STANDARDISED PACKAGING AND TOBACCO PRODUCTS DIRECTIVE

Laws regulating the sale of tobacco products across the UK are changing. This guidance outlines how retailers must comply with the new regulations.
STANDARDISED PACKAGING AND TOBACCO PRODUCTS DIRECTIVE
An ACS advice guide for retailers
acs.org.uk

INTRODUCTION

On 20 May 2016, the European Union Revised Tobacco Products Directive (2014/40/EU) and the Standardised Packaging of Tobacco Regulations 2015 came into effect.

UK STANDARDISED PACKAGING REGULATIONS AND TOBACCO PRODUCTS DIRECTIVE TIMELINE

KEY
Action Required:  ■ Retailers  ■ Manufacturers

<table>
<thead>
<tr>
<th>DATE</th>
<th>IMPACT</th>
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<tbody>
<tr>
<td>MAY 20 2016</td>
<td>Manufacturers must only produce:</td>
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<td>NOVEMBER 20 2016</td>
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<td>MAY 20 2017</td>
<td>Application of ‘track and trace’ system and security features to cigarettes and RYO tobacco.</td>
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<tr>
<td>MAY 20 2017</td>
<td>Manufacturers must no longer produce menthol flavoured cigarettes.</td>
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<tr>
<td>MAY 20 2019</td>
<td>Retailers can no longer sell menthol flavoured cigarettes.</td>
</tr>
<tr>
<td>MAY 20 2024</td>
<td>Track and trace system applied to all other tobacco products.</td>
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</tbody>
</table>

THE EU TOBACCO PRODUCTS DIRECTIVE WILL:

• Require all tobacco packaging to be a standard dull brown colour with a matt finish.
• Permit only specified text (such as the brand and variant name) in Helvetica plain font.
• Ban the sale of price marked packs.
• Allow required markings such as health warnings and fiscal marks to remain on packaging.

UK STANDARDISED PACKAGING OF TOBACCO REGULATIONS WILL:

• Require cigarette packs to have a minimum of 20 cigarettes.
• Require RYO tobacco to have a minimum weight of 30g.
• Require 65% of the front and of the back of tobacco packaging to be covered by health warnings.
• Ban the sale of flavoured cigarettes and RYO tobacco, including menthol.
• Require e-cigarette packaging to feature a health warning.
• Require e-cigarettes with more than 20mg/ml of nicotine to be licensed as medicines.
• Require e-cigarette refills to have a maximum of 10ml.
• Require disposable e-cigarettes, cartridges and tanks to have a maximum size of 2ml.
UK STANDARDISED PACKAGING REGULATIONS

Top tips

Be organised on the gantry and in the stock room

• One in four retailers in Australia experienced an increase in the number of customers returning tobacco products following the introduction of standardised packaging regulations. This was predominately due to customers being given a product that they had not asked for.  

✓ Organising your gantry alphabetically will support staff to locate the product quickly. However, if you have a particular product that is popular in your store, make sure it is in easy reach for staff. 

✓ Organise your stock room the same way as your gantry. Stock will be hard to identify and being organised in the stock room is just as important to reinforce a new stock layout with staff members.

Communicate the changes to your customers and staff

• Six out of ten retailers in Australia reported that they had to spend more time communicating to customers about tobacco products.  

✓ Share this guide with your staff so they are aware of the legislative changes in case customers ask. 

✓ You can display signs in your store that indicate the changes in legislation. The signs must be unbranded, generic notices which do not promote any tobacco product or include pictures of tobacco products as stipulated in section 1 of the Tobacco Advertising and Promotion Act 2002. ACS has produced compliant signs which can be found here: www.acs.org.uk/advice/tobacco

Customer requests for pictorial health warnings

• The only distinguishing features on tobacco packaging will be the name of the brand in a plain font and the health warnings displayed on the pack.

• The experience from Australia suggests that some customers have requested or refused certain packs depending on the health warning. If alternative packs are requested, ensure that you do not breach the ‘requested display’ elements of tobacco display ban regulations. ACS’ guide on the tobacco display ban regulations can be found here: http://www.acs.org.uk/advice/tobacco-display-ban/

IN AUSTRALIA...

8/10 retailers experienced stock issues

One in four retailers experienced more tobacco returns

6/10 reported that they had to spend more time communicating to customers about tobacco

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SANCTIONS

A person who supplies tobacco products in breach of any provision is guilty of an offence under these Regulations is liable:

• on summary conviction in England and Wales to imprisonment for a term not exceeding three months, or a fine, or both.

• on summary conviction in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding level 5 (£5,000 at time of publication) on the standard scale, or both.

• on summary conviction in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 (£5,000 at time of publication) on the standard scale, or both.

• on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

EU REVISED TOBACCO DIRECTIVE

The Directive implements measures including:

Minimum product sizes

• Retailers must only sell cigarette packs with a minimum pack size of 20 cigarettes and RYO tobacco with a minimum weight of 30g.

Changes to health warnings

• Retailers must only sell tobacco with health warnings that cover 65% of the front and of the back of pack (previously 30% on front of pack and 40% on back of pack).

Ban cigarettes and RYO tobacco containing characterising flavours

• Retailers have to ensure that any flavoured cigarettes and RYO tobacco, for example, vanilla, spice, herb are not on sale. Menthol RYO tobacco must also not be sold.

• Menthol

• Menthol cigarettes are exempt from the ban on characterising flavours until May 2020 because it has a large market share.

• Retailers must ensure that any menthol flavoured cigarettes are not labelled as ‘menthol’.

• Manufacturers must ensure that they do not produce menthol flavoured cigarettes from 20 May 2020.

Please note: there is no sell through period for the ban on menthol cigarettes in May 2020.

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1, 2, 3 & 4 Ray Morgan Research Impact of Plain Packaging on Small Retailers Comparison Report (Waves 1 & 2, 2013)
The EU Tobacco Products Directive includes provisions that regulate e-cigarettes and refill cartridges outlined in the table below.

### Key

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- Retailers
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There are additional regulations in England, Wales and Scotland as detailed below.

### England and Wales

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 came into effect on 1 October 2015 and makes it an offence:

- For retailers to sell e-cigarettes to anyone under the age of 18. (E-cigarettes which are licensed as medicines are exempt from the age restriction – see next page).
- For the proxy purchase of e-cigarettes.

**Sanctions**

- If a retailer sells an e-cigarette to someone under the age of 18, both the retailer and staff member who made the sale are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- If a retailer fails to implement an age verification policy for the sale of e-cigarettes.
- For the proxy purchase of e-cigarettes.
- To sell e-cigarettes from a premises which is not registered on the Scottish Tobacco Retailers Register.
- For any person under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation from a person over the age of 18.

### Scotland

The Health (Tobacco, Nicotine Etc. and Care) (Scotland) Act makes it an offence:

- For retailers to sell e-cigarettes to anyone under the age of 18. (E-cigarettes which are licensed as medicines are exempt from the age restriction and can be sold to persons under 18).
- E-cigarettes that contain over 20mg/ml of nicotine are required to be licensed as medicines.
- You can check if e-cigarettes you stock are licensed as medicines by visiting the Medicines and Healthcare products Regulatory Agency (MHRA) website here: www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products

**Sanctions**

- If a member of staff sells an e-cigarette to someone under the age of 18, they are liable on summary conviction to a fine not exceeding level 4 (£2,500 at time of publication) on the standard scale.
- If a retailer fails to implement an age verification policy for the sale of e-cigarettes, they are liable on summary conviction to a fine not exceeding level 2 (£500 at time of publication) on the standard scale.
- If a retailer allows staff under the age of 18 to sell a tobacco product, cigarette papers, or Nicotine Vaping Product without authorisation they are liable on summary conviction to a fine not exceeding level 1 (£200 at time of publication) on the standard scale.
- A person who purchases or attempts to purchase e-cigarettes for someone under the age of 18 is liable on summary conviction to a fine not exceeding £20,000, imprisonment for a term not exceeding 6 months, or both.

### Standardised Packaging and Tobacco Products Directive

An ACS advice guide for retailers

acs.org.uk
This guide is provided by the Association of Convenience Stores in consultation with Buckinghamshire and Surrey Trading Standards. It was last updated in February 2018. Please refer to the ACS website for the most current version of this guidance.

ACS Primary Authority Scheme

This advice was developed by ACS, Buckinghamshire and Surrey Trading Standards, Woking Borough Council and Surrey Fire and Rescue Service; as part of a dedicated primary authority scheme. This means that all the advice that has this mark against it is ‘Assured Advice’.

Assured Advice means that if you adopt this policy in your business, then it must be respected by all other local authorities and they cannot ask you to adopt a different policy.

This guide covers a range of different issues of best practice and law. Those that qualify as assured advice are marked by this hallmark.

To benefit from assured advice you must sign up to the ACS scheme. All ACS members can sign up to the ACS Primary Authority Scheme for details of how to join up visit 
www.acs.org.uk/advice

CONTACT

For more details on this guidance, contact a member of the ACS team on 01252 515001.

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Call: 01252 515001
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