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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 211**

**PUBLIC HEALTH**

**The Tobacco Advertising and Promotion (Specialist  
Tobacconist) (Scotland) Regulations 2004**

*Made* - - - - - *5th May 2004*  
*Laid before the Scottish*  
*Parliament* - - - - - *7th May 2004*  
*Coming into force* - - - - - *21st December 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 6(1)(c) and 19(2) of the Tobacco Advertising and Promotion Act 2002(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the Tobacco Advertising and Promotion (Specialist Tobacconists) (Scotland) Regulations 2004 and shall come into force on 21st December 2004.

(2) In these Regulations, “the Act” means the Tobacco Advertising and Promotion Act 2002.

(3) These Regulations extend to Scotland only.

**Advertising in or outside specialist tobacconists**

2.—(1) The requirements specified below apply for the purposes of section 6(1)(c) of the Act.

(2) Subject to the following paragraphs, each advertisement shall include an area in which are displayed parallel to the floor—

(a) a health warning specified in paragraph (3); and

(b) the following health information—

“NHS Smoking Helpline 0800 169 0 169”

(3) The health warning shall be—

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(a) 2002 c. 36. The powers are exercisable by the appropriate Minister, who is defined in section 21 (interpretation), in relation to Scotland, as the Scottish Ministers.

- (a) where not less than half of the area of an advertisement (excluding the area in which the health warning and health information is required to be displayed by paragraph (2)) is used to advertise tobacco products which are intended to be smoked—

“Smoking kills”

“Smoking seriously harms you and others around you”

- (b) in any other case—

“Tobacco products may damage your health and are addictive”

(4) The health warning and health information required to be displayed under paragraph (2) shall cover—

- (a) an area of at least 22.5cm<sup>2</sup>, where the total area of the advertisement exceeds 75cm<sup>2</sup>; and  
(b) in any other case, an area which is not less than 30% of the total surface area of the advertisement;

and, for the purposes of this paragraph, the total area of an advertisement includes the area in which the health warning and health information are required to be displayed by paragraph (2).

(5) The health warning and health information which is required to be displayed by paragraph (2) shall be—

- (a) indelible;  
(b) legible;  
(c) printed in black Helvetica bold type on a white background;  
(d) in a font size consistent throughout the text which ensures that the text occupies the greatest possible proportion of the area specified for the health warning and health information;  
(e) in upper case and lower case type as used in the health information in paragraph (2) or, as the case may be, in the health warning in question in paragraph (3);  
(f) centred in the area in which the text is required to be printed;  
(g) surrounded by a black border outside the area specified for the health warning and health information, which shall be not less than 3 millimetres and not more than 4 millimetres in width, which does not interfere with the text of the warning or information; and  
(h) irremovably printed on the advertisement or affixed to the advertisement by means of an irremovable sticker.

(6) In this regulation “advertisement” means a tobacco advertisement to which section 6(1)(a) and (b) of the Act applies.

St Andrew’s House, Edinburgh  
5th May 2004

*TOM McCABE*  
Authorised to sign by the Scottish Ministers

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## **EXPLANATORY NOTE**

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

These Regulations specify requirements for the purposes of section 6(1) of the Tobacco Advertising and Promotion Act 2002 (“the Act”). They apply to advertisements for tobacco products (other than advertisements for cigarettes or hand rolling tobacco) which are in, or fixed to the outside of, the premises of specialist tobacconists. Where a specialist tobacconist complies with section 6(1) he does not commit an offence under section 2 (prohibition of tobacco advertising) of the Act. These Regulations extend to Scotland only.

Regulation 2 requires that each advertisement to which these Regulations apply must include a health warning and health information on the NHS Smoking Helpline (paragraphs (1) to (3)). Different health warnings apply depending on whether the advertisement in question is mainly for smoking or other tobacco products (paragraph (3)). Where the advertisement exceeds 75cm<sup>2</sup>, the health warning and health information must occupy an area of at least 22.5cm<sup>2</sup> and in any other case not less than 30% of the advertisement (paragraph (4)). This is consistent with the size of the warnings on packets of tobacco products. The format of the health warning and health information is specified (paragraph (5)).

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Executive Health Department, Substance Misuse Division, St. Andrew’s House, Regent Road, Edinburgh EH1 3DG.