FINGERTIP GUIDE TO THE
NEW TOBACCO DISPLAY LAWS
Scotland is known for world-class retailing and wholesaling. The new changes to tobacco displays included in the Tobacco and Primary Medical Services (Scotland) Act 2010 require some understanding.

The law can be difficult, and many questions will be raised. The purpose of this fingertip guide is to help you understand the law and to pose questions you may ask yourself so that your business can continue to be successful.
Legal Displays

Your Guide to Compliance

A trade guide to the law from 29th April 2013 and 6th April 2015

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Disclaimer: The author and producers of this booklet cannot accept legal responsibility. Advice can be obtained from your local trading standards officer or specialist lawyer.
Legal Displays in Scotland

The Display Ban

Products Affected

The new laws will enforce tight restrictions on the display of all tobacco and smoking related products.

Tobacco Products

• Cigarettes
• Cigars
• Roll-Your-Own Tobacco

Smoking Related Products

• Cigarette Papers
• Cigarette Filters
• Pipes
• Cigarette Tubes
• Apparatus for Making Cigarettes
• Cigarette Holders

Every time you see the words ‘tobacco products’ think ‘tobacco products and smoking related products’
Retail

For retailers, the single most important detail in the new laws is the distinction between a ‘large shop’ and a ‘small shop’.

The date that you will have to cover up all tobacco products by is different depending on which of these categories your shop fits into.

You can find out whether your shop is ‘large’ or ‘small’, and what date you have to comply by, on the next page.

This fingertip guide will help explain the law in a practical way
Legal Displays in Scotland

Large Shop or Small Shop?

If your shop has a ‘selling area’ larger than 280 square m, your business will be classified as a ‘large shop’. You need to fully comply with the law by 29 April 2013.

If your shop has a ‘selling area’ smaller than 280 square m, your business will be classified as a ‘small shop’. You need to fully comply with the law by 6 April 2015.

If you are unsure of any issue relating to the display ban, consult your local trading standards officer or your trade association.

What’s included in the measurement for a ‘selling area’?

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If you're a small shop, keep the fingertip guide handy! Read what you will have to do in the future and ask for advice if you have any worries, concerns, or questions.

*Small shop = smaller than 280 square m

- Entrance
- e.g. 156 square m
- Counter

*Large shop = larger than 280 square m

- Entrance
- e.g. 325 square m
- Counter

*280 square m is equivalent to 3,000 square feet

Small shop = smaller than 280 square m

Counter

Large shop = larger than 280 square m

Counter

280 square m is equivalent to 3,000 square feet
Legal Displays in Scotland

Retail Displays

Q It’s called the “Tobacco Display Ban”. Does this mean displays are prohibited?
A No. You are still allowed temporary displays of tobacco products. In all cases, these temporary displays must not exceed 1000 square cm (roughly the length of 8-12 pack-facings).

Q What do I have to do to comply?
A If your business is classified as a ‘large shop’ you need to act now (see page 6). Any business selling tobacco products for personal use in Scotland must store them out of sight - there are now only limited circumstances where tobacco products can be displayed. The display ban also affects how your shop can display prices and information relating to tobacco products. If your business is classified as a ‘small shop’ these requirements apply from 6 April, 2015.

Q How do I cover up my tobacco products?
A You could use covers on the gantry where your tobacco products are stored. If you have equipment from a tobacco manufacturer, then ask your supplier for advice because you may not be permitted to alter the gantry if it does not belong to you. Information will also be provided to you by your trade association and local trading standards officer.

Maximum Display Area: 1000 square cm (indicated by red outline)
Q What is a temporary display?
A A temporary display can fit into two categories: a requested display and an incidental display. Requested displays and incidental displays are restricted to 1000 square cm.

Q What if two different customers ask two different members of staff to open two different covers at the same time? This will display more than 1000 square cm. Is this against the law?
A No. There are two separate requested displays here. This is allowed.

Q To whom can I display my tobacco products?
A When you open a cover, customers of any age will see tobacco products - this is not an offence, as long as you have only opened the cover to allow someone of a legal age to make the purchase. It is not illegal to let a customer view packets of cigarettes for information before a sale. Remember, it is illegal to sell tobacco products to anyone under 18.

Q If a customer asks me questions about a tobacco product in front of other customers, is this considered advertising, meaning I’ve committed an offence?
A No. You can give any explanation or information about a brand or a tobacco product when a customer asks. If the customer asks you to remove the tobacco product from the gantry, you must take care to place it back in the gantry as soon as you have answered the customer’s questions.
Legal Displays in Scotland

Retail Displays

Q  How long can I open the cover for?
A  The cover should only remain open for as long as is necessary to remove the tobacco product, or as long as is necessary to display tobacco products to a customer.

Q  Should I remove anything from my gantry when the law comes into effect?
A  E-cigarettes, lighters and matches should not be kept in the covered section of the gantry alongside tobacco products. You are free to display e-cigarettes, lighters and matches in any way you wish. Opening your gantry cover to retrieve these products could be an offence because the customer has not requested to see tobacco products. E-cigarettes are not currently included in the display ban but the Scottish Government can change this. Check the iPhone/iPad app for updates.

Q  Am I committing an offence if a customer who has bought tobacco products carries them around my store uncovered?
A  No. You cannot be held responsible for any display by a customer.

Q  I am worried my sales will go down. Am I allowed to advertise with flyers or posters?
A  Absolutely not. This remains prohibited according to an Act of Parliament in 2002 which restricted the use of tobacco advertisements. There is more information on gantry advertising in the Display of Prices section.
Q Can I continue to display my tobacco products as I currently do?
A There are no restrictions as to how businesses can display tobacco products **behind the covers**. Provided they are covered up and out of public view, you can store them anywhere you like. For example, tobacco products can be kept on shelves under or beside the counter, or in a covered up box.

Q Can I put any branding on the front of the gantry covers?
A You can brand your covers with your own store logo or colours; however, if your gantry is owned by a tobacco manufacturer this may be restricted. Contact the owner of your gantry for further advice. **Remember, you can’t brand your covers with cigarette or tobacco branding.**

Q I have been offered an automatic vending machine previously used in a pub to put in my shop for customer self-service. Is this acceptable?
A Only if you use the vending machine to stock tobacco products and the machine cannot be accessed or used by customers. From **April 29, 2013** automatic vending machines are banned in Scotland.

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*Don’t stock tobacco and smoking related products with e-cigarettes, lighters and matches*
Temporary Displays

Incidental Displays

There will be times during the working day that stock is out of the gantry. In certain circumstances, this is allowed, whilst staff are actively working with tobacco products. These types of displays are known as incidental displays.

There are only 8 types of incidental display allowed:

1. Stock-taking
2. Ordering stock
3. Restocking
4. Undertaking staff training
5. Pricing
6. Cleaning the gantry
7. Refurbishing the gantry
8. Refitting the gantry

Q Staff have left tobacco products at the back of the counter whilst taking in a fruit and veg delivery. Is this allowed?
A No. Leaving tobacco products in public view is a breach of the law, unless it is associated with one of the 8 types of incidental display.

Q Tobacco products are in public view because one staff member is restocking, and the other is cleaning. Is this permitted?
A Yes. They are carrying out separate activities. But remember, activities should last for no longer than is necessary for the job.
Q  What happens if I’m restocking the gantry and I have to serve a customer?
A  Close the covers and put the tobacco products out of sight. If you leave the covers open, and display tobacco products to a customer who has not asked to purchase tobacco products, it is a breach of the law. Remember, a display of tobacco products must never exceed 1000 square cm.

Q  Is it okay for a staff member to carry tobacco products around the store whilst completing a customer’s online order?
A  Tobacco products must be covered up during this task. To avoid any problems, it would be advisable to have instructions in place for staff to leave tobacco products until the end of the shop.

**Requested Displays**

A ‘Requested Display’ is a display of tobacco products following a specific request from a customer.

**Examples include:**
1. A customer wishing to buy a pack of cigarettes.
2. A customer requesting some information about tobacco products.
3. An agent buying cigarettes for another person (e.g. a carer on behalf of an elderly person). They may be unsure of branding and need a visual reminder.

Q  Is there any restriction on how long I can display a tobacco product to a customer when there is a request for information?
A  Tobacco products can be displayed for as long as is necessary to give the information.

Q  Have I committed an offence if someone other than the person making the requested display sees the product, e.g. a child?
A  This can be regarded as an incidental display and is permitted.
Legal Displays in Scotland

Display of Prices

Q  Does the tobacco display ban affect how I display my prices?
A  You are still allowed to display prices; however, there are limitations on
    how you can display them.

Q  How can I display my prices to stay within the law?
A  Only three types of price displays are allowed: poster style, picture
    price list and price labels.

Q  Am I allowed to display all three types of price displays at the same time?
A  Yes. All three types of price displays can be used at the same time.

Q  What information can be given about tobacco products on my
    price displays?
A  Only 5 types of information can be displayed about tobacco products:

   1. Brand name of the products (name only).
   2. Price of the product.
   3. If pre-packed, the number of units in the packet, or if sold by
      weight, the net weight of the tobacco product.
   4. For cigars only, the country of origin and dimensions (e.g. length
      and ring gauge).
   5. For pipe tobaccos only, the cut and type of tobacco used.
Q I have heard there will be restrictions on font size and font type for price displays. What does the law say?
A Only two types of font can be used for price displays – Helvetica or Arial. Only black print - in bold or plain – on a white background can be used. The text must be written in lower case, with the exception of the first letter of a word.

Q Is other signage affected?
A Unbranded generic signs, such as “Tobacco sold here” are allowed in any format. Notices stating that “It is illegal to sell tobacco products to anyone under the age of 18” must continue to be displayed by law. The size of the notice must not be less than 297 mm by 420 mm and the size of the statement to be displayed on the notice must be in characters no less than 13 point font size.

Remember, customers must not be able to see any tobacco product or tobacco brand logo unless they have asked to view them
Legal Displays in Scotland

Display of Prices

**Picture Price Lists**

**Q** Are there any restrictions in place for picture price lists?

**A** Yes. Picture price lists are not restricted by physical size but the text on the picture price list must be no bigger than 14 point font size. They may contain colour pictures of the actual product as packaged for sale, as long as each picture does not exceed 50 square cm in size. **No other image or logo associated with the tobacco product is allowed.** You are, however, allowed a barcode or stock number on the picture price list.

**What your staff need to know about picture price lists**

1. Picture price lists must not be left on permanent display at the counter and can only be shown once a customer has requested this information.
2. Picture price lists can only be displayed for as long as is necessary for the customer to obtain the information they need.
3. Age checks should be carried out before showing the price list to verify that the customer is over 18.
4. Only one price list is allowed for each till; so if you have three tills, you can have three picture price lists available.

*The law prohibits most forms of tobacco advertising. Do not allow in-store announcements explaining the new law changes to customers to become adverts, as this would be regarded as a breach of the law*
Q Are there any restrictions in place for poster style price lists?
A Yes. Poster style lists can be permanently on show, but must not exceed A3 in size. It is important to follow the poster style price list below. Characters no bigger than 30 point font size can be used. The signage must be limited to only one poster for each separate area where tobacco products are located and can be paid for. One poster is allowed for each till in any area.

A3 Poster example, not actual size
A legally compliant poster style price list takes this format. No other headings can be used.
Legal Displays in Scotland

**Price Labels**

**Q** Are there any restrictions in place for price labels?
**A** Price labels can be placed on shelving or storage units. One price label is permitted for each product - either on the covered shelf where the product is stored or on the front of the gantry where the product is held pending sale. Price labels cannot contain a picture of the product.

**Q** Is there any restriction on the size of the price label?
**A** Yes. You should make efforts to move towards a 9 square cm label size. However, the Scottish Government will allow price labels to be larger than this as long as anything from the **5 types of information** allowed is kept within a 9 square cm printable area on the price label.

**Q** In practice, what does this mean for price labels?
**A** Well, this may mean that the overall size of the price label is greater than 9 square cm, allowing information such as the product barcode to be included on the label outside the 9 square cm printable area. Remember, any text must not exceed 14 point font size.

**Q** I've heard of the Price Marking Order (PMO). What is it?
**A** This law states that when goods are offered for sale in a shop, it is an offence for prices not to be accessible or legible to a consumer with normal sight. The Government has left the responsibility with the shop to comply with this requirement whilst still keeping within the new price label restrictions. In other words, the customer must be able to read the price without asking for help!

**Q** Do price labels have to be covered?
**A** No. Price labels can be on open display at any time.
Restrictions on Font Size

Scottish Retailing Excellence

This is an example of Helvetica text in 30 point font size which is the maximum size of wording on a poster style price list.

Scottish Retailing Excellence

This is an example of Helvetica text in 14 point font size which is the maximum size of wording on a tobacco price label on a gantry or in a picture price list.

Scottish Retailing Excellence

This is an example of Arial text in 30 point font size which is the maximum size of wording on a poster style price list.

Scottish Retailing Excellence

This is an example of Arial text in 14 point font size which is the maximum size of wording on a tobacco price label on a gantry or in a picture price list.
Customer Service and Tobacco Displays

Q What should I tell customers about the new law?
A Simply explain that it is a new law. It is best if you don’t try to explain too much as it can get very confusing. Simply reassure your customers that the covers are a requirement of the law, but otherwise it’s business as usual.

Q Should I make any materials to explain the changes to the customers?
A There is no need. If you are a large shop, the Scottish Government has produced a poster to display in your shop. If you are a small shop, a similar poster will be available ahead of the date the law applies to your business. You can get these posters by contacting the Scottish Government (see p29 for contact details).

Q A customer who is under 18 years old has requested to see the display. Am I allowed to do this?
A It is against the law to sell tobacco to any customer under 18 years of age, and the Government has suggested you refuse a requested display to anyone under the age of 18. Many businesses now operate a Challenge 25 policy to ensure compliance.

While it is not an offence to temporarily display tobacco products to a customer under 18 years of age on request, best practice would be to refuse requests to view tobacco products to those under 18 years of age
If you are worried about being caught out by the changes, consult the iPhone/iPad app and the trade associations’ websites. The iPhone/iPad app version of this fingertip guide will be updated as changes are advised. You have no need to worry, as there are lots of ways to have your questions answered.

Specialist Tobacconists and Duty-Free Shops

Download the iPhone/iPad app by searching ‘Tobacco Displays Scotland’ on the Apple App Store. The digital version of this fingertip guide contains four pages of specially prepared questions and answers addressing the requirements for Duty-Free Shops and Specialist Tobacconists. The app will be available for download shortly after the release of this Fingertip Guide.
Legal Displays in Scotland

Wholesale
Trade Tobacconist

QUICK DEFINITION
‘Trade tobacconist’ means premises where tobacco products are sold only to people who retail tobacco products and are registered on the Scottish Tobacco Retailers Register.

Q How does the new law apply to trade tobacconists?
A This means that you can display your tobacco products in any way you wish. However, there is one new law that applies to trade tobacconists: it is now an offence to display your price list outside the premises (depot).

Q So, to be a trade tobacconist, cash and carries must only sell tobacco products to someone on the Scottish Tobacco Retailers Register (STRR). How do I ensure that I’m complying?
A Trade tobacconists must have a robust process in place to ensure that all sales of tobacco products are made only to those on the STRR. An example would be a credentials check at the point of sale.

‘Premises’ means your depot. ‘Premises’ does not refer to individual areas inside your depot.
Q I am a trade tobacconist and I want to sell to ice cream van operators, but I know they have not registered on the Scottish Tobacco Retailers Register. Can I do this and remain a trade tobacconist?

A No. However, registration for the tobacco retailer is free, easy and no approval process is required. The sale can take place after registration and your cash and carry can then benefit from being in the trade tobacconist category. (See the STRR Section).

Q How do I give evidence of compliance to a trading standards officer?

A You can demonstrate that sales only take place to customers on the STRR.

Q I am a trade tobacconist. Do I have to cover up tobacco products for deliveries?

A The law does not address this issue specifically. However, retailers are not permitted to display tobacco (including deliveries), therefore, some arrangement should be in place to help them comply with the law, e.g. black bags. For trade tobacconists, there is no current requirement to cover tobacco products between the storage area and the vehicle. However, it could be an offence for a retailer to have tobacco on public display in the front shop – this would include deliveries through the front shop.

Remember: No Sales for Personal Use

If you choose to sell cigarettes to any individual business or organisation that is not a registered tobacco retailer, you cannot be regarded as a trade tobacconist.
Legal Displays in Scotland

Wholesale
Bulk Tobacconist

QUICK DEFINITION
‘Bulk tobacconist’ means you will be selling tobacco products to people other than tobacco retailers, for example, for personal use.

- At least 90% of your cigarette sales must be in 200s.
- The remaining percentage must be in 100s.
- At least 90% of your hand rolling tobacco sales must be in a weight of 125g or more.

Q  What do I have to do?
A  Depots aiming to fit the bulk tobacconist definition are required to ensure that tobacco products are not visible to the public. This can be achieved by storing these products in a ‘tobacco area’. The contents of the area must not be visible from outside the area - this means your current tobacco room might need a few changes.

Q  What happens with the tobacco products outside the ‘tobacco area’?
A  The Scottish Government’s guidance states that once out of the ‘tobacco area’, products must be covered up. This only applies to bulk tobacconists.

NOTE:
The percentage of sales are based on the previous 12 months’ records, i.e. from April 29, 2012.
Q How do I ensure my display is not visible?
A The ‘tobacco area’ can have a door with no viewing panel, a plastic opaque curtain over the doorway, or some other means of preventing the stock being seen by passing customers. All tobacco products outside the ‘tobacco area’ must be covered – even if conveying newly delivered stock through the public area. For example, customers’ purchased tobacco stock would be put in a black bag or cardboard box. You can freely move around stock outwith opening hours.

Q Can anyone enter the ‘tobacco area’?
A There is no restriction on who can enter the ‘tobacco area’.

Q If I’m a bulk tobacconist moving tobacco stock into a vehicle for delivery, when can I uncover the tobacco products?
A The law does not address this issue specifically. Best practice would suggest keeping tobacco products covered until you reach your vehicle.

Q I run a delivered trade business, not a cash and carry. I’m confused - what should I do?
A The laws are in place to deal with displays of tobacco products in shops and wholesale cash and carries. The laws are not a prohibition on the sale and movement of tobacco. However, retailers must take steps to move the delivery to the stockroom as soon as possible. These new laws do not affect your online displays. It would still be good practice to become familiar with the retail display requirements that are detailed in this fingertip guide.
What is the STRR?
The STRR is a register containing every single business in Scotland that retails tobacco.

Who is required to register?
Registration on the STRR is a legal requirement for both tobacco retailers and bulk tobacconists.

I am a bulk tobacconist. I am confused as to why I need to register on the STRR. Surely, this is only for retailers (shops)?
The government considers all of the sales you make to customers who are not registered on the STRR to be retail sales; therefore, you must be registered on the STRR to make these sales without breaching the law.

What is the process for registration?
Once you have submitted your registration details, they will be processed to appear on the STRR. The Scottish Government will supply a certificate of registration with a unique ID number.
What details do I have to provide to register on the STRR?
A You will be asked to provide contact details and premises details. You will also be asked to confirm that you agree to the terms and conditions of registration. If your circumstances change at any time, it is very important that you update the form with new information. This can be done online at www.tobaccoregisterscotland.org

Do I need to take my registration certificate with me to purchase tobacco at the cash and carry?
A No, but some cash and carries (trade tobacconists) will require proof in order to sell tobacco to your business.

Am I required to display the certificate in my shop?
A No, but it would be advisable to keep it in a safe place just in case a trading standards officer asks to see it.

I have three shops. Do I need a separate registration form for each shop?
A No. One form can be used for all of the shops, but each shop must appear on the register.

By law, any shop selling tobacco for personal use must be registered with the Scottish Government. Registration is free and you can do so online at tobaccoregisterscotland.org. Once you are registered, your business will stay registered unless your registration is withdrawn.
Legal Displays in Scotland

Conclusion

Your local trading standards officer will offer advice and support to secure your compliance with the law. No doubt many new questions will arise. The iPhone/iPad app will be available shortly after the release of this fingertip guide. The app will contain a copy of the guide along with updated questions and answers. It will be the most useful source of advice available to your business going forward.

Scott Brady LLB MBA
ecos limited
April 2013

Disclaimer: The author and producers of this booklet cannot accept legal responsibility. Advice can be obtained from your local trading standards officer or specialist lawyer.
For further information:

You can find the iPhone/iPad app on the Apple App Store by searching ‘Tobacco Displays Scotland’

www.scottishshop.org.uk
www.scottishwholesale.co.uk

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UNITED KINGDOM