

TOBACCO RETAILERS ACT (NORTHERN IRELAND) 2014

Retailers Guidance



TOBACCO
REGISTERNI

Changes to the law

From **6th April 2016**, the Department of Health, Social Services and Public Safety (DHSSPS) is commencing new legislation under the Tobacco Retailers Act (Northern Ireland) 2014. The Act aims to reduce smoking prevalence among children and young people by restricting their access to tobacco products.

Once commenced, the key provisions in the Act will:

- require all tobacco retailers to register;
- provide that retailers may be banned from selling tobacco for a set period of time following 3 relevant tobacco offences within 5 years;
- create a number of new offences, including those relating to the register and the offence of proxy purchasing; and
- allow for the application of fixed penalty notices for a number of tobacco offences.

For the purposes of the Act, Belfast City Council has been nominated as the Registration Authority. Retailers can begin to sign up to the Tobacco Register NI from 6th April 2016. Registration is free, but **after 1st July 2016 it will be illegal for retailers to sell tobacco products if they are not registered.**

It is already illegal to sell tobacco products to anyone under 18 but, **from 1st July 2016, it will also be illegal for anyone aged 18 or over to buy or attempt to buy tobacco products for anyone under 18.** This is known as proxy purchasing.

Anyone who breaks these new laws could face a fine or a prosecution.

Why are the laws changing?

DHSSPS is committed to tackling the high levels of premature death and preventable illness caused by tobacco. Smoking is responsible for around 2,300 deaths in Northern Ireland each year and is a major risk factor for coronary heart disease, strokes and other diseases of the circulatory system.

The primary policy objective which underpins the Tobacco Retailers Act is to prevent young people from taking up smoking by making it more difficult for those under the age of 18 to access tobacco products. The Act is also intended to assist enforcement officers of local councils in carrying out their duties with regard to tobacco control by providing them with a register of tobacco retailers.

How to register as a tobacco retailer

To continue selling tobacco products, you will have to sign up to the Tobacco Register NI. The register will be in operation from 6th April 2016 and retailers will have until 1st July 2016 to join before any penalties for not being registered will apply. After this date, it will be illegal to sell tobacco products if you are not on the Retailer Register.

Registration is quick, easy, free and can be done in a number of ways. Firstly, you can register on the Tobacco Register NI homepage at www.tobaccoregisterni.gov.uk and complete the web-based form.

You can also register on paper by downloading the registration form or requesting a paper copy of the form by contacting the Environmental Health Department of your local district council. Copies of the form can also be requested by calling the Registration Authority on **028 9027 0428**. Completed forms should be sent to: Tobacco Register NI, City and Neighbourhood Services Department, Cecil Ward Building, 4-10 Linenhall St, BT2 8BP.

When you register you will need a few details handy, such as your Companies House registration number and the district council area within which your premises operates.

Don't worry if you have more than one retail premises, the system has the facility to enable you to complete just one form and then add additional premises.

There is no public access to any personal information contained in the register.

How to comply with the new legislation

From 6th April 2016:

- You can sign up to the Tobacco Register NI. Existing tobacco retailers will have until 1st July 2016 to register. After this date, it will be illegal to sell tobacco products if you are not on the register.
- To keep the register up to date, you are required to notify the Registration Authority of any changes in your particulars such as a change in a person's name or address or 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. Notice must be given within 28 days of the change to which it relates.
- It remains illegal to sell tobacco products to anyone under the age of 18.
- You must continue to display existing signage stating that it is illegal to sell tobacco products to anyone under the age of 18 – the continued use of this signage is compatible with the requirements of the new legislation.

The consequences of not complying

There are significant consequences for retailers who do not comply with the new legislation. From 1st July 2016, the Tobacco Retailers Act (Northern Ireland) 2014 gives powers to enforcement officers to issue fixed penalty notices for a number of offences, including failing to register as a tobacco retailer and selling tobacco to under 18s. The introduction of fixed penalty notices does not, however, preclude enforcement officers from pursuing prosecutions through the court system where it is considered appropriate to do so. In this regard, the Act also raises the maximum fine on summary conviction for underage sales to level 5 on the standard scale (not exceeding £5,000).

Also from 1st July 2016, if a retailer is found to be in breach of relevant tobacco control legislation 3 times in a 5 year period, an enforcement officer can apply to the courts to have the retailer banned from selling tobacco. This can take the form of either a restricted sale order (referring to a specific individual) or a restricted premises order (prohibiting sale of tobacco products on specific premises) and the period of the ban can range from 28 days to 3 years.

A restricted premises order will also result in the retailer being removed from the register. A retailer found to be in breach of a restricted premises order or a restricted sale order will be liable on summary conviction to a fine up to £20,000. While subject to a restricted premises order, the retailer will be required to display a notice providing information to customers on the duration of the order, and will also be prohibited from keeping tobacco products in the retail area until the order has expired.

In addition, a retailer will be removed from the register and prohibited from selling tobacco products for 5 years following a custodial sentence (whether suspended or not) for a serious illicit tobacco offence.

A full list of relevant offences and associated fines can be found in Appendix 1.

Preparing your staff

It is important to inform your staff of the new laws and to ensure that they know how to comply.

What you should do:

- Inform your staff about the changes in the law.
- Staff should be made aware that they may be personally liable if they do not comply with the new laws.
- You may wish to keep a record of the training and ask staff members to sign to confirm that they have understood it fully.

How the changes affect your customers

The legislation only affects those who are 18 or over as, from 6th April 2016, it will be illegal to purchase tobacco products for anyone under 18.

Find out more

We hope that this guide provides you with the information you'll need regarding the new tobacco control legislation. However, if you'd like to find out more about the new laws, please contact the Environmental Health Department of your local district council office for advice on the Tobacco Register or any other provisions of the Act.

Your retail trade association, if you are a member of one, may also be able to assist with any questions or concerns about the new legislation or its enforcement.

Other useful websites:

www.nidirect.gov.uk

www.publichealth.hscni.net

www.ash.org.uk

Website to register: www.tobaccoregisterni.gov.uk

Appendix 1

Offence	Fixed Penalty	Maximum Fine
Carrying on a tobacco business while not being registered	£500	£5000
Carrying on a tobacco business at premises other than those noted in the person's entry	£500	£5000
Failing to notify of changes to the register within 28 days	£50	£500
Failing to display a notice when subject to a restricted premises order	£100	£1000
Failing to remove tobacco from the retail area when subject to a restricted premises order	£500	£5000
Selling tobacco to a person under the age of 18	£250	£5000
Selling tobacco from a vending machine to a person under the age of 18	£250	£5000
Buying cigarettes on behalf of a person under the age of 18	£250	£5000
Selling cigarettes other than pre-packaged cigarettes, i.e. singles	£250	£1000
Failing to comply with legislation which bans the sale of tobacco from vending machines	£250	£5000
Failing to display a notice "It is illegal to sell tobacco products to anyone under the age of 18" in retail premises where tobacco is sold	£100	£1000