

TOBACCO AND PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 1 – Tobacco Products Etc.

Section 1 – Prohibition of tobacco displays etc.

8. Subsection (1) makes it an offence to display tobacco products and smoking related products in the course of business. The display of smoking related products is only caught by the ban in premises where tobacco products are also for sale.
9. Smoking related products are defined in section 35(2) as:
 - cigarette papers
 - cigarette tubes
 - cigarette filters
 - apparatus for making cigarettes
 - cigarette holders
 - pipes for smoking tobacco products
10. Ministers may amend this list by order (see section 35(3)).
11. Subsection (2) exempts specialist tobacconists from the prohibition of tobacco displays in relation to all tobacco products other than cigarettes and hand-rolling tobacco provided the display is inside the specialist tobacconist's premises and complies with any requirements which may be prescribed. A specialist tobacconist is defined in the Tobacco Advertising and Promotion Act 2002 as “a shop selling tobacco products by retail (whether or not it also sells other things) more than half of whose sales on the premises in question derive from the sale of cigars, snuff, pipe tobaccos and smoking accessories”.
12. Subsection (3) exempts wholesalers from the prohibition of tobacco displays but only when trading with persons engaged in a tobacco business. The Scottish Ministers may prescribe further requirements in order for displays to meet this exemption.
13. Under subsection (6) the offence of displaying tobacco products etc does not apply to any display on websites. However, section 8 of the Tobacco Advertising and Promotion Act 2002 (which provides for the regulation of the display of tobacco products and their prices) will still apply to websites by virtue of the amendments in paragraph 4 of schedule 2.