement

Offences

20.—(1) A person who produces or supplies a tobacco product in breach of any provision of these Regulations is guilty of an offence.

(2) A person guilty of an offence under this regulation—

- (a) is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine, or both, or
- (b) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both.

Offences by bodies corporate and Scottish partnerships

21.—(1) If an offence under these Regulations committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if that person were a director of the body corporate.

(4) If an offence under these Regulations committed by a partnership in Scotland is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the partner’s part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4) “partner” includes a person purporting to act as a partner

Defence

22. In any proceedings for an offence under these Regulations against a person who supplies any tobacco product in breach of any provision of these Regulations, it is a defence that the person neither knew nor had reasonable grounds for suspecting that the tobacco product was supplied in breach of that provision.

⁽³²⁾ S.I. 2002/3041.

Enforcement

23.—(1) For the purpose of enforcement, the provisions of the Consumer Protection Act 1987⁽³³⁾ (apart from sections 12 and 13) are to apply to these Regulations as if these Regulations were safety regulations within the meaning of that Act.

(2) The reference to six months in section 14(6) of the Consumer Protection Act 1987 (imprisonment on summary conviction not to exceed six months), as that section has effect by virtue of paragraph (1), is to be read as a reference to three months.

(3) The appropriate minister may direct, in relation to cases of a particular description or a particular case, that any duty imposed on—

- (a) a local weights and measures authority in Great Britain, or
- (b) a district council in Northern Ireland,

under section 27 of the Consumer Protection Act 1987 (as that section has effect by virtue of paragraph (1)) is to be discharged instead by the appropriate minister.

Transitional provision

Transitional provision

24.—(1) These Regulations do not apply to the supply before 21st March 2017 of a tobacco product produced before 20th May 2016 if, but only if, the product complies with the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002⁽³⁴⁾ at the date of supply.

(2) For the purposes of paragraph (1), those Regulations are to continue to apply notwithstanding the revocation of any those Regulations by any enactment (whenever passed or made), including regulation 19 of these Regulations.

Signatory text

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department

⁽³³⁾ 1987 c. 43.

⁽³⁴⁾ S.I. 2002/3041.

SCHEDULES

SCHEDULE 1

Regulation 3

Exceptions to regulation 3(2) and (3) (colour and shade of packaging of cigarettes)

Text which states brand name and variant name

1.—(1) The external packaging of a unit packet or outside packet of cigarettes may have text printed on it which states the brand name and variant name of the cigarettes but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the brand name does not take up more one line,
- (h) that the variant name does not take up more than one line,
- (i) that the variant name appears immediately below the brand name and has the same orientation as it,
- (j) that the size of the brand name is no larger than 14 point,
- (k) that the size of the variant name is no larger than 10 point,
- (l) that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
 - (i) the front surface of the unit packet or outside packet,
 - (ii) one of the smallest surfaces of the packet, and
 - (iii) the other smallest surface of the packet,
- (m) that the brand name and variant name are located at the centre of any such surface or, where such a surface contains a health warning, at the centre of the area of the surface not taken up by the health warning, and
- (n) that the text on any surface which contains a health warning is orientated in accordance with the warning.

Text which states the number of cigarettes.

2.—(1) The external packaging of a unit packet or outside packet of cigarettes may have text printed on it—

- (a) which states the number of cigarettes contained in the packet, and
- (b) which may be followed by the word “Cigarettes”,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the number is expressed in numeric characters,
- (b) in the case of the outside packet of an aggregation of unit packets, that the number so expressed is either—
 - (i) the total number of cigarettes in the outside packet, or

- (ii) the number of unit packets in the outside packet multiplied by the number of cigarettes in each unit packet, with the multiplication symbol being expressed as an “x”,
- (c) that the first letter of the word “Cigarettes” is in upper-case type or lower-case type,
- (d) that the rest of that word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (g) that the text is in a normal, weighted, regular typeface,
- (h) in the case of a unit packet, that the size of the text is no larger than 10 point,
- (i) in the case of an outside packet, that the size of the text is no larger than 14 point,
- (j) that the text appears only once, and
- (k) that the text on any surface which contains a health warning is orientated in accordance with the warning.

Text which gives details about producer

3.—(1) A unit packet or outside packet of cigarettes may have text printed on its external or internal packaging (but not on both its external and internal packaging) which states all or any of the following—

- (a) the name of the producer,
- (b) the address of the producer,
- (c) the email address of the producer, and
- (d) the telephone number of the producer,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand or, in the case of an email address, an @ sign,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text—
 - (i) if it appears on the external packaging, is Pantone Cool Gray 2 C with a matt finish, or
 - (ii) if it appears on the internal packaging, is one of the following, namely Pantone Cool Gray 2 C with a matt finish, Pantone 448 C with a matt finish or black with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the size of the text is no larger than 10 point,
- (h) that the text appears only once, and
- (i) that the text does not appear on the front surface of the unit packet or outside packet.

4.—(1) The external packaging of a unit packet or outside packet of cigarettes may contain a barcode but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—

- (i) black and white, or
- (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on the front surface of the unit packet or outside packet.

Calibration mark

5.—(1) The external packaging of a unit packet or outside packet of cigarettes may contain a calibration mark but only if both of the following conditions are met.

(2) Those conditions are—

- (a) that the calibration mark appears only so far as it is necessary for the automated manufacture of the packaging of the cigarettes, and
- (b) that the calibration mark, if visible or otherwise detectable, is as inconspicuous as possible so far as is consistent with its function in connection with that automated manufacture.

SCHEDULE 2

Regulation 6

Further provisions about the packaging of cigarettes

Surfaces

1.—(1) Any surface of the external or internal packaging of a unit packet or outside packet of cigarettes—

- (a) must be flat and smooth, and
- (b) must contain no ridges, embossing or other irregularities of shape or texture.

(2) Sub-paragraph (1) is subject to—

- (a) paragraph 3(2), and
- (b) any provision made by any enactment (whenever passed or made) other than these Regulations.

Inserts etc

2.—(1) No insert or additional material may be attached to or included with the packaging of a unit packet or outside packet of cigarettes.

(2) Sub-paragraph (1) does not prohibit a barcode from taking the form of an adhesive label but only if each of the conditions in paragraph 4(2) of Schedule 1 is met.

Lining

3.—(1) If a unit packet of cigarettes contains a lining as part of its internal packaging—

- (a) the lining must be a silver coloured foil with a white paper backing, and
- (b) there must be no variation in the tone or shade of the foil.

(2) Paragraph 1 does not prohibit such a lining from being textured over any entire surface with small dots or squares embossed on the lining if, but only if—

- (a) that texture is required for the purpose of—
 - (i) the automated manufacture of the lining, or

- (ii) the packing of cigarettes into the packet, and
- (b) the dots or squares—
 - (i) are equidistant from each other,
 - (ii) are of uniform size, and
 - (iii) do not form a picture, pattern, image or symbol that is recognisable as anything other than a lining.

Wrappers

4.—(1) The following, namely—

- (a) a unit packet of cigarettes,
- (b) an aggregation of such unit packets which is not contained in an outside packet, and
- (c) an outside packet of cigarettes,

may be enclosed by a wrapper but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the wrapper is clear and transparent,
- (b) that the wrapper is not coloured or marked,
- (c) that any surface of the wrapper—
 - (i) is flat and smooth, and
 - (ii) does not contain any ridge, embossing or other irregularity of shape or texture that is not a necessary result of the manufacturing process, and
- (d) that there is nothing attached to the wrapper,

but this is subject to the following provisions.

(3) A wrapper which encloses an aggregation of unit packets within sub-paragraph (1)(b) may have solid, black rectangles or squares but only so far as they are necessary, and of the minimum size necessary, to cover any barcode on the unit packets enclosed within the wrapper.

(4) A wrapper may have a tear tape if each of the conditions in sub-paragraph (5) is met.

(5) Those conditions are—

- (a) that the tear tape is either—
 - (i) clear and transparent and not coloured or marked, or
 - (ii) black in colour,
- (b) that the tear tape forms a continuous straight line which is of a constant width not exceeding 3 millimetres, and
- (c) that the tear tape is parallel to any straight edge of the packet enclosed by the wrapper.

(6) Sub-paragraph (5)(a)(i) does not prohibit the tear tape from including a single, solid black line which—

- (a) is not more than 15 millimetres long, and
- (b) indicates where the tear strip begins.

(7) A wrapper may have a barcode (and that barcode may take the form of an adhesive label) but only if each of the following conditions is met.

(8) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—

- (i) black and white, or
- (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on the front of the wrapper.

SCHEDULE 3

Regulation 7

Exceptions to regulation 7(2) and (3) (colour and shade of packaging of hand rolling tobacco)

Text which states brand name and variant name

1.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may have text printed on it which states the brand name and variant name of that product but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand,
- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the brand name does not take up more than one line,
- (h) that the variant name does not take up more than one line,
- (i) that the variant name appears immediately below the brand name and has the same orientation as it,
- (j) that the size of the brand name is no larger than 14 point,
- (k) that the size of the variant name is no larger than 10 point,
- (l) in the case of a unit packet which is cuboid in shape or an outside packet which is not cylindrical in shape, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
 - (i) the front surface of the packet,
 - (ii) one of the smallest surfaces of the packet, and
 - (iii) the other smallest surface of the packet,
- (m) in the case of a unit packet or outside packet which is cylindrical in shape, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
 - (i) the front surface of the packet,
 - (ii) the back surface of the packet, and
 - (iii) the lid of the packet,
- (n) in the case of a unit packet which takes the form of a pouch, that the brand name and variant name may appear only, and not more than once, on each of the following surfaces—
 - (i) the front surface of the packet,

- (ii) the back surface of the packet and
- (iii) if the pouch takes the form of a rectangular pocket with a flap that covers the opening, the hidden surface of the packet,
- (o) that the brand name and variant name are located at the centre of any such surface or, where such a surface contains a health warning, at the centre of the area of the surface not taken up by the health warning, and
- (p) that the text on any surface which contains a health warning is orientated in accordance with the warning.

Text which states the weight of tobacco

2.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may have text printed on it—

- (a) which states the weight of tobacco in grams contained in the packet, and
- (b) which may be followed by the word “Rolling Tobacco” or “Hand Rolling Tobacco.

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the weight of tobacco is expressed in numeric characters followed by the letter “g”,
- (b) in the case of the outside packet of an aggregation of unit packets, that the weight so expressed is either—
 - (i) the total weight of tobacco in the outside packet, or
 - (ii) the number of unit packets in the outside packet multiplied by the weight of tobacco in each unit packet, with the multiplication symbol being expressed as an “x”,
- (c) that the first letter of any word is in upper-case type or lower-case type,
- (d) that the rest of any word is in lower-case type,
- (e) that the text is printed in Helvetica type,
- (f) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (g) that the text is in a normal, weighted, regular typeface,
- (h) in the case of a unit packet, that the size of the text is no larger than 10 point,
- (i) in the case of an outside packet, that the size of the text is no larger than 14 point,
- (j) that the text appears only once, and
- (k) that the text on any surface which contains a health warning is orientated in accordance with the warning.

Text which gives details about producer

3.—(1) A unit packet or outside packet of hand rolling tobacco may have text printed on its external or internal packaging (but not on both its external and internal packaging) which states all or any of the following—

- (a) the name of the producer,
- (b) the address of the producer,
- (c) the email address of the producer, and
- (d) the telephone number of the producer,

but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the text does not contain any character which is not alphabetic, numeric or an ampersand or, in the case of an email address, an @ sign,

- (b) that the first letter of any word is in upper-case type or lower-case type,
- (c) that the rest of any word is in lower-case type,
- (d) that the text is printed in Helvetica type,
- (e) that the colour of the text—
 - (i) if it appears on the external packaging, is Pantone Cool Gray 2 C with a matt finish, or
 - (ii) if it appears on the internal packaging, is one of the following, namely Pantone Cool Gray 2 C with a matt finish, Pantone 448 C with a matt finish or black with a matt finish,
- (f) that the text is in a normal, weighted, regular typeface,
- (g) that the size of the text is no larger than 10 point,
- (h) that the text appears only once, and
- (i) that the text does not appear on the front surface of the unit packet or outside packet.

Text about cigarette papers and filters

4.—(1) If, in accordance with paragraph 2(2) of Schedule 4, a unit packet of hand rolling tobacco includes both cigarette papers and filters or either cigarette papers or filters, the external packaging of the unit packet, and of any outside packet in which it is contained, may have printed on it such of the following texts as is applicable—

- (a) “includes cigarette papers and filters”,
- (b) “includes cigarette papers”, or
- (c) “includes filters”,

but only if each of the conditions in sub-paragraph (3) is met.

(2) If, in accordance with paragraph 2(2) of Schedule 4, an outside packet of hand rolling tobacco includes both cigarette papers and filters or either cigarette papers or filters, the external packaging of the outside packet may have printed on it such of the following texts as is applicable—

- (a) “includes cigarette papers and filters”,
- (b) “includes cigarette papers”, or
- (c) “includes filters”,

but only if each of the conditions in sub-paragraph (3) is met.

(3) Those conditions are—

- (a) that the text is in lower-case type,
- (b) that the text is printed in Helvetica type,
- (c) that the colour of the text is Pantone Cool Gray 2 C with a matt finish,
- (d) that the text is in a normal, weighted, regular typeface,
- (e) that the text appears below any variant name (or, if there is no variant name, below any brand name),
- (f) that the size of the text is no larger than 10 point, and
- (g) that the text appears only once.

Barcode

5.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may contain a barcode but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
- (b) that the colour of the barcode is either—
 - (i) black and white, or
 - (ii) Pantone 448 C and white,
- (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
- (d) that the barcode appears only once, and
- (e) that the barcode does not appear on the front surface of the unit packet or outside packet.

Calibration mark

6.—(1) The external packaging of a unit packet or outside packet of hand rolling tobacco may contain a calibration mark but only if both of the following conditions are met.

(2) Those conditions are—

- (a) that the calibration mark appears only so far as it is necessary for the automated manufacture of the packaging of the hand rolling tobacco, and
- (b) that the calibration mark, if visible or otherwise detectable, is as inconspicuous as possible so far as is consistent with its function in connection with that automated manufacture.

SCHEDULE 4

Regulation 9

Further provisions about the packaging of hand rolling tobacco

Surfaces

1.—(1) Any surface of the external or internal packaging of a unit packet or outside packet of hand rolling tobacco—

- (a) must be smooth and, in the case of a unit packet or outside packet which is cuboid in shape, flat, and
- (b) must contain no ridges, embossing or other irregularities of shape or texture,

but this is subject to the following provisions.

(2) Sub-paragraph (1) does not prohibit the inclusion—

- (a) in the case of a unit packet of hand rolling tobacco in the form of a pouch, of any feature which occurs as a necessary part of the process of sealing the pouch during its manufacture, or
- (b) in the case of a unit packet or outside packet of hand rolling tobacco which is cylindrical in shape, of any feature which is necessary to affix the bottom of the cylinder or to enable the lid of the cylinder to be opened and closed.

(3) This paragraph is subject to—

- (a) paragraph 3(3), and
- (b) any provision made by any enactment (whenever passed or made) other than these Regulations.

Inserts etc

2.—(1) No insert or additional material may be attached to or included with the packaging of a unit packet or outside packet of hand rolling tobacco.

(2) Sub-paragraph (1) does not prohibit the inclusion in a unit packet or outside packet of hand rolling tobacco of—

- (a) cigarette papers, or
- (b) filters,

provided they are not visible before the packet is opened; but nothing in the rest of these Regulations applies to cigarette papers or filters included in a unit packet or outside packet of hand rolling tobacco in accordance with this sub-paragraph.

(3) Sub-paragraph (1) does not prohibit a barcode from taking the form of an adhesive label but only if each of the conditions in paragraph 5(2) of Schedule 3 is met.

Tab and seal

3.—(1) If a unit packet of hand rolling tobacco has a tab for resealing the packet, the tab must be clear and transparent and not coloured or marked.

(2) If a unit packet of hand rolling tobacco which is cylindrical in shape contain a foil seal as part of its internal packaging, the foil seal must be silver coloured with no variation in tone or shade.

(3) Paragraph 1 does not prohibit such a foil seal from being textured over any entire surface with small dots or squares embossed on the seal if, but only if, the dots or squares —

- (a) are equidistant from each other,
- (b) are of uniform size, and
- (c) do not form a picture, pattern, image or symbol that is recognisable as anything other than a foil seal.

Wrappers

4.—(1) The following, namely—

- (a) a unit packet of hand rolling tobacco,
- (b) an aggregation of such unit packets which is not contained in an outside packet, and
- (c) an outside packet of such tobacco,

may be enclosed by a wrapper but only if each of the following conditions is met.

(2) Those conditions are—

- (a) that the wrapper is clear and transparent,
- (b) that the wrapper is not coloured or marked,
- (c) that any surface of the wrapper—
 - (i) is smooth and, in the case of a unit packet or outside packet which is cuboid in shape, flat, and
 - (ii) does not contain any ridge, embossing or other irregularity of shape or texture that is not a necessary result of the packaging process, and
- (d) that there is nothing attached to the wrapper,

but this is subject to the following provisions.

(3) A wrapper which encloses an aggregation of unit packets within sub-paragraph (1)(b) may have solid, black rectangles or squares but only so far as they are necessary, and of a minimum size necessary, to cover any barcode on the unit packets enclosed within the wrapper.

(4) A wrapper may have a tear tape if each of the conditions in sub-paragraph (5) is met.

(5) Those conditions are—

- (a) that the tear tape is either—

- (i) clear and transparent and not coloured or marked, or
 - (ii) black in colour,
 - (b) that the tear tape forms a continuous straight line which is of constant width not exceeding 3 millimetres, and
 - (c) that the tear tape is parallel to any straight edge of the packet enclosed by the wrapper.
- (6) Sub-paragraph (5)(a)(i) does not prohibit the tear tape from including a single, solid black line—
- (a) that is not more than 15 millimetres long, and
 - (b) that indicates where the tear strip begins.
- (7) A wrapper may have a barcode (and that barcode may take the form of an adhesive label) but only if each of the following conditions is met.
- (8) Those conditions are—
- (a) that the sole purpose of the barcode is to facilitate the sale, distribution and stock control of the tobacco product,
 - (b) that the colour of the barcode is either—
 - (i) black and white, or
 - (ii) Pantone 448 C and white,
 - (c) that the barcode does not form a picture, pattern, image or symbol that is recognisable as anything other than a barcode,
 - (d) that the barcode appears only once, and
 - (e) that the barcode does not appear on the front of the wrapper.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Pacedi sigarêts enghreifftiol

Mae'r enghraifft hon yn ganllaw cyffredinol i edrychiad posibl paced safonol o sigarêts ac ni fwriedir i'r ddelwedd fod yn un gynhwysfawr neu derfynol o baced safonol.

Nid yw'r enghraifft hon yn cynnwys yr holl nodweddion a ganiateir neu sy'n ofynnol yng nghyswllt pacedi safonol sigarêts. Mae'r nodweddion nad ydynt yn cael eu dangos yn yr enghraifft yn cynnwys: marc cyllid tollau a dalwyd, cod bar neu destun sy'n datgan cyfeiriad e-bost a rhif ffôn y cynhyrchydd.

Dyluniwyd yr enghraifft gan ddefnyddio'r ddelwedd o baced sigarêts ar ôl gweithredu'r Gyfarwyddeb Cynhyrchion Tybaco sydd wedi'i chynnwys yng nghanllawiau'r UE sydd ar gael yn: http://europa.eu/rapid/press-release_MEMO-14-134_en.ht



