



# Tobacco Retailers Act (Northern Ireland) 2014

## 2014 CHAPTER 4

An Act to make provision for a register of tobacco retailers; to make provision for dealing with the persistent commission of tobacco offences; to amend the Health and Personal Social Services (Northern Ireland) Order 1978; to confer additional powers of enforcement in relation to offences under that Order and the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991; and for connected purposes. [25th March 2014]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### *Register of tobacco retailers*

#### **Register of tobacco retailers**

1.—(1) The registration authority must, in accordance with the provisions of this Act, maintain a register of persons carrying on a tobacco business (“the Register”).

(2) On the basis of information contained in the Register, the registration authority must, at all reasonable times, make available for public inspection—

- (a) a list of premises at which tobacco businesses are carried on; and
- (b) such other information as may be prescribed.

(3) The registration authority must make available to each council and the Department such information contained in the Register as that council or the Department may require.

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**Changes to legislation:** Tobacco Retailers Act (Northern Ireland) 2014 is up to date with all changes known to be in force on or before 06 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(4) Information made available under subsection (3) to a council may be used by the council only for the purpose of enabling it or assisting it to perform its functions under—

- (a) this Act;
- (b) Part 2 of the Health and Personal Social Services (Northern Ireland) Order 1978; and
- (c) the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991.

(5) In any proceedings for an offence under this Act a certificate issued by the registration authority which states that on any date a person was or was not registered in respect of any premises shall be evidence of the facts stated in it; and any such certificate which purports to be issued by the registration authority shall be taken to be so issued unless the contrary is proved.

(6) In this Act—

“registered” means entered in the Register, and “unregistered” is to be construed accordingly;

“the registration authority” means a body which is established or constituted by or under Northern Ireland legislation and is prescribed for the purposes of this Act.

#### Commencement Information

- I1** S. 1 coming into operation (1.5.2014 for specified purposes) by [The Tobacco Retailers \(2014 Act\) \(Commencement No. 1\) Order \(Northern Ireland\) 2014 \(S.R. 2014/125\)](#), [art. 2\(a\)](#)
- I2** S. 1 in operation at 6.4.2016 in so far as not already in operation by [S.R. 2016/101](#), [art. 2\(a\)](#), [Sch. 1](#)

#### Application for registration

**2.—**(1) A person may apply to the registration authority—

- (a) to be registered; or
- (b) to add further premises to the person's entry in the Register.

(2) An application under subsection (1) must—

- (a) state the name and address of the applicant;
- (b) where it is an application under subsection (1)(a), state the address of each of the premises at which the applicant proposes to carry on a tobacco business;
- (c) where it is an application under subsection (1)(b), state the address of each of the further premises at which the applicant proposes to carry on a tobacco business;

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- (d) be made in such form and manner as may be prescribed;
  - (e) contain such other information as may be prescribed.
- (3) The registration authority must grant an application under subsection (1) unless—
- (a) it does not comply with subsection (2);
  - (b) the applicant has, within the period of 5 years ending with the day on which the application is made, been convicted of an offence under section 170 or 170B of the Customs and Excise Management Act 1979 in relation to tobacco and been sentenced for that offence to a custodial sentence (whether suspended or not); or
  - (c) at the time the application is made or being considered by the registration authority—
    - (i) a restricted premises order has effect in respect of any premises specified in the application; or
    - (ii) a restricted sale order has effect in respect of the applicant.
- (4) The registration authority must give notice to the applicant of its decision within a period of 28 days beginning on the day on which the application is made.
- (5) On granting an application under subsection (1)(a) the registration authority must enter the following information in the Register—
- (a) the name and address of the applicant;
  - (b) the address of each of the premises at which the applicant proposes to carry on a tobacco business;
  - (c) any other information which the Department may direct the authority to include.
- (6) On granting an application under subsection (1)(b) the registration authority must amend the applicant's entry in the Register so as to include—
- (a) the address of each of the further premises at which the applicant proposes to carry on a tobacco business;
  - (b) any other information which the Department may direct the authority to include.
- (7) Regulations may provide for the charging of fees in connection with making an application under subsection (1).
- (8) In this section “applicant” means a person who makes an application under subsection (1).

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**Commencement Information**

- I3** S. 2 coming into operation (1.5.2014 for specified purposes) by [The Tobacco Retailers \(2014 Act\) \(Commencement No. 1\) Order \(Northern Ireland\) 2014 \(S.R. 2014/125\)](#), **art. 2(b)**

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**14** S. 2 in operation at 6.4.2016 in so far as not already in operation by S.R. 2016/101, art. 2(a), Sch. 1

### Duty to notify certain changes

- 3.**—(1) A registered person must give the registration authority notice of—
- (a) any change in the person's name or address;
  - (b) the fact that the person is no longer carrying on a tobacco business at an address noted in the person's entry in the Register.
- (2) The notice must be given within 28 days of the date of the change to which it relates.

#### Commencement Information

**15** S. 3 in operation at 6.4.2016 by S.R. 2016/101, art. 2(a), Sch. 1

### Changes to and removal from the Register

- 4.**—(1) The registration authority may correct the Register (following notification under section 3 or otherwise) as it considers appropriate.
- (2) The registration authority must amend the Register so as to remove—
- (a) references to registered premises in respect of which a restricted premises order has effect;
  - (b) a person's entry from the Register where that person has, within a period of 5 years ending with the day on which the removal is made, been convicted of an offence under section 170 or 170B of the Customs and Excise Management Act 1979 in relation to tobacco and has been sentenced for that offence to a custodial sentence (whether suspended or not).
- (3) The registration authority may remove a person's entry from the Register if—
- (a) as a result of a correction or an amendment under subsection (1) or (2)(a), there are no premises noted in the person's entry in the Register; or
  - (b) it is not satisfied that the person is carrying on a tobacco business.
- (4) The registration authority must reinstate a person's entry in the Register if—
- (a) the entry was removed under subsection (3)(b); and
  - (b) the person notifies the registration authority, within the period of 28 days from the date of service on that person of the notice of the removal under subsection (5), that the person is still carrying on a tobacco business.

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(5) Where the registration authority corrects, amends, removes or reinstates a person's entry in the Register under this section, it must as soon as reasonably practicable serve a notice on the person of the correction, amendment, removal or, as the case may be, reinstatement.

#### Commencement Information

**I6** S. 4 in operation at 6.4.2016 by S.R. 2016/101, art. 2(a), Sch. 1

### *Persistent commission of tobacco offences*

#### **Restricted premises orders**

**5.—**(1) This section applies where a person (“the offender”)—

- (a) is given a fixed penalty notice in respect of a tobacco offence; or
- (b) is convicted of a tobacco offence.

(2) In the following provisions of this section “the relevant offence” means the offence mentioned in subsection (1)(a) or (b).

(3) A court of summary jurisdiction may, on application made by complaint by the council in whose district the premises in relation to which the relevant offence was committed are situated, make a restricted premises order in respect of those premises (“the relevant premises”).

(4) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco or cigarette papers to any person.

(5) The prohibition applies to sales of tobacco or cigarette papers to any person whether made—

- (a) by the offender or any other person; or
- (b) by means of any machine kept on the premises or any other means.

(6) The order has effect for the period specified in the order, but that period must not be less than 28 days or more than 3 years.

(7) The council making the application must, after making reasonable enquiries, give notice of the application to every person appearing to it to be a person affected by the application.

(8) The court may make the order if (and only if) it is satisfied that—

- (a) the council has complied with subsection (7); and
- (b) on at least 2 other occasions within the period of 5 years ending with the date on which the relevant offence was committed, the offender has been—
  - (i) given a fixed penalty notice in respect of a tobacco offence in relation to the relevant premises; or