

Briefing: Impact of “Brexit” on UK Tobacco Control legislation

Impact of “Brexit”

On 23 June 2016 the United Kingdom voted to leave the European Union. This became known as “Brexit”. The departure of the UK from the EU will require the notification of Article 50 of the Lisbon Treaty of the EU.

Following the triggering of Article 50 negotiations on a withdrawal agreement will begin. This can take up to two years or longer if negotiations are extended (this would require the unanimous agreement of the European Council, in agreement with the UK). The UK remains a member of the EU throughout this process until Article 50 negotiations are concluded and Treaties are still binding on the UK. Even subsequent to this EU Directives that have been transposed into domestic law will not be affected by “Brexit” unless and until Parliament decides it wishes to repeal transposed legislation.

The UK is a party to the WHO Framework Convention on Tobacco Control (FCTC), the global treaty which sets out measures which Parties to the Treaty should implement to reduce the harm caused by tobacco. The UK has also committed to ratifying the Illicit Trade Protocol to the WHO FCTC, which when it comes into force will require parties to implement supply chain controls and tracking and tracing of tobacco products.

The UK is a world leader in implementation of the FCTC and since 2007 has come top in a European survey measuring the implementation of key tobacco control policies. EU tobacco legislation included in Directives which have been transposed into domestic legislation help EU member states meet their obligations as Parties to the FCTC. In many cases the UK Parliament, and its devolved counterparts have, with strong cross-party support, passed legislation which goes further than requirements set out in the EU Directives.

UK Tobacco control laws

Transposed from EU Directives

There are three tobacco-specific EU directives which set standards for the UK. The UK parliament and its devolved counterparts have chosen to go further than required by the Directives, as set out below.

Tobacco Advertising Directive:

- Prohibits cross border advertising, promotion and sponsorship.
- UK legislation goes further by prohibiting all domestic tobacco advertising, promotion and sponsorship.

Tobacco Tax Directive:

- Sets minimum limits for tobacco excise duties.
- UK excise duties are significantly higher than the minimum limits and there is a commitment to increase them annually by 2% above inflation for the duration of this parliament.

Tobacco Products Directive

- Sets standards for packaging and labelling of tobacco products.
- Establishes reporting and notification requirements for tobacco products.
- Prohibits flavours.
- UK legislation goes further by prohibiting point of sale displays and mandating standardised ‘plain’ packaging of tobacco products.

In addition there are a number of other directives which have measures relating to tobacco. These include standards for reduced ignition propensity cigarettes under the General Product Safety Directive. For more information see the [ASH law guide](#).

Domestic laws

Many of the laws on tobacco in the UK are domestic rather than European in origin and are implemented by the relevant national authorities (England, Northern Ireland, Scotland and Wales). These laws include the following:

- Smokefree legislation applying to enclosed workplaces and public places as well as public transport and work vehicles (in place with minor variances in different jurisdictions).
- Age of sale for tobacco (18 for all jurisdictions).
- Age of sale for nicotine inhaling products, including e-cigarettes, (18 in England and Wales, introduction underway in other jurisdictions).
- Prohibition of proxy purchase for tobacco (in place in all jurisdictions).
- Prohibition of proxy purchase for nicotine inhaling products, including e-cigarettes, (in place in England and Wales, under development in other jurisdictions).
- Retail register for tobacco sales (in place in Scotland and Northern Ireland, in development in Wales).
- Prohibition of smoking in cars carrying children under 18 (in place in England and Wales, in development in other jurisdictions).

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