

GUERNSEY STATUTORY INSTRUMENT

2013 No.

**The Tobacco Products  
(Exceptions, Exemptions and Defences) (Guernsey)  
Regulations, 2013**

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# **The Tobacco Products (Exceptions, Exemptions and Defences) (Guernsey) Regulations, 2013**

*Made* , 2013

*Coming into operation* , 2013

*Laid before the States* , 2013

**THE HEALTH AND SOCIAL SERVICES DEPARTMENT**, in exercise of the powers conferred on it by sections 26(2), 27(1)(b), 31(2), 53(2)(a) and 57 of the Tobacco Products (Guernsey) Ordinance, 2013<sup>a</sup>, section 1(2)(d) of the Tobacco Advertising (Guernsey) Law, 1997<sup>b</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:-

## *Authorised displays in tobacco-licensed premises*

### **Exceptions for displays authorised by these Regulations.**

1. No offence is committed under section 26(1) of the Ordinance or section 1(1) of the Tobacco Advertising (Guernsey) Law, 1997<sup>c</sup> by a display authorised under any of regulations 2 to 8.

### **Display by wholesale licensee in the course of wholesale sale.**

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<sup>a</sup> Ordinance No. \_\_\_\_\_ of 2013.

<sup>b</sup> Ordres en Conseil Vol. XXXVII, p. 313; amended by Recueil d'Ordonnances Tome XXIX, p. 406 and Ordinance No. \_\_\_\_\_ of 2013.

<sup>c</sup> Ordres en Conseil Vol. XXXVII, p. 313; amended by Recueil d'Ordonnances Tome XXIX, p. 406.

2. A wholesale licensee may display tobacco products in tobacco-licensed premises solely in the course of a wholesale sale.

**Display as sole consequence of requested display.**

3. (1) A licensee may display tobacco products in tobacco-licensed premises solely as a consequence of a request made by an adult, if the display complies with condition A or condition B.

(2) Condition A is that –

- (a) the tobacco products are displayed in a storage unit, the area of which does not exceed 1.5 square metres, and
- (b) the display lasts for no longer than is necessary to remove the requested product from the storage unit.

(3) Condition B is that –

- (a) the tobacco products are displayed otherwise than in a storage unit, and
- (b) the display lasts for no longer than necessary to respond to the request.

**Display during restocking, etc.**

4. (1) A licensee may display tobacco products in tobacco-licensed premises if the display complies with condition A or condition B.

(2) Condition A is that –

- (a) the tobacco products are displayed in a storage unit, the

area of which does not exceed 1.5 square metres, and

(b) the display –

(i) occurs in the course of an activity listed in paragraph (3) being actively carried out in the ordinary course of business in relation to tobacco products,

(ii) is solely as a consequence of that activity being carried out, and

(iii) lasts for no longer than necessary to allow that activity to be carried out.

(3) The activities referred to in paragraph (2)(b)(i) are –

(a) assessing stock levels for the purposes of stock control,

(b) restocking,

(c) staff training,

(d) cleaning of the storage unit,

(e) maintenance of the storage unit, or

(f) refurbishment of the storage unit.

(4) Condition B is that –

- (a) the tobacco products are displayed otherwise than in a storage unit,
- (b) the tobacco products are displayed only in the course of being placed in a storage unit during restocking, and
- (c) the display lasts for no longer than necessary to place the products in the storage unit.

**Display in enclosed places where children are not permitted access.**

5. A licensee may display tobacco products in tobacco-licensed premises in a wholly enclosed place where the products are not visible to any person outside that place, if –

- (a) the licensee does not permit children access to that place, and
- (b) the licensee takes reasonable steps to establish the age of each person permitted access to that place.

**Limited display of prices of tobacco products.**

6. A licensee may display prices of tobacco products in tobacco-licensed premises if the display complies with condition A and at least one of conditions B, C and D in **Schedule 1**.

**Display of indications on storage units.**

7. A licensee may display on a storage unit in tobacco-licensed premises an indication of the tobacco products held in the storage unit, if the indication complies with the conditions of **Schedule 2**.

**Display to authorised officers, etc.**

8. A licensee may display tobacco products, prices of tobacco products or an advertisement of tobacco products in tobacco-licensed premises, solely as a consequence of a request by one of the following officers acting in the course of that officer's duty –

- (a) an authorised officer,
- (b) a police officer, or
- (c) a customs officer.

**Vending machines not available for use other than by licensee.**

9. No offence is committed under **section 31(1)** of the Ordinance in respect of a vending machine for tobacco products available for use in tobacco-licensed premises if –

- (a) the vending machine for tobacco products is not available for use by anyone other than the licensee or an authorised employee of the licensee, and
- (b) the licensee has taken reasonable steps not to allow members of the public access to that vending machine.

**Acceptable documents for establishing a person's age.**

10. The following documents are prescribed for the purposes of **section 53(2)(a)** of the Ordinance –

- (a) a passport or photographic driving licence issued by the competent authority of any country or territory, and

- (b) a CitizenCard proof of identity and age Card issued by CitizenCard Limited or an equivalent person in the United Kingdom.

**Interpretation.**

11. (1) In these Regulations, unless the context requires otherwise –

"**adult**" means an individual who is of or over the age of 18 years,

"**advertisement**" has the meaning given to it by section 4 of the Law,

"**area**", in relation to any storage unit, means the total area of the storage unit in which the tobacco products and any other products are visible,

"**child**" means any person below the age of 18 years,

"**customs officer**" means an officer authorised under section 3 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>d</sup>,

"**the Law**" means the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010<sup>e</sup>,

"**licence**" means a licence granted under Part II of the

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<sup>d</sup>

Ordres en Conseil Vol. XXIII, p. 573; as variously amended.

<sup>e</sup>

Order in Council No. IV of 2012.

Ordinance,

**"licensee"** means any person holding a licence, including an employee or agent of the person acting on that person's behalf,

**"the Ordinance"** means the Tobacco Products (Guernsey) Ordinance, 2013,

**"police officer"** means a member of the salaried police force of the Island of Guernsey and a member of the special constabulary of the Island of Guernsey (within the limits of the member's jurisdiction),

**"storage unit"** means a gantry, cabinet or unit, tray, shelf or other product in which a tobacco product is held pending sale,

**"tobacco product"** has the meaning given by section 5 of the Law and includes the things deemed to be tobacco products by **section 2** of the Ordinance,

**"tobacco-licensed premises"** means premises licensed under Part II of the Ordinance,

**"wholesale licence"** means a licence authorising wholesale sales of tobacco products,

**"wholesale licensee"** –

(a) means a person who holds a wholesale licence,  
and

(b) includes any employee or agent of that person,

acting on that person's behalf,

**"wholesale sale"**, in relation to a tobacco product, means sale of the product to a person who buys it for the purpose of selling or supplying it in the course of a business carried on by that person, and

any other expression has the same meaning as –

- (a) in the Ordinance, or,
- (b) if not defined in the Ordinance, in the Law.

(2) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation.**

12. These Regulations may be cited as the Tobacco Products (Exceptions, Exemptions and Defences) (Guernsey) Regulations, 2013.

**Commencement.**

13. (1) Subject to paragraph (2), these Regulations shall come into force on [*insert commencement date*], 2013.

(2) Regulations 1 to 8 and Schedules 1 and 2 shall come into force on [*insert the date three months following the commencement date*].

Dated this       day of       , 2013

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Deputy Mark Dorey

Minister of the Health and Social Services Department

For and on behalf of the Department.

## SCHEDULE 1

### CONDITIONS FOR DISPLAY OF PRICES IN TOBACCO-LICENSED PREMISES

Reg. 6

1. Condition A is that the display –
  - (a) is limited to the following information in relation to tobacco products–
    - (i) the brand name of the product,
    - (ii) where pre-packed, the number of units in the package or, where sold by weight, the net weight of the product,
    - (iii) in relation only to cigars, the country of origin and dimensions,
    - (iv) in relation only to pipe tobaccos, the cut and type of tobacco used, and
    - (v) the price of the product,
  - (b) is printed –
    - (i) in black Arial plain type on a white background,
    - (ii) in type which has a consistent size throughout the text, and
    - (iii) in lower case type, except that the first letter of a word may be in upper case type, and

- (c) except as otherwise provided by paragraph (e) of Condition C, does not contain any other feature.
- 2. Condition B is that the display is in the form of a price list; and that the price list –
  - (a) has the title "Tobacco products price list",
  - (b) may include sub-headings for "cigarettes", "hand rolling tobacco", "cigars", "pipe tobaccos", and "other tobacco products",
  - (c) does not include the prices of any other products,
  - (d) is worded with characters which are no higher than 7 millimetres,
  - (e) has no border or frame,
  - (f) does not exceed 625 square centimetres in size, and
  - (g) is limited in number to one price list for each separate area where tobacco products are both located and can be paid for.
- 3. Condition C is that –
  - (a) the display is in the form of a price list which is made available to a person following a particular request by the person for information about tobacco products for sale in the place where such request takes place,
  - (b) the person displaying the price list –

- (i) believes the person making the request to be an adult, and
- (ii) has, before displaying that price list, taken reasonable steps to establish the age of the person making the request,
- (c) the price list is displayed for no longer than is needed for the person to obtain the information sought by that person,
- (d) the size of the wording on the price list is such that no character is greater than 4 millimetres high,
- (e) the only other feature displayed is a picture of the actual tobacco product, as packaged for sale, where the size of such picture does not exceed 50 square centimetres, and
- (f) the price list is limited in number to –
  - (i) one price list for each separate area where tobacco products are both located and can be paid for, or
  - (ii) where there is more than one till at any such location, one price list for each such till.

4. Condition D is that –

- (a) the display is a display of the price of a tobacco product on a storage unit where that particular product is held pending sale, and
- (b) such display –

- (i) is worded with characters which are no higher than 4 millimetres,
- (ii) does not exceed 9 square centimetres in size, and
- (iii) is limited in number to one display for each separate location in a storage unit where a particular tobacco product is held.

## SCHEDULE 2

### CONDITIONS FOR DISPLAY OF INDICATIONS ON STORAGE UNITS

Reg. 7

1. The conditions of this Schedule are that the indication –
  - (a) is limited to the following information in relation to tobacco products—
    - (i) the brand name of the product,
    - (ii) where pre-packed, the number of units in the packages or, where sold by weight, the net weight of the product,
    - (iii) in relation only to cigars, the country of origin and dimensions,
    - (iv) in relation only to pipe tobaccos, the cut and type of tobacco used, and
    - (v) the price of the product,
  - (b) is printed –
    - (i) in black Helvetica plain type on a white background,
    - (ii) in a font size consistent throughout the text with characters which are no higher than 4 millimetres, and

- (iii) in lower case type, except that the first letter of a word may be in upper case type,
  - (c) does not exceed 9 square centimetres in size,
  - (d) is limited in number to one indication for each separate location in a storage unit where a particular tobacco product is held, and
  - (e) does not contain any other feature.
2. In paragraph 1(e), "**other feature**" means a logo, trademark, symbol, motto, type-face, colour or pattern of colour, picture, artwork, imagery, appearance, message or other indication that constitutes all or part of the recognisable identity of a product, but does not include a bar code or stock number.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations authorise displays of tobacco products, prices and indications in tobacco-licensed premises in limited circumstances and excepts such displays from the offence under **section 26(1)** of the Tobacco Products (Guernsey) Ordinance, 2013 ("**the Ordinance**") and the offence under section 1(1) of the Tobacco Advertising (Guernsey) Law, 1997.

These Regulations also prescribe an exception to the prohibition of vending machines for tobacco products, where the vending machine is available for use only by the licensee or an authorised employee and the licensee has taken reasonable steps not to allow any member of the public access to that machine.

These Regulations also prescribe passports, photographic driving licences and UK-issued CitizenCards as the only documents that would be regarded as acceptable to verify the age of a person, for the purposes of the Ordinance and these Regulations.

Regulations 1 to 8 and Schedules 1 and 2 (concerning authorised and excepted displays) will come into force at the same time as **sections 26, 27 and 59** of the Ordinance, on the **[three months after commencement date]**, 2013. The rest of these Regulations will come into force on **[commencement date]**, 2013.