



# **The New Tobacco Display Law from 6 April 2015**

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# Questions and Answers

## 1. Action for retailers selling tobacco

When do the changes come in?

All open tobacco displays in shops must be covered up from 6 April 2015. Large retailers have had to cover tobacco displays since 2012 and now the law is coming into force for small and medium businesses.

What do I need to do?

From April 2015, if you sell tobacco you will need to:

- Make sure that tobacco products are not displayed to the public (apart from in limited circumstances which are explained below); 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 display but you must cover the tobacco completely and when you retrieve the tobacco, the maximum area that can be displayed is 1.5 square meters. 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 tobacco manufacturers but this support is not guaranteed.

## 2. Why the changes?

Why did the Government change the law?

Ending permanent tobacco displays aims to help to reduce the numbers of young people taking up smoking, and to help smokers who are trying to quit by removing a source of temptation to buy cigarettes on impulse.

Smoking causes around 5,650 deaths each year in Wales and two thirds of regular smokers started smoking before the age of 18.

Evidence shows that colourful and eye-catching tobacco displays in shops can promote the uptake of smoking by young people and undermine the resolve of adults who are trying to quit smoking. It is important to protect children and young people from the unsolicited promotion of tobacco products

The Government's strategy is working - adult smoking rates are at their lowest ever levels and the latest figures show that 13% of 15 year old pupils are regular smokers, compared with 23% in 2004.

The Government recognises the important role that retailers play in preventing access to tobacco by children and young people by effectively enforcing age of sale legislation.

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

The start date for this new law was deferred to 2015 for small shops and one reason was to allow time for smaller retailers to benefit from the range of solutions developed for larger shops. You may want to contact the owner of your gantry to discuss plans for compliance. 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. Some trade bodies have produced their own guidance on what needs to be done to comply with the law. A good example of this is guidance produced by the Association of Convenience Stores which can be found here: <http://www.acs.org.uk/advice/tobacco-display-ban/>

Detailed guidance for retailers and trading standards officers is also available on the Trading Standards Institute's 'Business Companion' website. Click onto [www.businesscompanion.info](http://www.businesscompanion.info) and select the guidance on the tobacco display requirements as they apply to Wales. Note that Business Wales will also be making guidance available to businesses in Wales.

If after looking at the existing guidance above you still have questions, you can also contact your local authority trading standards department.

## Why cover tobacco displays if the Government plans to bring in standardised packaging?

Standardised packaging is a separate issue on which the Government has yet to make a final decision. Sir Cyril Chantler, in the report of his independent review on the effect on public health of standardised packaging, considered this very issue. His report noted that ending open displays of tobacco in shops and other premises will not affect the exposure of young people to cigarette brand imagery at other times, such as when friends and family members who smoke take out their cigarette packets or leave them lying around.

## 3. Who needs to take action?

### I sell tobacco, does it apply to me?

The law applies to all businesses selling tobacco to the public. It has been in force for large shops (with a relevant floor area over 280 square metres) since 2012 and will come into force in all premises selling tobacco from 6 April 2015. After that date it will be illegal to display tobacco products except to people over the age of 18 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.

There are separate arrangements for specialist tobacconists and bulk tobacconists recognising the specialist nature of their businesses.

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

## Does the ban only apply to shops? What about pubs and off licences? What about shisha bars?

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

**Any** business selling tobacco products to the public, including those in hospitality industry and premises licenced for the "on trade", such as pubs and clubs, will need to comply with the new law from 6 April 2015.

## What about online sales of tobacco?

The law on display does not apply to websites. The Tobacco Advertising and Promotion Act 2002 etc. (Amendment) Regulations 2006 will continue to apply. Businesses will still be able to show tobacco products and their prices on their online shopping websites.

## Does this law apply to a specialist tobacconist?

There are special provisions for specialist tobacconists as 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.

## Does this law apply to wholesalers such as cash and carry businesses?

If the cash & carry premises is open to people outside the tobacco trade (i.e. the public), the new law on displaying tobacco products applies. A cash & carry business may meet the definition of a 'bulk' tobacconist and be able to display products in a separate tobacco area or room.

## 4. How will the law work in practice?

### How will the law be enforced?

Local authority trading standards officers will be responsible for enforcing this law.

### Do I need to get a special display unit?

We believe that there are a number of practical ways to ensure compliance with the display legislation. For example, the Association of Convenience Stores guidance suggests possible solutions including a curtain, a sliding door or using under or over counter storage. 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, you may wish to contact them for further advice.

### What will happen if my tobacco products are still on open display after 6 April 2015?

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. This is available on the Business Companion website and may also be provided by your local trading standards service.

However, it is your responsibility to comply with these requirements; failure to do so is a criminal offence. Anyone, including shop managers and shop assistants, who does not comply may be taken to court and have to pay a fine (up to £5000 currently) or could face imprisonment for up to six months.

### What about display of smoking accessories – i.e. tobacco papers and lights? Do these have to be covered up?

Tobacco accessories, such as rolling papers, lighters, pipes, can continue to be displayed and kept in public view. Retailers may need to consider new arrangements if accessories are currently kept in the main gantry as it will be an offence to display tobacco products when serving customers with non-tobacco products.

### 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 and you will be able to publicise that tobacco is for sale. Unbranded generic signs such as 'Tobacco sold here' are allowed in any format.

Welsh Government is also carrying out communications activity to raise public awareness that tobacco will no longer be on open display before the law takes effect on 6 April 2015. People will still be able to buy their tobacco from the same shop in the usual way.

### How will I be able to advertise tobacco products and their prices?

The law allows three types of price lists and labels. You must use black Helvetica type on a white background. You may have:

- One poster (up to A3 size) entitled '*Rhestr o brisiau cynhyrchion tybaco / Tobacco products price list*'. Subheadings may be used - "*sigarêts / cigarettes*"; "*tybaco rholio â llaw / hand rolling tobacco*"; "*sigârs / cigars*"; "*tybaco pib / pipe tobacco*" or "*cynhyrchion tybaco eraill / other tobacco*" The display of prices for tobacco products must be limited to the brand name and price in no larger than 30 font.
- A product catalogue, which is not displayed unless requested by someone over 18, that has wording no larger than 14 font and any pictures of products are no more than 50 cm<sup>2</sup>.
- Price labels on shelving, with one label per product no larger than 9 cm<sup>2</sup>.

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

### 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. The gantry can remain open only 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; or
- Affixing permitted label indications on the storage unit.

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

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

## 5. Impact to date

### Have large shops lost money from covering up their tobacco displays?

There is no evidence to suggest that sales of tobacco will fall significantly after tobacco displays are covered up. Adults who smoke will continue to be able to buy their cigarettes and tobacco in the usual way.

### What's the likely impact on my business?

Other than the initial costs of covering tobacco display gantries, which in many cases will be covered by the tobacco industry who own most of the gantries, the impact will be minimal. The Government recognises the difficulties being faced by some small businesses in the current economic climate which is why the implementation date for small shops was delayed until 2015. This was to give small businesses longer to prepare and to benefit from the range of solutions developed for larger shops (where the law came into effect in December 2012). In terms of sales of tobacco, the immediate effect is considered to be small.

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.

### 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 illegal trade, an example being the Republic of Ireland where tobacco displays were stopped in July 2009. The experience in larger shops shows that adult smokers will continue to buy their cigarettes and tobacco as they do now.

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

There are a number of places retailers can for advice. For example, retailers and other businesses may wish to contact their trade or representative body for advice. Some trade bodies have produced their own guidance on what needs to be done to comply with the law. A good example of this is guidance produced by the Association of Convenience Stores which can be found here: <http://www.acs.org.uk/advice/tobacco-display-ban/>

Detailed guidance for retailers and trading standards officers is also available on the Trading Standards Institute's 'Business Companion' website [www.businesscompanion.info](http://www.businesscompanion.info)

In addition, retailers may wish to contact trading standards officers at their local council who will be able to provide further advice. Details can be found on the Trading Standards Wales website: <http://www.tradingstandswales.org.uk/contact/index.cfm>