

EXPLANATORY MEMORANDUM
THE TOBACCO RETAILER (REGISTRATION AND DISPLAY OF
NOTICES) REGULATIONS (NORTHERN IRELAND) 2016

SR 2016 No. 97

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under sections 1(6), 2(2), 8(5) and 24(3) of the Tobacco Retailers Act (Northern Ireland) 2014 and is subject to the negative resolution procedure.

1.3 The Rule is to come into operation on 6 April 2016.

2. Purpose of the Rule

2.1 The Rule establishes Belfast City Council as the registration authority for the purpose of maintaining a register of tobacco retailers in Northern Ireland. It also sets out the application form which must be completed by retailers in order to register their tobacco business. Furthermore, it sets out requirements which must be fulfilled in relation to the wording and the dimensions of a notice to be displayed by a retailer in the event of a restricted premises order being served.

3. Territorial extent and application

3.1 This Statutory Rule applies only to Northern Ireland.

4. Legislative Background

4.1 This Rule uses the powers given to the Department of Health, Social Services and Public Safety under sections 1(6), 2(2), and 8(5) of the Tobacco Retailers Act (Northern Ireland) 2014. These sections came into force for the purpose of making regulations on 29 April 2014.

4.2 The Tobacco Retailers Act (Northern Ireland) 2014 was granted Royal Assent on 25 March 2014. The Act makes provision for: a register of tobacco retailers; dealing with the persistent commission of tobacco offences; amendments to the Health and Personal Social Services (Northern Ireland) Order 1978; and additional powers of enforcement in relation to the 1978 Order and the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991.

5. Policy Background

5.1 Preventing children and young people from starting to smoke is key to achieving the Department's long-term aim of a tobacco-free society. Recent evidence shows that, in Northern Ireland, 78% of adult smokers took up the habit before the age of 19 and that 5% of 11-16 year olds in Northern Ireland are current smokers. Despite there being a legal minimum age for the purchasing of cigarettes (this was changed from 16 to 18 in September 2008), children and young people have continued to find ways of obtaining cigarettes. Shops are a regular source of tobacco for underage smokers, with 45% of 11-16 year old smokers claiming they purchase their cigarettes from newsagents, garages or sweet shops.

5.2 The Tobacco Retailers Act strengthens enforcement of tobacco control legislation by requiring all tobacco retailers in Northern Ireland to register with a central Registration Authority. It also introduces tougher sanctions against retailers who regularly sell tobacco to minors.

6. Consultation Outcome

6.1 A consultation on the draft regulations ran from 9 July to 4 September 2015. The consultation document also sought responses on two other sets of proposed regulations. A total of 24 responses were received from a wide variety of stakeholders including: local councils; health and social care organisations; the voluntary and community sector; professional bodies; retail representative bodies; small retailing companies; and tobacco manufacturers.

6.2 One small change was made to Schedule 2 of the Registration and Display of Notices Regulations following consideration of the consultation responses. The change concerned the wording of the notice to be displayed if a premises is subject to a Restricted Premises Order and it involved including the business name and address on the notice.

7. Position in Great Britain

7.1 Similar legislation, with regards to the establishment of a central tobacco retailer register, was introduced in Scotland through the Tobacco and Primary Medical Services (Scotland) Act 2010. The Public Health (Wales) Bill, which was introduced in the Welsh Assembly Government on 8 June 2015, also contains provisions requiring retailers of tobacco products to register.

8. Equality Impact

8.1 In accordance with its duty under section 75 of the Northern Ireland Act 1988, the Department conducted a screening exercise on the proposals on which the Tobacco Retailers Act (Northern Ireland) 2014 was based. It concluded that they do not have any significant implications for equality of opportunity. The measures will not affect any of the section 75 groups disproportionately. In light of this, the Department considers that an equality impact assessment is not necessary.

9. Regulatory Impact

9.1 A regulatory impact assessment was carried out when making the Tobacco Retailers Act (Northern Ireland) 2014 and it concluded that the measures would not have a significant financial impact on tobacco retailers, nor would enforcing the legislation add a significant financial burden on District Councils. There were no responses to the consultation on the draft regulations which indicated that the measures would represent an undue burden on business.

10. Financial implications

10.1 The establishment and maintenance of a centralised registration system will incur relatively small costs for the Department of Health, Social Services and Public Safety. The financial implications for businesses and enforcement bodies will be negligible.

11. Section 24 of the Northern Ireland Act

11.1 The Department believes that the Regulations are compatible with Section 24 of the Northern Ireland Act 1988.

12. EU implications

12.1 The Tobacco Retailers Act (Northern Ireland) 2014 was notified to the EU under the Services Directive. No responses were received from Member States.