



ACS | advice

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.

UK STANDARDISED PACKAGING REGULATIONS AND TOBACCO PRODUCTS DIRECTIVE TIMELINE

KEY

Action Required: ■ Retailers ■ Manufacturers

DATE	IMPACT
MAY 20 2016	Manufacturers must only produce: <ul style="list-style-type: none">Tobacco with standardised packaging.Cigarette packs with a minimum of 20 cigarettes.Roll Your Own (RYO) tobacco with a minimum weight of 30g.Tobacco with health warnings that cover 65% of the front and of the back of packaging.Unflavoured cigarettes or RYO tobacco (with the exemption of menthol cigarettes).
NOVEMBER 20 2016	Manufacturers must only produce: <ul style="list-style-type: none">E-cigarettes with a health warning.E-cigarettes with a maximum of 20mg/ml of nicotine (unless they are licensed as medicines).E-cigarette refills with a maximum size of 10ml.Disposable e-cigarettes, cartridges and tanks with a maximum size of 2ml.
MAY 20 2017	Sell through period ends Retailers must ensure that they only sell: <ul style="list-style-type: none">Tobacco with standardised packaging.Cigarette packs with a minimum of 20 cigarettes.Roll Your Own (RYO) Tobacco which has a minimum weight of 30g.Tobacco with 65% of the front and of the back of packaging covered by health warnings.Unflavoured cigarettes or RYO tobacco (with the exemption of menthol cigarettes).E-cigarettes which feature a health warning.E-cigarettes with a maximum of 20mg/ml of nicotine (unless they are licensed medicines).E-cigarette refills with a maximum size of 10ml.Disposable e-cigarettes, cartridges and tanks with a maximum size of 2ml.
MAY 20 2019	Application of 'track and trace' system and security features to cigarettes and RYO tobacco.
MAY 20 2020	Manufacturers must no longer produce menthol flavoured cigarettes. Retailers can no longer sell menthol flavoured cigarettes. Please note: no sell through period for menthol cigarettes for retailers.
MAY 20 2024	Track and trace system applied to all other tobacco products.

INTRODUCTION

Laws regulating the sale of tobacco products across the UK are changing. 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. However, retailers have a sell through period to sell non-compliant stock until 20 May 2017.

**UK STANDARDISED PACKAGING OF TOBACCO REGULATIONS 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.

**THE EU TOBACCO PRODUCTS DIRECTIVE 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

Don't be the last man standing with branded tobacco products

✓ **Adapt to standardised packaging early.** In Australia, eight of 10 retailers experienced stock issues, for example, many tobacco lines were out-of-stock when retailers attempted to order them at the initial introduction of standardised packaging. Ensure that you have product availability for the introduction of the regulations by switching to standardised packaging stock early. ¹

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. ²

✓ **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. ³
- ✓ **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/>

BRANDED OUTERS

The outer packaging of tobacco may still be branded as the Standardised Packaging of Tobacco regulations only apply to retail packaging (any packaging that is, or is intended to be, presented for sale to consumers).

Wholesale packaging, for example boxes used for transport and storage of cigarette packaging, are not required to have standardised packaging.

Please note: retailers are still obligated under the tobacco display ban regulations to cover tobacco packs both when transporting through the cash and carry depot outside the tobacco room, and in their store.

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 ⁴



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 a magistrates' court to imprisonment for a term not exceeding three months, or a fine, or both.
- OR**
- on conviction on indictment in the Crown Court to imprisonment for a term not exceeding two years, or a fine, or both.

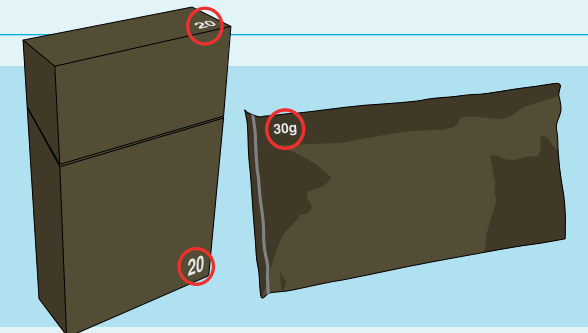
^{1, 2, 3 & 4} Roy Morgan Research Impact of Plain Packaging on Small Retailers Comparative Report (Waves 1 & 2, 2013)

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 from May 2017.



Changes to health warnings

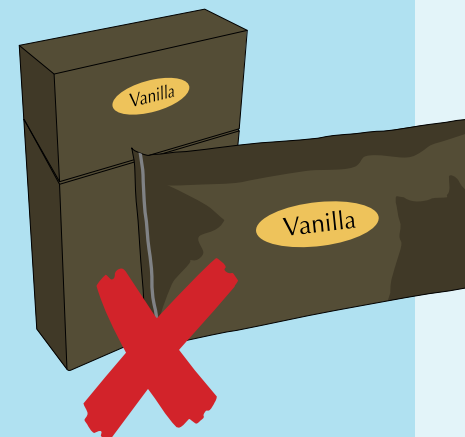
- Retailers must only sell tobacco with health warnings that cover 65% of the front and of the back of pack (previously 30% on front of pack and 40% on back of pack) from May 2017.



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 from 20 May 2017. Menthol RYO tobacco must also **not** be sold from 20 May 2017.
- **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' from May 2017.
- 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.



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.

OR

- on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.

E-CIGARETTES


The EU Tobacco Products Directive includes provisions that regulate e-cigarettes and refill cartridges outlined in the table below.

KEY

Action Required: ■ Retailers ■ Manufacturers

DATE	IMPACT
20 November 2016	Manufacturers must only produce: <ul style="list-style-type: none">E-cigarettes with a health warning.E-cigarettes with a maximum of 20mg/ml of nicotine (unless they are licensed as medicines).E-cigarette refills with a maximum of 10ml.Disposable e-cigarettes, cartridges and tanks with a maximum size of 2ml.
20 May 2017	Sell through period ends Retailers must ensure that they only sell: <ul style="list-style-type: none">E-cigarettes which feature a health warning.E-cigarettes with a maximum of 20mg/ml of nicotine (unless they are licensed medicines).E-cigarette refills with a maximum of 10ml.Disposable e-cigarettes, cartridges and tanks with a maximum size of 2ml.

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.
- The fixed penalty for the proxy purchase of e-cigarettes is £90. The fine applies to the person who purchases or attempts to purchase for someone under the age of 18.

 **SCOTLAND**


From 1 April 2017, the Health (Tobacco, Nicotine Etc. and Care) (Scotland) Act will make 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 below).
- For failing 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.

The Act also implements further restrictions on e-cigarette media advertising which is yet to be confirmed by Scottish Ministers.

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 level 5 (£5,000 on the standard scale) on the standard scale.
- A retailer who continues to sell e-cigarettes without registering to sell e-cigarettes is liable on summary conviction to a fine not exceeding £20,000, imprisonment for a term not exceeding 6 months, or both.

 **MEDICATED E-CIGARETTES**

- 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 will be 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 from May 2017 here: www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products



ABOUT THIS GUIDE

This guide is provided by the Association of Convenience Stores in consultation with Buckinghamshire and Surrey Trading Standards. It was last updated in February 2017. Please refer to the ACS website for the most current version of this advice.

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

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