

**2010 No. 1068 (C. 70)**

**PUBLIC HEALTH, ENGLAND**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Health Act 2009 (Commencement No. 3) Order 2010**

*Made* - - - -

*29th March 2010*

The Secretary of State, in exercise of the powers conferred by section 40(1) and (4) of the Health Act 2009<sup>(a)</sup>, makes the following Order:—

**Citation, application, extent and interpretation**

1.—(1) This Order may be cited as the Health Act 2009 (Commencement No.3) Order 2010.

(2) (a) Except as provided in this paragraph, this Order applies to England.

(b) Article 2(1)(d) has the same extent as the enactments repealed under the specified provisions of Schedule 6 to the Act.

(3) In this Order—

“the Act” means the Health Act 2009;

“bulk tobacconist” means a shop selling tobacco products (whether or not it also sells other products) whose sales of cigarettes or hand-rolling tobacco, measured in accordance with paragraph (4), meet the following conditions—

(i) at least 90% of its cigarette sales are in pre-packed quantities of 200 or more cigarettes in their original package, and the remainder in pre-packed quantities of 100 or more cigarettes in their original package; and

(ii) at least 90% of its hand-rolling tobacco sales are in pre-packed quantities with a weight of 250 grams or more in their original package, and the remainder in pre-packed quantities with a weight of 125 grams or more in their original package;

“large shop” means a shop which has a relevant floor area exceeding 280 square metres;

“original package” means the package in which the cigarettes or hand-rolling tobacco were supplied for the purpose of retail sale by the manufacturer or importer;

“package” means any box, carton or other container;

“relevant floor area”, in relation to a shop, means the internal floor area of so much of the shop as consists of or is comprised in a building but excluding any part of the shop which is used neither for the serving of customers in connection with the sale of goods nor for the display of goods; and

“specialist tobacconist” has the meaning given in section 6 of the Tobacco Advertising and Promotion Act 2002<sup>(a)</sup>.

(4) The sales referred to in the definition of “bulk tobacconist” are to be measured by sale price—

- (a) during the most recent period of twelve months for which accounts are available; or
- (b) during the period for which the shop has been established, if it has not been established long enough for twelve months’ accounts to be available.

### **Appointed days**

**2.**—(1) 1st October 2011 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 21 (prohibition of tobacco displays etc) to the extent that it is not already in force—
  - (i) in so far as it inserts section 7C of the Tobacco Advertising and Promotion Act 2002 (displays: prices of tobacco products), for the purpose of large shops; and
  - (ii) in so far as it inserts sections 7A and 7B of the Tobacco Advertising and Promotion Act 2002 (prohibition of tobacco displays and tobacco displays: exclusions and defence) for the purpose of large shops other than bulk tobacconists and specialist tobacconists;
- (b) section 22 (power to prohibit sales from vending machines) to the extent that it is not already in force;
- (c) the following paragraphs of Schedule 4, and section 24 so far as it relates to those paragraphs—
  - (i) paragraph 6(2) and paragraph 6(1) in so far as it relates to this sub-paragraph;
  - (ii) paragraph 7(5) and 7(6);
  - (iii) paragraph 10;
  - (iv) paragraphs 11 and 12 to the extent they are not already in force; and
  - (v) paragraph 2 in so far as it relates to the paragraphs listed in (i) to (iv).
- (d) Schedule 6 (repeals and revocations) in so far as it gives effect to the repeals relating to the Children and Young Persons Act 1933<sup>(b)</sup> and to section 14(12) of the Tobacco Advertising and Promotion Act 2002<sup>(c)</sup>, and section 38 in so far as it gives effect to those provisions.

(2) 1st October 2013 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 20 (prohibition of advertising: exclusion for specialist tobacconists) to the extent that it is not already in force;
- (b) section 21 (prohibition of tobacco displays etc) in so far as it inserts sections 7A, 7B and 7C of the Tobacco Advertising and Promotion Act 2002, to the extent that it is not already in force;
- (c) the following paragraphs of Schedule 4, and section 24 so far as it relates to those paragraphs—
  - (i) paragraph 2 to the extent that it is not already in force;
  - (ii) paragraph 3; and
  - (iii) paragraph 4(2) and (5) and paragraph 4(1) so far as it relates to those sub-paragraphs.

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(a) 2002 c.36.

(b) 1933 c.12. Section 12D was inserted by the Criminal Justice and Immigration Act 2008 (c.4), section 143.

(c) Paragraph 8(3) of Schedule 4 to the Act, which includes the corresponding amendment to section 14(12) of the Tobacco Advertising and Promotion Act 2002, is commenced under section 40(2) of the Act by the Welsh Ministers.

Signed by the authority of the Secretary of State for Health.

29th March 2010

*Gillian Merron*  
Minister of State,  
Department of Health

### **EXPLANATORY NOTE**

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

This Order brings into force in England provisions of sections 20, 21 and 22 of the Health Act 2009, which make amendments to earlier legislation in relation to tobacco. It also brings into force in England provisions of Schedule 4 to the Act (which makes minor and consequential amendments in relation to tobacco) and tobacco-related provisions of Schedule 6 to the Act (repeals and revocations).

Provisions relating to the prohibition of sales of tobacco from vending machines are commenced, to the extent that they are not already in force, on 1st October 2011.

Provisions relating to the display of prices of tobacco products are commenced, to the extent that they are not already in force, on 1st October 2011 for the purposes of large shops (as defined) and for all other purposes on 1st October 2013.

Provisions relating to the prohibition of tobacco displays and to the related exclusions and defence are commenced, to the extent that they are not already in force, on 1st October 2011 for the purposes of large shops other than bulk tobacconists (as defined) and specialist tobacconists (as defined in section 6 of the Tobacco Advertising and Promotion Act 2002), and on 1st October 2013 for all other purposes.

Provisions relating to the exclusion for specialist tobacconists from the prohibition of advertising are commenced on 1st October 2013.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of the Health Act 2009 have been or will be brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 7	19th January 2010	2010/30 (C.5)
Sections 8 to 10 (fully)	1st April 2010	2010/30 (C.5)
Sections 11 to 13	19th January 2010	2010/30 (C.5)
Section 15(1) (partially)	19th January 2010	2010/30 (C.5)
Section 15(2) (partially)	15th February 2010	2010/30 (C.5)
Sections 16 and 17	15th February 2010	2010/30 (C.5)
Section 18 (partially)	15th February 2010	2010/30 (C.5)
Section 19 (partially)	19th January 2010	2010/30 (C.5)
Section 25 (partially)	18th March 2010	2010/779 (C.52)
Section 25 (fully)	24th May 2010	2010/779 (C.52)
Section 33	19th January 2010	2010/30 (C.5)
Section 36	19th January 2010	2010/30 (C.5)
Schedule 2 (partially)	15th February 2010	2010/30 (C.5)
Paragraphs 1 to 13 of Schedule 3	19th January 2010	2010/30 (C.5)
Paragraphs 18 and 19 of Schedule 3 (partially)	19th January 2010	2010/30 (C.5)

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