WELSH STATUTORY INSTRUMENTS

2012 No. 1285 (W.163)

PUBLIC HEALTH, WALES

The Tobacco Advertising and Promotion (Display) (Wales) Regulations 2012

Made - - - - 14 May 2012
Laid before the National Assembly for Wales - - 16 May 2012

Coming into force in accordance with regulation 1(1)

The Welsh Ministers, in exercise of the powers conferred by sections 4(3), 7A(2), 7B(3) and 19(2) of the Tobacco Advertising and Promotion Act 2002(**1**), and section 26(3) of the Welsh Language Act 1993(**2**) make the following Regulations.

Title, commencement, application, effect and interpretation

1.—(1) The title of these Regulations is the Tobacco Advertising and Promotion (Display) (Wales) Regulations 2012 and they will come into force—

(a) for the purpose of large shops, other than bulk tobacconists, on 3 December 2012; and

(b) for all other purposes, on 6 April 2015.

(2) These Regulations apply in relation to Wales.

(3) These Regulations do not apply to specialist tobacconists(**3**).

(4) For the purposes of this regulation—

"large shop" ("*siop fawr*") means a shop which has a relevant floor area exceeding 280 square metres; and

"relevant floor area" ("*arwynebedd perthnasol y llawr*"), 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.

(**1**) 2002 c. 36. Section 4(3) was amended by S.I.2006/2369. Sections 7A and 7B were inserted by the Health Act 2009 (c. 21), section 21. The Welsh Ministers are the "appropriate Minister" in relation to Wales under section 21(1) of the Tobacco Advertising and Promotion Act 2002 ("the Act"), which was substituted by section 24 of, and paragraphs 2 and 12 of Schedule 4 to, the Health Act 2009.

(**2**) 1993 c. 38.

(**3**) *See* section 6(2) and (3) of the Act for the definition of "specialist tobacconist".

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Tobacco Advertising and Promotion Act 2002;

"area of storage unit" ("*arwynebedd yr uned storio*") means the total area of the storage unit in which tobacco products and any other products are visible;

"bulk tobacconist" ("*swmpwerthwr tybaco*") means a shop 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), comply with 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; and

(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;

"original package" ("*pecyn gwreiddiol*") means the package in which the cigarettes or hand-rolling tobacco were supplied for the purpose of retail sale by the manufacturer or importer;

"package" ("*pecyn*") means any box, carton, or other container;

"premises" ("*mangre*") includes any place and any vehicle, vessel, hovercraft, stall or moveable structure;

"shop" ("*siop*") means any premises where there is carried on a trade or business consisting wholly or mainly of the sale of goods;

"storage unit" ("*uned storio*") means a gantry, cabinet or unit, tray, shelf or other product in which a tobacco product is held pending sale.

(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.

Meaning of place

3. For the purposes of section 7A of the Act (prohibition of tobacco displays), "place" ("*lle*") means a premises in Wales where tobacco products are offered for sale in the course of a business, other than premises—

(a) which are accessible only to persons who are engaged in, or employed by, a business which is part of the tobacco trade; and

(b) from which the prices of tobacco products are not visible from the outside of the premises.

Display as a consequence of a requested display

4.—(1) This regulation applies where a requested display(**4**) is made to an individual ("A") aged 18 or over.

(2) No offence is committed under section 7A(1) of the Act (prohibition of tobacco displays) by a display of tobacco products in a storage unit, to individuals other than A, if—

(a) the display—

(i) is solely as a consequence of the requested display, and

(**4**) *See* section 7(B)(8) of the Act for the definition of a "requested display".

(ii) lasts for no longer than is necessary to remove the requested product from the storage unit; and

(b) the area of storage unit displayed does not exceed 1.5 square metres.

(3) No offence is committed under section 7A(1) of the Act (prohibition of tobacco displays) by a display of tobacco products other than in a storage unit, to individuals other than A, if the display—

(a) is solely as a consequence of the requested display; and

(b) lasts for no longer than the requested display.

(4) In this regulation, "the requested product" ("*y cynnyrch sy'n destun cais*") means the product which A asked to purchase or for information about.

Display in bulk tobacconists

5.—(1) This regulation applies to displays in a bulk tobacconist.

(2) No offence is committed under section 7A(1) of the Act (prohibition of tobacco displays) by a display of tobacco products if—

(a) the display is—

(i) in a part of the shop ("the tobacco area") ("*y man tybaco*") containing tobacco products and smoking accessories only; and

(ii) not visible from outside of the tobacco area;

(b) a bilingual notice displaying the following statement is exhibited at the entrance to the tobacco area—

"Mae gwerthu cynhyrchion tybaco i unrhyw un sy'n iau na 18 oed yn erbyn y gyfraith / It is illegal to sell tobacco products to anyone under the age of 18", and

(c) the shop is designed so that customers who wish to buy products other than tobacco products and smoking accessories are not required or encouraged to pass through the tobacco area.

(3) The dimensions of the notice to be exhibited in accordance with paragraph (2)(b) must be not less than 594 millimetres by 420 millimetres and the size of the statement to be displayed on the notice must be such that no character is less than 36 millimetres high.

Incidental Displays

6.—(1) No offence is committed under section 7A(1) of the Act (prohibition of tobacco displays) by a display of tobacco products in a storage unit if that display complies with the requirements of paragraph (2).

(2) The requirements of this paragraph are that—

(a) the display—

(i) occurs in the course of an activity listed in paragraph (3) being actively carried out in the ordinary course of business in relation to tobacco products;

(ii) is solely as a consequence of that activity being carried out; and

(iii) lasts for no longer than is necessary in order to allow that activity to be carried out; and

(b) the area of the storage unit displayed does not exceed 1.5 square metres.

(3) The activities referred to in paragraph (2)(a)(i) are—

(a) assessing stock levels for the purposes of stock control;