

cepOVERVIEW

TOBACCO PRODUCTS DIRECTIVE COM(2012) 788: THE COMMISSION'S REGULATORY POWERS

1. Delegated legal acts

The Commission is empowered to regulate non-essential aspects of legislation itself (Art. 290 TFEU; see [cepAnalysis](#)). This is mainly meant to complement or amend basic decisions, taken by the European legislator, technically. Under national law, this corresponds to legislation by regulations.

Power	Object
Art. 3 (2)	Adapting maximum yields for tar, nicotine and carbon monoxide in cigarettes
Art. 3 (3)	Setting maximum yields for other toxic or addictive substances in cigarettes
Art. 3 (3)	Setting maximum yields for toxic or addictive substances in other tobacco products
Art. 4 (3)	Adapting measurement methods for the levels of tar, nicotine and carbon monoxide in cigarettes
Art. 4 (4)	Defining measurement methods for other toxic or addictive substances in cigarettes
Art. 4 (4)	Defining measurement methods for toxic or addictive substances in other tobacco products
Art. 6 (3)	Setting maximum levels for substances providing a "characterising flavour" to tobacco products
Art. 6 (9)	Setting maximum yields for additives which increase "in an appreciable manner" the toxic or addictive effect of tobacco products
Art. 6 (10)	Extension of the ban on "characterising flavours" to include other tobacco products, apart from cigarettes, roll-your-own tobacco and smokeless tobacco
Art. 8 (4) lit. a	Rewording of the text warnings on tobacco for smoking
Art. 8 (4) lit. b	Graphical design of the text warnings on tobacco for smoking
Art. 9 (3) lit. a	Rewording of warnings, inter alia for the combined text-picture warnings on tobacco for smoking
Art. 9 (3) lit. b	Selection of permissible pictures ("picture library") for the combined text-picture warnings on tobacco for smoking
Art. 9 (3) lit. c	Graphical design and sequence of the combined text-picture warnings on tobacco for smoking
Art. 9 (3) lit. d	Defining the conditions for damaging the combined text-picture warnings on tobacco for smoking when opening the unit packet

Art. 10 (5)	Extension of the requirements for both combined text-picture warnings and the “information message” about the carcinogenic ingredients to cover other tobacco products, apart from cigarettes and roll-your-own tobacco
Art. 11 (3)	Adapting the labelling requirements for smokeless tobacco products
Art. 13 (3)	Size and shape of the unit packets of cigarettes and roll-your-own tobacco required to maintain the combined text-picture warnings
Art. 13 (4)	Extension of the requirements of a specific shape of unit packets to include other tobacco products, apart from cigarettes and roll-your-own tobacco
Art. 14 (9) lit. a	Defining the essential terms of contract concerning the administration of data related to product safety by independent third parties
Art. 14 (9) lit. b	Defining technical standards for the proceeding of the unique identifier
Art. 14 (9) lit. c	Defining technical standards for the security feature and its sequence
Art. 18 (2)	Adapting the maximum level for nicotine in nicotine-containing products
Art. 18 (5)	Adapting the labelling requirements for nicotine-containing products

2. Implementing acts

The Commission may harmonise the execution of European Union law on the basis of implementing acts (Art. 291 TFEU; see [cepPolicy Brief](#)). This is meant to apply Union law consistently despite the decentralised execution by Member States. Under national law, this corresponds to the harmonisation of administrative execution through administrative rules.

Power	Object
Art. 5 (3)	Adapting the format for providing manufacturer’s information
Art. 6 (2)	Defining whether tobacco products have a “characterising flavour”
Art. 6 (2)	Defining uniform examination procedures to assess whether tobacco products have a “characterising flavour”
Art. 6 (8)	Defining whether additives contained in tobacco products increase the toxic or addictive effect “in an appreciable manner”

All implementing acts are adopted upon the examination procedure attended by a committee (Art. 5 REG (EU) No. 129/2011).