
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 85

The Sale of Tobacco (Display of Tobacco Products and Prices etc.) (Scotland) Regulations 2013

Citation and commencement

1.—(1) These Regulations may be cited as the Sale of Tobacco (Display of Tobacco Products and Prices etc.) (Scotland) Regulations 2013 and come into force for the purposes of large shops on 29th April 2013 and for all other purposes on 6th April 2015.

(2) For the purposes of this regulation—

“large shop” means a shop which has a relevant floor area exceeding 280 square metres; and
“relevant floor area”, in relation to a shop, means the internal floor area of so much of the shop as consists of or is comprised in a building but excluding any part of the shop which is used neither for the serving of customers in connection with the sale of goods nor for the display of goods.

Interpretation

2.—(1) In these Regulations—

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

“bulk tobacconist” means a shop, which is not a trade tobacconist, selling tobacco products (whether or not it also sells other products) whose 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 125 grams or more in their original package;

“original package” means the package in which the cigarettes or hand rolling tobacco were supplied for the purpose of retail sale by the manufacturer or importer and “packaged for sale” is to be construed accordingly;

“other feature” means a logo, trademark, symbol, motto, type-face, colour or pattern of colour, picture, artwork, imagery, appearance, message or other indication that constitutes all or part of the recognisable identity of a product, but does not include a bar code or stock number;

“package” means any box, carton or other container;

“shop” means any premises⁽¹⁾ where there is carried on a trade or business consisting wholly or mainly of the sale of goods;

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

(1) “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.

“storage unit” means a gantry, cabinet or unit, tray, shelf or other product in which a tobacco product or smoking related product is held pending sale;

“tobacco area” means a part of a shop containing only tobacco products or smoking related products”; and

“trade tobacconist” means a shop selling tobacco products (whether or not it sells other products) in the course of a business involving the sale of tobacco products only to persons who carry on a tobacco business or 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 12 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 12 months’ accounts to be available.

Requirements for displays of tobacco products or smoking related products in specialist tobacconists

3.—(1) The requirements for the purposes of section 1(2)(c) of the Act(2) are prescribed below.

(2) The display must include a notice which—

- (a) contains the statement “Tobacco products can damage your health and are addictive”;
- (b) is not less than 297 millimetres by 420 millimetres; and
- (c) is displayed in a prominent position and is readily visible to persons seeing the display.

(3) Each character of the statement on the notice in paragraph (2) must be not less than 36 millimetres high.

(4) The display must not be visible from outside the specialist tobacconist.

Requirements for other displays in respect of which no offence is committed

4. In accordance with section 1(4) of the Act(3), no offence is committed under section 1(1) of the Act in relation to a display of tobacco products or smoking related products which complies with the requirements specified in regulation 5, 6 or 7.

Requested displays

5.—(1) The requirements are that the display—

- (a) is a requested display or solely as a consequence of a requested display;
- (b) lasts for no longer than is necessary to complete the requested display; and
- (c) does not result in the display of a total area of storage unit exceeding 1,000 square centimetres in which tobacco products, smoking related products and any other products are visible.

(2) In this regulation—

“requested display” means a display to a person following a particular request by that person—

- (a) to purchase;
- (b) to retrieve for the purpose of sale; or

(2) Section 1(2)(c) of the Act provides that Scottish Ministers may prescribe requirements in relation to displays of tobacco products or smoking related products in specialist tobacconists. “Specialist tobacconist” is defined in section 1(7) of the Act.

(3) Section 1(4) of the Act provides that Scottish Ministers may provide that no offence is committed under section 1(1) of the Act (prohibition of display in the course of business of tobacco products or smoking related products in a place where tobacco products are offered for sale) if the display complies with specified requirements.

(c) for information about,
a tobacco product or smoking related product.

Incidental displays

6.—(1) The requirements are that the display—

- (a) is an incidental display;
- (b) is solely as a consequence of an activity listed in paragraph (2) being carried out;
- (c) lasts for no longer than is necessary in order to allow that activity to be carried out; and
- (d) does not result in the display of a total area of storage unit exceeding 1,000 square centimetres in which tobacco products, smoking related products and any other products are visible.

(2) In this regulation “incidental display” means a display which occurs in the course of one or more of the following activities actively being conducted in the ordinary course of business in relation to tobacco products or smoking related products—

- (a) stocktaking;
- (b) ordering stock;
- (c) restocking;
- (d) staff training;
- (e) pricing;
- (f) cleaning, refurbishment or refitting of the storage unit.

Displays in bulk tobacconists and duty free shops

7.—(1) The requirements are that the display is—

- (a) in a bulk tobacconist or duty free shop;
- (b) in a tobacco area; and
- (c) not visible from any other part of the shop.

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

Place where requirements as to display of prices apply

8. In section 3(1) of the Act(5), “place” means any premises where tobacco products are offered for sale in the course of a business.

Requirements for display of prices of tobacco products or smoking related products

9. The requirements which apply for the purposes of section 3(1) of the Act are specified—

- (a) in regulation 10 for a place which is a specialist tobacconist or bulk tobacconist;
- (b) in regulation 11 for a place which is a trade tobacconist; and
- (c) in regulation 12 for all other places.

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

(5) Section 3(1) provides that Scottish Ministers may impose requirements in relation to the display in the course of business of prices of tobacco products or smoking related products in a place where tobacco products are offered for sale.

Specialist and bulk tobacconists

10.—(1) The requirement in subsection (2) applies only if the display of prices is visible from outside the premises of a specialist tobacconist or from outside the tobacco area in a bulk tobacconist.

(2) A display of prices must—

- (a) comply with the general requirements in regulation 13;
- (b) comply with the requirements in regulation 14(1)(a) and (b)(i) to (vi); and
- (c) be limited to one for each premises or tobacco area.

Trade tobacconists

11. The requirement is that a display of prices must not be visible from outside the premises of the trade tobacconist.

Other places

12. The requirement is that a display of prices must comply with—

- (a) the general requirements specified in regulation 13; and
- (b) the requirements specified in—
 - (i) regulation 14 (in relation to price lists);
 - (ii) regulation 15 (in relation to price lists available only on request);
 - (iii) regulation 16 (in relation to price labels).

General requirements for display of prices of tobacco products or smoking related products

13. The requirements are that a display of prices—

- (a) must only contain the following information in relation to the tobacco products or smoking related products—
 - (i) the brand name of the product;
 - (ii) where pre-packed, the number of units in the package or, where sold by weight, the net weight of the product;
 - (iii) in relation only to cigars, the country of origin and the dimensions;
 - (iv) in relation only to pipe tobaccos, the cut and type of tobacco used; and
 - (v) the price of the product⁽⁶⁾;
- (b) must be printed—
 - (i) in black Helvetica or Arial bold or plain type on a white background;
 - (ii) in type which has a consistent size throughout the text; and
 - (iii) in lower case type except that the first letter of a word may be in upper case type; and
- (c) except as otherwise provided by regulation 15(1)(b)(ii), must not contain any other feature.

Additional requirements for price lists

14.—(1) The requirements are that—

- (a) the display is a price list; and
- (b) the price list—

(6) The indication of the selling price of all products, including tobacco products, is regulated by [S.I.2004/102](#).

- (i) has the title “Tobacco products/Smoking related products price list”;
 - (ii) may include sub-headings for “cigarettes”, “hand rolling tobacco”, “cigars”, “pipe tobaccos”, “other tobacco products” and “smoking related products”.
 - (iii) does not include the prices of any other products;
 - (iv) is worded with characters no higher than 7 millimetres;
 - (v) has no border or frame;
 - (vi) does not exceed 1250 square centimetres in size; and
 - (vii) does not exceed the limit in paragraph (2).
- (2) The limit is—
- (a) one price list for each separate area where tobacco products or smoking related products are located and can be paid for; or
 - (b) where there is more than one till at any such location, one price list for each such till.

Additional requirements for price lists available only on request

- 15.—(1) The requirements are that—
- (a) the display—
 - (i) is a requested price list; and
 - (ii) lasts for no longer than is necessary for the person requesting the price list to obtain the information sought by that person; and
 - (b) the requested price list—
 - (i) is worded with characters no higher than 4 millimetres;
 - (ii) the only other feature displayed on it is a picture of the actual tobacco product or smoking related product, as packaged for sale, where the size of such picture does not exceed 50 square centimetres; and
 - (iii) it does not exceed the limit in paragraph (2).
- (2) The limit is—
- (a) one price list for each separate area where tobacco products or smoking related products are located and can be paid for; or
 - (b) where there is more than one till at any such location, one price list for each such till.
- (3) In this regulation, “requested price list” means a price list which is made available to a person following a particular request by the person for information about tobacco products or smoking related products for sale in the premises where such a request takes place.

Additional requirements for displays on price labels

- 16.—(1) The requirements are that—
- (a) the display is a price label; and
 - (b) the price label—
 - (i) is on the storage unit where the particular tobacco product or smoking related product is held pending sale;
 - (ii) is worded with characters no higher than 4 millimetres;
 - (iii) does not exceed 9 square centimetres in size; and
 - (iv) does not exceed the limit in paragraph (2).

(2) The limit is one label for each separate location in a storage unit where a particular tobacco product or smoking related product is held.

Displays of tobacco products or smoking related products or of their prices which are also advertisements

17. Where a display of, or of the prices of, tobacco products or smoking related products also amounts to an advertisement for the purposes of the Tobacco Advertising and Promotion Act 2002⁽⁷⁾ (“the 2002 Act”), if it complies with the requirements of these Regulations it is to be treated for the purposes of offences under the Act and the 2002 Act as a display of tobacco products or smoking related products or, as the case may be, a display of prices and not as an advertisement.

Revocation of the Tobacco Advertising and Promotion (Point of Sale) (Scotland) Regulations 2004

18. The Tobacco Advertising and Promotion (Point of Sale) (Scotland) Regulations 2004⁽⁸⁾ are revoked.

Amendment of the Tobacco Advertising and Promotion (Specialist Tobacconist) (Scotland) Regulations 2004

19. In regulation 2 of the Tobacco Advertising and Promotion (Specialist Tobacconist) (Scotland) Regulations 2004⁽⁹⁾, after paragraph (5) insert—

“(5A) The advertisement must not be visible from outside the specialist tobacconist.”.

St Andrew’s House, Edinburgh
27th February 2013

MICHAEL MATHESON
Authorised to sign by the Scottish Ministers

(7) 2002 c.36.
(8) S.S.I. 2004/144.
(9) S.S.I. 2004/211.