



**Isle of Man
Government**

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Tobacco Control Regulations 2015

The new law about the display and sale of tobacco products,
tobacco vending machines and tobacco advertising
from 1 July 2016.

Your questions answered

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Isle of Man Office of Fair Trading
and
Department of Health and Social Care

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1. Brief overview of the new changes

The law on the display of tobacco products and the display of tobacco product prices in the Isle of Man is changing from **1 July 2016**.

The new law applies to all businesses selling tobacco products to the public, not just shops but also "on-trade" licensed premises such as pubs and clubs.

1.1 Tobacco products

From 1 July 2016 it will be an offence for retailers in the Isle of Man to display tobacco products. Any business which sells tobacco products will need to ensure that they are covered up, and that tobacco prices are only displayed in the formats allowed under the new regulations.

The regulations recognise that retailers need to be able to serve customers, restock products, and learn where brands are kept. Exemptions are therefore given for temporary displays during the serving of a customer, the assessing of stock levels, restocking, training and maintenance. The size of each temporary display allowed must not exceed 1.5 metres X 1.5 metres (See Section 2 & Section 5).

It will be illegal to show, as well as to sell, tobacco products to a customer under the age of 18 years. Where appropriate, age checks must be carried out before any tobacco product is shown to a customer who asks to buy tobacco or asks for information about a tobacco product.

There are some additional exemptions which talk specifically about specialist and bulk tobacconists where the regulations may apply differently.

The regulations allow labels on storage units, and tobacco product price lists, however these are subject to specific restrictions (See Section 5).

1.2 Tobacco Vending Machines

From 1 July 2016, it will be illegal to sell tobacco products from vending machines (automatic machines). Premises with vending machines selling tobacco will need to remove tobacco products and advertising labels from the machines. Premises may decide to remove the vending machines totally, or redesign them for other uses.

1.3 Tobacco Advertising

From 1 July 2016 it will be an offence for an Isle of Man based service provider to advertise, or procure the advertisement of, tobacco products on the internet.

1.4 Legislation

The 3 pieces of legislation relevant to these changes are:

- Public Health (Tobacco) Act 2006 (this is the Original Act);
- Public Health (Tobacco) (Amendment) Act 2015 (this refers to tobacco vending machines and advertising); and
- Tobacco Control Regulations 2015 (this refers to tobacco product displays).

2. Action for retailers selling tobacco products

2.1 When do the changes come in?

The changes to open tobacco product displays, tobacco product prices lists and vending machines selling tobacco come into effect on **1 July 2016**.

2.2 What do I need to do?

From 1 July 2016, if you sell tobacco products you will need to:

- make sure that tobacco products are not displayed to the public (apart from in limited circumstances which are explained in Section 5), and
- make sure that the prices of tobacco products are only displayed in the formats set out in the new law.

The law does not set out *how* you have to cover your tobacco product display but you must cover the tobacco products completely and when you retrieve a tobacco product, the maximum area that can be displayed is 1.5 metres X 1.5 metres. Tobacco gantries may be larger than 1.5m X 1.5m, as long as there are doors that reduce the size of the open tobacco product display to this maximum measurement.

Retailers are free to choose for themselves the most appropriate and efficient means of removing tobacco products from sight. Some retailers may receive support if their gantry is owned by a tobacco manufacturer, but this support is not guaranteed.

Please note: The maximum display area allowed in Isle of Man Regulations (1.5 metres X 1.5 metres) is slightly larger than the UK. This resulted from visits to local retailers and measuring local shop gantries, where it transpired that a slight adjustment to the size of the display area allowed would significantly reduce the amount of outlay which some retailers would be required to make to comply with the regulations.

2.3 How do I prepare?

It is the retailer's responsibility to ensure that the correct changes are made by the date the law comes into effect. It is recognised that these changes are likely to take time and could involve changes to gantries.

Retailers will need to plan well in advance in order to ensure compliance by the time the law is introduced. Where tobacco gantries are owned by tobacco manufacturers, proprietors or managers should consider contacting the owner of the gantry to discuss the changes that will be needed to comply with the new law.

Managers should also consider dates for training staff on the new law and make time for them to familiarise themselves with the changes prior to 1 July 2016.

3. Why the changes?

3.1 Why has the Government changed the law?

Removing permanent tobacco product displays is one initiative among many being delivered to help reduce the numbers of young people taking up smoking, and to help adult smokers who want to quit.

With increasing bans on tobacco advertising, tobacco companies have become more reliant on displays at the point of sale to draw attention to their products and stimulate sales. Evidence shows that colourful and eye-catching tobacco displays have a direct impact on young people's smoking, with children exposed to in-store displays much more likely to start smoking. The main reason for the new law is to protect children and young people from tobacco products and displays being used as promotional tools.

Studies have also shown that impulse buying of tobacco products as a result of seeing a display remains high, particularly amongst young people and those trying to quit smoking, resulting in relapse. The new law also aims to reduce this source of temptation to buy cigarettes on impulse.

3.2 Why cover tobacco displays if standardised packaging might be introduced?

The Department of Health and Social Care believes that plain packaging does not negate all the reasons for banning point of sale displays. Although there would not be specific advertising or promotion on each cigarette packet if plain packaging was introduced, large displays still normalise tobacco use for children, and create a perception that tobacco is easily obtainable. They are still considered a 'powerful wall of advertising' by the size of the display, which can draw attention, stimulate sales, and be a trigger for impulse buying when people are trying to quit.

4. Who needs to take action?

4.1 I sell tobacco, does it apply to me?

The law applies to all businesses selling tobacco products to the public. After 1 July 2016 it will be illegal to display tobacco products except to people aged 18 and over in the limited circumstances allowed by the law.

You may need to carry out an age check before showing a tobacco product to a customer who asks to buy it. If you have any doubt about a person's age you should ask them for proof.

The law does not cover tobacco accessories such as matches, lighters and rolling papers.

4.2 Does the ban only apply to newsagents? What about pubs and off-licences?

The changes apply to all businesses selling tobacco to the public, which includes shops and 'on-trade' licenced premises such as pubs and clubs.

4.3 What about online sales of tobacco?

The law on display does not apply to websites, but from 1 July 2016 it will be an offence for an Isle of Man based service provider to advertise, or procure the advertisement of, tobacco products on the internet.

Businesses will still be able to show tobacco products and their prices on their own online shopping websites.

4.4 Does this law apply to specialist and bulk tobacconists?

There are separate arrangements for specialist tobacconists and bulk tobacconists recognising the specialist nature of their businesses and the fact that they are not generally frequented by children. Specialist tobacconists will be able to display tobacco products as long as they are not visible from outside the shop. If you fall into this category, please contact the Office of Fair Trading for further advice (See Section 7).

5. How will the law work in practice?

5.1 How will the law be enforced?

Trading Standards Officers from the Office of Fair Trading will be responsible for enforcing this law.

5.2 What will happen if my tobacco products are still on open display after 1 July 2016?

We appreciate that the vast majority of retailers run responsible businesses and take seriously their responsibilities to abide by the law.

We also realise that non-compliance could occur as a result of a lack of awareness or understanding of the legislation which might be addressed by the provision of information, guidance and support. Trading Standards Officers can provide extra guidance (See Section 7 for details).

However, it is your responsibility to comply with the law, and failure to do so is a criminal offence. Anyone, including shop managers and shop assistants, found guilty of these offences is liable:

- On summary conviction to custody for a term not exceeding 6 months, or a fine not exceeding £5,000, or both

OR

- On conviction on information to custody for a term not exceeding 2 years, a fine, or both.

5.3 Do I need to get a special display unit?

The legislation does not set out *how* tobacco products must be stored or covered. Retailers are free to choose for themselves the most appropriate and efficient means of removing tobacco products from sight. There are a number of practical ways to ensure compliance with the display legislation. These can be viewed in picture format in our briefer guidance produced by the Association of Convenience Stores for the Isle of Man (see www.gov.im/oft).

Possible solutions include using curtain covered displays or a sliding door. Tobacco products can also be kept on open shelves under, over, or beside the counter, provided they face the staff and are only open to view by staff, so that the products cannot be seen by the public. Some businesses may simply choose to remove cigarette packs from open view, but can still let customers know that they are for sale [see '*How will my customers know that I still sell cigarettes?*' question below].

If your gantry is owned by a tobacco manufacturer, we suggest contacting them for further advice. Many have already been through similar changes in the UK.

5.4 Will the Government pay for the cost of replacing my tobacco gantry?

The Government will not pay for any changes to tobacco gantries.

We believe there are practical, cost-effective ways to achieve compliance with the legislation. In the first instance you should contact your trade/representative body for advice and see our guidance produced by the Association of Convenience Stores for the Isle of Man at: www.gov.im/oft

Many retailers in the UK have received support for the changes to their gantry if they are owned by tobacco manufacturers, so we recommend contacting them.

If you still have further questions, contact Trading Standards at the Office of Fair Trading (See Section 7).

5.5 What about display of smoking accessories such as tobacco papers and lighters? Do these have to be covered up?

Tobacco accessories include any product associated with smoking that does not contain tobacco, such as rolling papers, matches, lighters and pipes. Tobacco accessories can continue to be displayed and kept in public view. Retailers may need to consider new arrangements if accessories are currently kept in the same gantry as tobacco products as it will be an offence to display tobacco products when serving customers with non-tobacco products.

5.6 How will my customers know that I still sell cigarettes?

Adults who smoke will continue to be able to buy cigarettes and tobacco exactly as they do now.

The Department of Health and Social Care will be organising communications activity to raise public awareness that tobacco products will no longer be on open display before the law takes effect on 1 July 2016. People will still be able to buy their tobacco products from the same shop in the usual way.

5.7 How will I be able to display the prices of tobacco products?

The law allows 3 types of price lists and labels. You must use black Arial or Helvetica plain type on a white background. This must be the same size throughout the list, with no underlining, italics or other distinguishing emphasis. All letters must be in lower case, except for first letters of words where appropriate. No other colours for either the wording or the background are allowed.

You may have:

- **Display unit poster:** One A3 size poster may be displayed anywhere in the store. In addition to the text requirements above, the poster must be titled 'Tobacco products price list'. It must contain only the brand name, price and number of units per pack, with wording no larger than size 30 font.
- **Price list on request:** A tobacco product price list may be kept at each point of sale, but must not be displayed unless requested by a person aged 18 or over. In addition to the text requirements above, the list must have wording no larger than size 14 font, and can contain pictures of branded packaging no larger than 50cm² (roughly the size of a standard cigarette pack e.g. 5cm X 10cm).
- **Price labels:** Price labels may be placed on covered shelving or the front of the storage unit. In addition to the text requirements above, each label must be no larger than 9cm² (e.g. 2cm X 4.5cm), there may only be one label per product and the label can only contain the brand name, price and number of units per pack (e.g. 20pk Tobacco Product £X).

It is an offence to display the prices of tobacco products in a way that does not meet these requirements.

Example text Arial Font – Size 30 point

Arial text in 30 point font
which is the maximum size
of wording on a Display
unit poster titled 'Tobacco
Products Price List'

Example text Arial Font – Size 14 point

This is an example of Arial text in 14 point font which is the maximum size of wording on a tobacco price label on a storage unit or tobacco product price list on request

5.8 When am I allowed to show tobacco products? What happens when I open the storage unit to re-stock or clean it? Am I breaking the law?

The law takes account of day-to-day activities necessary to run a business and allows temporary displays of tobacco products in limited circumstances.

It is not an offence to show a tobacco product to a person aged 18 or over who asks to buy a tobacco product or who has asked for information about a tobacco product.

This display is described in the legislation as a **“requested display”**. It may only last for as long as is necessary to remove the requested product from the storage unit AND provided the area of the unit opened does not **exceed 1.5m X 1.5m**.

It is not an offence if other people in the shop (including children) see a tobacco product as a result of a “requested display”, whilst a customer is being served.

The gantry can also remain open for as long as is reasonable to complete any of the following:

- assessing the stock levels for the purposes of stock control
- restocking
- staff training
- cleaning, maintaining or refurbishing a tobacco storage unit.

Displays during restocking must only last for as long as needed to place the product in the storage unit. It is an offence for tobacco products to be visible while they are being moved around the shop, for example, while being taken from the stock room to the storage unit.

The temporary display must also end if the relevant task is interrupted for any reason and is no longer being actively carried out, for example, while collecting cleaning products from a store room, or getting new equipment.

The law also allows temporary displays in specified circumstances by bulk tobacconists and specialist tobacconists following a request by an enforcement officer.

5.9 What if a customer asks to see the full range of tobacco products before they buy?

If a customer makes a general enquiry about the whole range of tobacco products on offer, it may be more appropriate to show them a pictorial price list.

5.10 Do I have to cover tobacco product deliveries to the store?

The new tobacco display law only applies inside premises selling tobacco products. The aim is to end the permanent open display of tobacco products and to limit the duration and circumstances of temporary displays.

While deliveries are often made "behind the scenes" with products being unloaded directly into storage areas that are not generally in public view, in many small shops deliveries have to be taken through the public area of the shop. Depending on the nature of the outer packaging, it is possible that a technical breach of the display law may be made if deliveries can be seen by customers while they are being taken through the public area of a shop. Retailers must take steps to keep any such display to a minimum and consider covering deliveries in the store with a sheet/material. Tobacco products should be removed from sight as soon as possible and deliveries should not be left on open view for any longer than is necessary to move them to a storage area.

Regulatory officers will need to consider the particular circumstances of individual cases and may decide that enforcement action is not warranted. However, if such displays can be avoided, or a retailer is found to be deliberately circumventing the law, then enforcement action may be appropriate.

6. Impact to date

6.1 What is the feedback from retailers in England about similar laws there?

After the introduction of the tobacco product display ban in England, more than 90% of retailers reported that they had no problems or concerns with compliance (Association of Convenience Stores (ACS) feedback).

6.2 What have the costs been for retailers in England?

The Association of Convenience Stores (ACS) reported that the costs of changing the tobacco units in England varied significantly. A lot of the changes to displays were funded by tobacco manufacturers. Some retailers spent as little as £50 to put a blind up whereas others spent thousands on specialist overhead solutions. The ACS advises retailers to contact a local shopfitter to discuss solutions. You can also contact Trading Standards at the Office of Fair Trading for advice (See Section 7).

6.3 Have shops lost money from covering up their tobacco displays?

There is no evidence to suggest that sales of tobacco products fall significantly after tobacco displays are covered up: the immediate effect is considered to be small. Adults who smoke will continue to be able to buy their cigarettes and tobacco in the usual way. The new law is likely to have only a gradual effect on the number of people smoking in the longer term – primarily by reducing the uptake of smoking by children and young people.

6.4 What is the likely impact on my business - Won't it increase serving times?

Concerns about display bans increasing serving times were voiced prior to legislation being introduced in Ireland and England. However, trials showed that although serving times tended to increase at the start, once staff became accustomed to the modified units, they reduced. It should also be noted that many of the studies citing concerns about increased serving times both for display bans and plain packaging were funded by the Tobacco Industry.

The Department acknowledges that there will be training required for retail staff and that initially these changes may increase serving times slightly, however as one retailer stated in their response to our consultation, *"we doubt that this level of increase would be sustained long term"*.

6.5 Won't this lead to increased illegal tobacco sales?

There is no evidence from countries that have stopped tobacco displays in shops that ending displays increases the illicit trade. The experience shows that adult smokers will continue to buy their cigarettes and tobacco as they do now. Figures from England and Ireland show that the illicit trade has not increased, and has actually generally decreased more recently.

7. Where can I go for further information, help and advice?

Trading Standards Officers from the Office of Fair Trading can provide advice about the Tobacco Control Regulations 2015.

Isle of Man Office of Fair Trading

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A simple pictorial guide about the new law produced by the Association of Convenience Stores for the Isle of Man can be found at: www.gov.im/oft

Retailers and other businesses may wish to contact their trade or representative body for advice. If your gantry is owned by a tobacco manufacturer we suggest contacting them for advice.



This document can be provided in large print or in audio format on request

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