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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 407**

**PUBLIC HEALTH**

**The Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010**

<i>Made</i>	- - - -	<i>18th November 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>22nd November 2010</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 11(2)(d)(1) and 19(5) of the Tobacco and Primary Medical Services (Scotland) Act 2010<sup>(2)</sup> and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1. These Regulations may be cited as the Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010 and come into force on 1st April 2011.

2.—(1) In these Regulations—

“the Act” means the Tobacco and Primary Medical Services (Scotland) Act 2010;

“banning order” means an order made under section 15(3) of the Act;

“bulk tobacconist” means premises<sup>(3)</sup> where tobacco products are offered for sale (whether or not other products are also offered for sale), if sales of cigarettes or hand rolling tobacco measured in accordance with paragraph (2) meet the following conditions—

- (a) at least 90% of its cigarette sales are in pre-packed quantities of 200 or more cigarettes in their original package, and the remainder in pre-packed quantities of 100 or more cigarettes in their original package;
- (b) at least 90% of its hand rolling tobacco sales are in pre-packed quantities with a weight of 250 grams or more in their original package, and the remainder in pre-packed quantities with a weight of 125 grams or more in their original package; and
- (c) it is not a trade tobacconist;

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(1) “Prescribed” is defined in section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010 to mean prescribed in regulations made by the Scottish Ministers.

(2) 2010 asp 3.

(3) “Premises” is defined in section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010 to include any place and any vehicle, vessel or moveable structure.

“duty free shop” means an export shop as defined in regulation 3 of the Excise Goods (Export Shops) Regulations 2000(4);

“relevant floor area” means the internal floor area of so much of the premises as consists of or is comprised in a building but excluding any part of the premises which is used neither for the serving of customers in connection with the sale of goods nor for the display of goods;

“specialist tobacconist” has the meaning given by section 6(2) of the Tobacco Advertising and Promotion Act 2002(5);

“trade tobacconist” means premises where tobacco products are offered for sale in the course of business involving the sale of such products only to persons who carry on a tobacco business(6) or to their employees.

- (2) The sales referred to in the definition of “bulk tobacconist” are to be measured by sale price—
- (a) during the most recent period of twelve months for which accounts are available, or
  - (b) during the period for which the shop has been established, if it has not been established long enough for twelve months’ accounts to be available.

### **Other information to be contained in application to be registered or to add further premises to an entry in the Register**

3. The information prescribed for the purposes of section 11(2)(d) of the Act is—
- (a) the contact details of the person completing the form;
  - (b) whether at the date of the application the applicant is as a result of a banning order banned from carrying on a tobacco business at any premises specified in the application;
  - (c) whether the relevant floor area of the premises at which the applicant proposes to carry on business exceeds 280 square metres;
  - (d) whether the applicant proposes to carry on a tobacco business as a specialist tobacconist or a trade tobacconist;
  - (e) whether the premises at which the applicant proposes to carry on business is a bulk tobacconist or duty free shop.

### **Tobacco Retailing Banning Order Notices – dimensions, wording and the size of statement**

- 4.—(1) The following are prescribed for the purposes of section 19(5) of the Act.
- (2) The dimensions of the notice are not less than 297 millimetres by 420 millimetres.
  - (3) The wording of the statement to be displayed on the notice is in the form set out in the Schedule to these Regulations.
  - (4) The statement on the notice is of a size such that no character is less than 36 millimetres high.

St Andrew’s House,  
Edinburgh  
18th November 2010

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers

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(4) [S.I. 2000/645](#).

(5) [2002 c.36](#).

(6) “Tobacco business” is defined in section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010 to mean a business involving the sale of tobacco products by retail.

## SCHEDULE

Regulation 4(3)

### **Tobacco Retailing Banning Order Notice**

These premises have been specified in an order made under section 15 of the Tobacco and Primary Medical Services (Scotland) Act 2010.

[Insert name and address of person against whom the banning order has been made] is banned from carrying on a tobacco business at these premises for a period of [insert period for which banning order has effect] from [insert date banning order was made].

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 10 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the Act”) requires the Scottish Ministers to keep a register of persons carrying on a tobacco business. Section 11(2) of the Act sets out what must be contained in an application to be registered or to add premises to a person’s existing entry in the register. These Regulations prescribe the other information which must be contained in such an application.

The additional information is—

- The contact details of the person completing the form (regulation 3(a))
- Whether the applicant is banned from retailing tobacco under an order made under section 15(3) of the Act (a tobacco retailing banning order) (regulation 3(b))
- Whether the floor area exceeds 280 square metres (regulation 3(c))
- Whether the applicant’s business is as a specialist or trade tobacconist (regulation 3(d))
- Whether the premises are a bulk tobacconist or duty free shop (regulation 3(e)).

Section 19 of the Act requires that where premises have been specified in a tobacco retailing banning order under section 15 of the Act and the person against whom that order was made is carrying on a retail business at those premises, then a notice has to be displayed there.

Section 19(3) sets out the requirements for the notice. In section 19(5) the Scottish Ministers are empowered to prescribe the size and wording of the notice. These are prescribed in regulation 4 and the Schedule to these Regulations.