NOTIFICATION

Addendum

The following communication, dated 27 January 2023, is being circulated at the request of the delegation of New Zealand.

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**Title:** The Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022

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| **Reason for Addendum:** |
| [ ] | Comment period changed - date:  |
| [X] | Notified measure adopted - date: 16 December 2022 |
| [ ] | Notified measure published - date:  |
| [X] | Notified measure enters into force - date: The Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022 came into force on 1 January 2023, and is available at <https://www.legislation.govt.nz/act/public/2022/0079/latest/LMS708154.html>Certain parts of the new legislation will come into effect over time. For example, only low nicotine cigarettes will be able to be sold from 1 April 2025. |
| [ ] | Text of final measure available from[[1]](#footnote-1):  |
| [ ] | Notified measure withdrawn or revoked - date: Relevant symbol if measure re-notified:  |
| [ ] | Content or scope of notified measure changed and text available from1: New deadline for comments (if applicable):  |
| [ ] | Interpretive guidance issued and text available from1:  |
| [X] | Other: To give effect to the amended Smokefree Act, a regulatory regime must now be established to oversee and monitor the import, manufacture, and sale of smoked tobacco products. The Ministry of Health has developed a consultation document setting out proposed requirements for the scheme, and these proposals are currently open for consultation. The consultation process involves targeted engagement with key groups, as well as an online consultation which can be found here <https://consult.health.govt.nz/tobacco-control/proposals-for-the-smoked-tobacco-regulato/consultation/>This Addendum is to inform members of the passage of the Smokefree Act and to provide an opportunity for comment on these regulatory proposals, including in relation to low-nicotine requirements and testing methods, prior to the regulatory regime being established. |

**Description:** The Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act (the Act) came into force on 1 January 2023. The Act now:

- extends the Act's regulatory powers over the composition of smoked tobacco products, such as nicotine levels, so that only products that meet requirements set out in the Act and in the Smokefree Environments and Regulated Products Regulations 2021 (the regulations) can be manufactured, imported, sold or supplied in New Zealand. This is intended to make smoked tobacco products less addictive and appealing.

To implement these changes a regulatory regime must be established to oversee and monitor the import, manufacture, sale and supply of smoked tobacco products in New Zealand. The Ministry of Health has developed a consultation document setting out proposed requirements for the scheme, and these proposals are currently open for consultation. The consultation process involves targeted engagement with key groups, as well as an online consultation which can be found here [Proposals for the Smoked Tobacco Regulatory Regime - New Zealand Ministry of Health - Citizen Space](https://consult.health.govt.nz/tobacco-control/proposals-for-the-smoked-tobacco-regulato/consultation/).

The Act provides that nicotine levels in the tobacco in smoked tobacco products must not exceed 0.8mg/g. This maximum applies to each individual product and includes all sources of variability. The Act also requires that regulations are made to determine whether the levels have been exceeded, including necessary conformity assessment procedures. Additionally, nicotine must not be present in any other constituent of a smoked tobacco product. These restrictions will come into force in April 2025.

We propose that testing requirements include reference to analytical chemical methods to determine nicotine content, with a focus on chromatography-based technology, such as:

- a method based on the World Health Organisation (WHO)'s SOP4 – Standard operating procedure for determination of nicotine in cigarette tobacco filler, 4 validated to account for the low nicotine levels prescribed

- or alternatively a Cooperation Centre for Scientific Research Relative to Tobacco (CORESTA) method, such as CORESTA no. 62 – Determination of Nicotine in Tobacco and Tobacco Products by Gas Chromatographic Analysis.5 Other suitable analytical methods, (eg, methods that test the nicotine content of the filler) may be possible.

New Zealand wishes to provide an opportunity for members to provide any additional comment, including in relation to low-nicotine requirements and testing methods.

Comments can be submitted online or sent directly to New Zealand's TBT Enquiry Point at wto@standards.co.nz.

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1. This information can be provided by including a website address, a pdf attachment, or other information on where the text of the final/modified measure and/or interpretive guidance can be obtained. [↑](#footnote-ref-1)