

The Tobacco and Related Products Regulations 2016 came into full effect in May 2017; this report provides a review of compliance with Regulation 15 in England

Mini Review of business compliance with Regulation 15 of the Tobacco and Related Product Regulations 2016

Carried out by Trading Standards Services in England



Chartered Trading Standards Institute

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- *The Tobacco & Regulated Products Regulations 2016 came into full effect in May 2017 following a 12-month transition period*
- *This report presents the findings of a mini review of business compliance with Regulation 15 - prohibition of the production or supply of flavoured cigarettes and hand rolling tobacco*
- *A total of 134 compliance visits were conducted across England in August 2017 by Trading Standards Services as part of a Department of Health supported operation designed to assess compliance with the Regulation. The operation was managed by the Chartered Trading Standards Institute*
- *Compliance with Regulation 15 was found to be very high with 98-99% of all businesses visited being fully compliant; in addition,*
- *90% of businesses visited were compliant with tobacco display requirements and 87% with the requirement to display an age of sale tobacco notice.*

1. INTRODUCTION

This is a Department of Health supported project delivered and managed by CTSI; the primary purpose is to ***assess compliance with Regulation 15 of the Tobacco and Related Products Regulations 2016¹ and, in addition, the tobacco display and statutory age of sale notice requirements.***

The Department of Health has requested that a mini review (MR) of business compliance is undertaken by Trading Standards in England to establish a base line of compliance with Regulation 15 (prohibition of flavoured cigarettes and HRT) of the Tobacco and Related Products Regulations 2016 and to report the findings.

1.1 LEGISLATION AND REQUIREMENTS

In summary: Part 3 of the Regulations

Regulation 15 No flavoured cigarettes or hand-rolling tobacco

Cigarette packs, individual cigarette sticks or hand-rolling tobacco, including any filter, paper, package or capsule component of the product, must not be produced or supplied with a characterising flavour. A filter, paper or capsule must not contain tobacco or nicotine and any technical features that would modify the smell, taste or smoke intensity of a product are not allowed.

These rules do not apply to menthol cigarettes until 20 May 2020.

Note : It is permissible for shisha products, pipe tobacco, blunts and other products to have a characterising flavour however these products MUST NOT refer to those flavours on the packaging by virtue of Regulation 10 of Standardised Packaging of Tobacco Regulations 2015². Where such products are found within retail premises these will also be assessed for regulatory compliance.

2. PURPOSE

The primary purpose of this mini review is to assess levels of regulatory compliance by retail businesses with Regulation 15 of the Tobacco and Related Products Regulations 2016.

3. SCOPE

This was designed to be a mini review (i.e. conducted in a short time frame) of business compliance carried out by Trading Standards Services (TSS) across a number of authorities in

¹ The Tobacco and Related Products Regulations 2016 available at : <http://www.legislation.gov.uk/ukxi/2016/507/contents/made> [accessed online 4 August 2017]

² The Standardised Packaging of Tobacco Regulations 2015 available at : <http://www.legislation.gov.uk/ukxi/2015/829/contents/made> [accessed online 4 August 2017]

England. A total of 134 compliance visits have been made. The data arising will be included in the National Tobacco Control survey for 2017-18

4. METHOD

The review has been carried out by Trading Standards Services as detailed below:

Scope of review	Time frame	Participating Regions	Number of premises assessed for compliance
1. Product compliance with Regulation 15 of TRPs	August 2017	London North East North West South East South West	125 in total – 25 per region
2. Compliance with tobacco display requirements			
3. UAS statutory notice displayed			

In advance of the compliance monitoring activity, each participating TSS was provided with guidance and a data collection sheet.

All data were collated by a nominated coordinator in each region and then passed to the CTSI for reporting to the Department of Health.

5. RESULTS

The following sections present the results of compliance monitoring. A total of 134 compliance visits were recorded.

5.1 THE BREAKDOWN OF VISITS BY TYPE OF BUSINESS

The largest proportion of visits (54%) were made to convenience stores / small retailers. A small number of visits were made to premises described as “other” these included specialist tobacconists and a Pound shop.

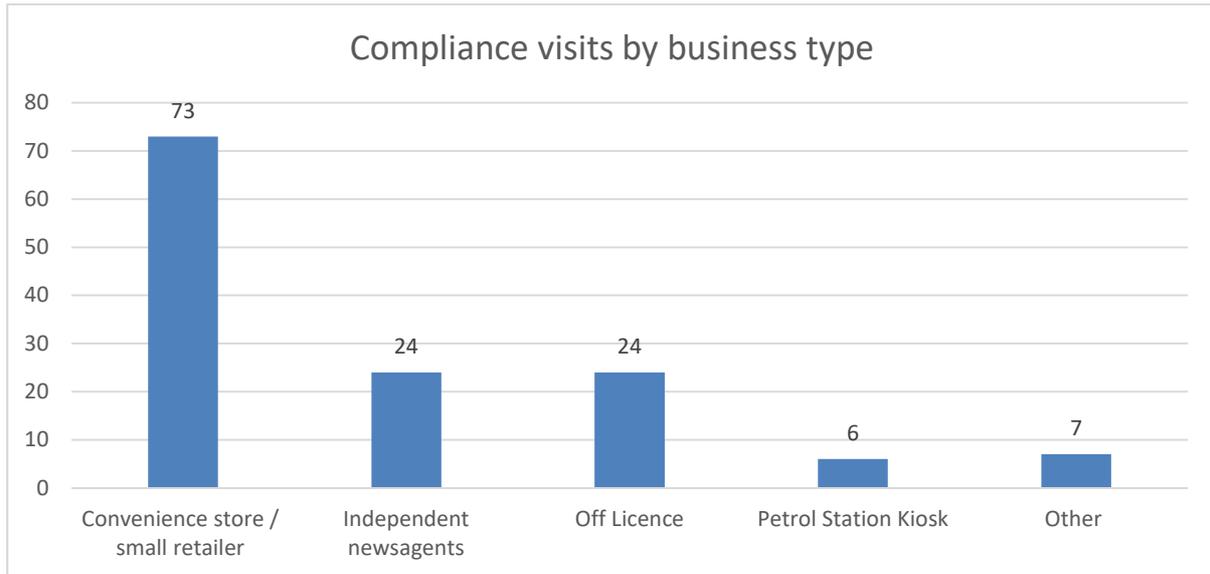


Chart 1: Compliance visits by business type

5.2 PRODUCT COMPLIANCE – CIGARETTES

1062 cigarette products were examined for compliance with Regulation 15 in a total of 133 businesses; compliance was recorded on 98% of occasions. There were 2 reports of non-compliant product.

In these premises, fruit flavoured shisha cigarette products were found and removed from sale. These were described as being “very old “stock.

5.3 PRODUCT COMPLIANCE – HRT

595 HRT products were examined for compliance with Regulation 15 in a total of 131 businesses; compliance was recorded on 99% of occasions. There was only 1 record made of a non-compliant product. The product in question was described as “cherry flavour HRT”. The matter has been raised with the relevant local Trading Standards Service.

5.4 DISPLAY OF TOBACCO PRODUCTS COMPLIANCE

Compliance with the requirements of The Tobacco Advertising and Promotion (Display) (England) Regulations 2010³ was found to be high ; where non-compliance was found typically as a result of the cover not being fully closed , advice was given to the business to remedy the non-compliance .



Chart 2: Business compliance with The Tobacco Advertising and Promotion (Display) (England) Regulations 2010

5.4 STATUTORY NOTICE FOR AGE OF SALE COMPLIANCE

87% of business premises visited were compliant with the requirement to display the statutory age of sale notice. An A3 size version of the notice is required to be displayed wherever tobacco products are supplied as requires by the Children and Young Persons (Protection from Tobacco) Act 1991⁴.

**IT IS ILLEGAL TO SELL
TOBACCO PRODUCTS
TO ANYONE UNDER
THE AGE OF 18**

³ The Tobacco Advertising and Promotion (Display) (England) Regulations 2010 available at : <http://www.legislation.gov.uk/uksi/2010/445/contents/made> [accessed on line 20 September 2017]

⁴ Children and Young Persons (Protection from Tobacco) Act 1991 available at : <http://www.legislation.gov.uk/ukpga/1991/23/introduction> [accessed on line 20 September 2017]

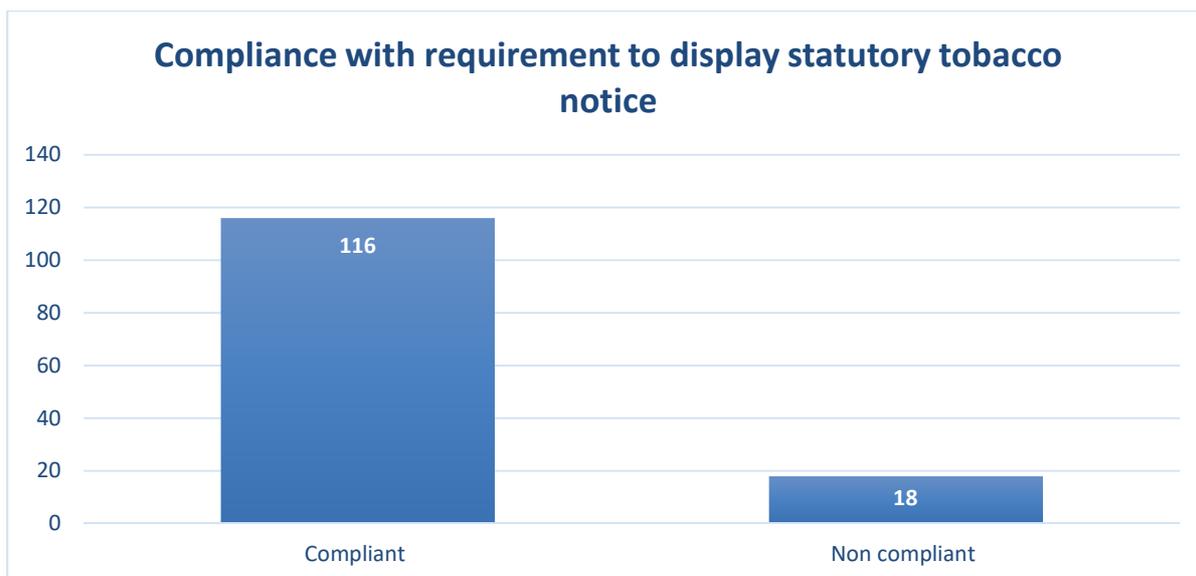


Chart 3: Business compliance with the Children and Young Persons (Protection from Tobacco) Act 1991.

5.5 PRODUCT COMPLIANCE – BLUNTS & SHISHA

Almost 25% of all premises visited (32 of 134) had non-complaint shisha and blunts available. In these cases, the packaging was found to be non-compliant by virtue to reference to flavourings.

This included: Blueberry Burst, Apple Martini, Strawberry Fields, Cherry Vanilla flavoured blunts and lemon, mint, cola, coconut and banana flavoured shisha products.

6. KEY POINTS & RECOMMENDATIONS

This mini review has found high levels of business compliance with all aspects of the legislation within the scope of the review. This is an encouraging outcome.

Where non-compliance was found, advice was given at the time to rectify displays, notices provided to replace existing notices and, where appropriate, illegal products were removed.

Although the review was of a small sample of businesses these were drawn from different regions of the country providing a broader picture of compliance than if the compliance monitoring had been made in one region alone.

Recommendation

The review has indicated that there is an area requiring further monitoring; that of the supply of non-compliant tobacco blunts and shisha tobacco. These products were found in 25% of the businesses visited. This suggests that further advisory and enforcement activity is required in this area.