

Tobacco Control and Licensing – Back to the Future

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Introduction

On the 1st December 2014 The Tobacco Products (Guernsey) Ordinance, 2014 came into force. This legislation places ‘new’ requirements on anyone that sells tobacco products. The requirements of the legislation were implemented in two phases.

From **1st December 2014**;

- Anyone that sells tobacco products is required to be licensed by the Health and Social Services Department (HSSD)

From **1st June 2015**;

- There is a prohibition on the display of tobacco products and prescribed parameters for pricing and advertisement of tobacco products - subject to certain exemptions and exceptions
- There is a prohibition of sale or supply of tobacco products to anyone under 18 years of age
- There is a prohibition of sale or supply of tobacco products for oral use
- Cigarettes are only able to be sold in packets of 20 or more
- There is a prohibition of tobacco vending machines in public areas

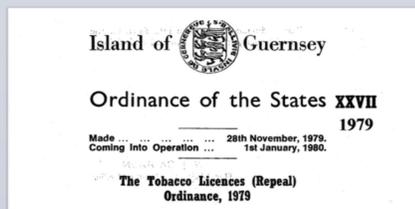
The introduction of licenses to sell tobacco products is established in other jurisdictions including Australia, Canada, New Zealand, Singapore, Ireland and the majority of States in the USA. It was, however, still viewed to be novel locally and tobacco licensing faced considerable opposition from the tobacco industry.

Historical Perspective

Until 1979 tobaccoists required a licence to sell tobacco. This originated from 1904 legislation (Loi relative à la Vente de Tabac, 1904) that was introduced to raise revenue for the local government from the sale of tobacco. This legislation was repealed in 1980 as the revenue raised was insufficient to cover administrative costs and health impacts were seemingly overlooked.

Scientific studies during the 1950s first highlighted the link between smoking and lung cancer. It was, however, not until the 1960s, following the publication of reports from the Royal College of Physicians in the United Kingdom and the United States’ Office of the Surgeon General, that the first tobacco control policies were implemented (Novotny & Mamudo, 2008; Ash, 2013).

Local tobacco control policies have utilised global evidence bases to inform a prioritised approach to reducing the prevalence of tobacco use across the Bailiwick. The Tobacco Control Strategy 2009 – 2013 (States of Guernsey, 2008), therefore, sought to reintroduce tobacco licensing to reduce the availability and promotion of tobacco products because of the proven health benefits.



From Strategy to Regulation

Whilst the States of Deliberation approved the 2009 – 2013 Tobacco Control Strategy on the 12th March 2008, tobacco licensing legislation did not come in to force until 2014. The 6 year period from agreement to legislation is illustrative of the barriers that must be overcome to translate strategy to regulation. Despite opposition and concern from the tobacco industry, States Deputies and the public this legislation has been successfully implemented and positive lessons have been learnt regarding the introduction of public health policy.

Due to the prioritised and phased implementation of the Tobacco Control Strategy the report on the Licensing of Tobacco Outlets was not approved by the HSSD Board until 8th February 2011.

A drafting process then commenced to develop a framework for the regime and a plan for implementation. This was simultaneously carried out with a lengthy consultation process. Although the World Health Organisation (World Health Organisation, 2005) recommend that Public Health policy makers should not work with tobacco manufacturers, HSSD took the bold move to include them within the consultative process in order to be transparent and inclusive.

305 known or suspected tobacco sellers were written to and two public meetings were held in 2011. These were attended by 26 tobacco sellers.

The Tobacco Product (Enabling Provision) (Guernsey) Law was approved by the UK Privy Council in February 2012, having been lodged in January 2011.

Following further pressure from the tobacco industry, tobacco sellers were invited to a further presentation on 25th October 2012 to ensure that all stakeholders were updated. 35 traders attended.

Following the States meeting on 29th November 2012 the States resolved as follows concerning Billet d’État No XXIII (States of Guernsey, 2012);

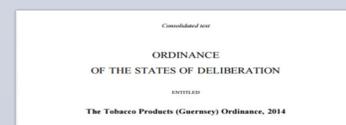
“To direct that legislation be drafted under the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010, to provide for the licensing of sale and supply of tobacco products”.

HSSD subsequently undertook a final consultation exercise to gather comments regarding the draft Tobacco Products (Guernsey) Ordinance, 2013 and The Tobacco Products (Exceptions, Exemptions and Defences) (Guernsey) Regulations, 2013.

Extensive feedback was received from representatives of the tobacco industry and a small number of local businesses but only one response was received from a member of the public.

A final workshop for tobacco retailers was held on 9th April 2013 and feedback was generally positive, with retailers pleased to be involved with the process.

On 29th November 2014, the States resolved to implement the legislation (as detailed in Billet d’État No XXIV) (States of Guernsey, 2014) and on the 1st December 2014 The Tobacco Products (Guernsey) Ordinance, 2014 came into force.



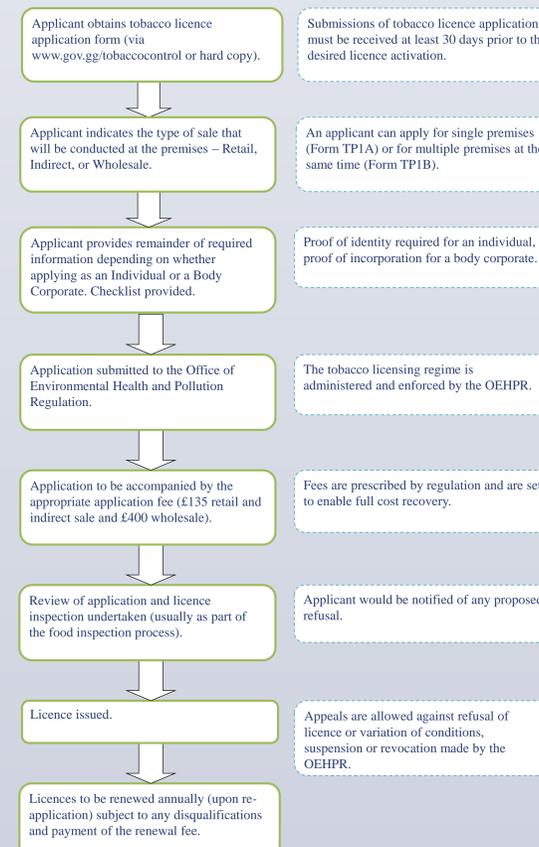
Implementation

Following the States resolution in November 2014 the Office of Environmental Health and Pollution Regulation (OEHPR) began to roll out the implementation plan that had been prepared in readiness for the agreement to enact the licensing legislation with, in effect, almost immediate effect.

Despite the law taking effect from 1st December 2014, in accordance with proportionate regulatory principles, it was agreed that the OEHPR would promote the regulatory changes, work with the industry and strive for compliance through collaboration rather than enforcement;

- Application forms and instruction sheets for completing the forms were developed
- Instruction sheets regarding compliance with the display requirements were developed
- 394 known or suspected tobacco sellers were written to providing information regarding the implications of the changes and enclosing application forms and information sheets
- Drop-in sessions were provided for tobacco sellers
- Information was disseminated through media releases and via the States of Guernsey website (www.gov.gg/tobaccocontrol)
- Staff were available for telephone or one-to-one advice

The flow diagram below illustrates the application process. Appeals are heard by a quasi-judicial tribunal that can agree, disagree or amend the Licensing Officer’s decisions. Panel members represent a variety of different States’ departments in order to allow an impartial consensus view to be attained.



Conclusions

It is too early to assess the health impact of the (re)introduction of tobacco licensing although this will be monitored through key performance indicators embedded within the Tobacco Control Strategy.

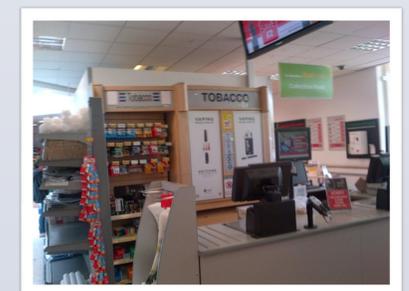
Of the 394 premises contacted via the mail-shot, 26 premises telephoned or visited the department for additional advice. The department proactively contacted 31 premises who were believed to sell tobacco but had not submitted an application. As a result 11 application packs were re-sent to businesses that confirmed that they do, and will continue to, sell tobacco products. To date (28th March 2015) 113 licences have been issued or are being processed.

The number of licences issued is lower than expected but a number of premises have stopped selling tobacco products. The exact number cannot be provided as there was no definitive list of premises that previously supplied tobacco products. 7 premises did, however, confirm to the OEHPR that they ceased selling tobacco products because of the introduction of the licensing regime.

Despite opposition to the scheme within the tobacco industry the level of compliance since December has been very high and no enforcement action has been instigated against a tobacco seller.

Smoking and tobacco use are addressed as part of multi-faceted strategies. Licensing should be considered to be one part of the wider tobacco strategy that has been designed to positively impact on the health of islanders through dealing with tobacco use (and its known detrimental health outcomes) from several targeted angles.

Licensing tobacco sales is not a new concept locally or globally but the (re)introduction of this system illustrates a positive contextual change for policy from revenue generation to health impact focused public health policy.



References

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