

2012 No. 1288 (W. 165) (C. 45)

**NATIONAL HEALTH
SERVICE, WALES**

The Health Act 2009
(Commencement No. 3) (Wales)
Order 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made by the Welsh Ministers under the Health Act 2009 (“the Act”).

This Order brings into force in Wales provisions of sections 20 and 21 of the Act, which make amendments to earlier legislation in relation to tobacco.

It also brings into force in Wales provisions of Schedule 4 to the Act (which makes minor and consequential amendments in relation to tobacco). These minor and consequential amendments include the provisions that are being brought into force on 1 June 2012 which allow Welsh Ministers to take over proceedings which are in respect of an offence committed in Wales and instituted in England and Wales by another person under any provision of the Tobacco Advertising and Promotion Act 2002 or any regulations made under it.

Provisions relating to the display of prices of tobacco products are commenced, to the extent that they are not already in force, on 3 December 2012 for the purposes of large shops (as defined) and for all other purposes on 6 April 2015.

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 3 December 2012 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 6 April 2015 for all other purposes.

Provisions relating to the exclusion for specialist tobacconists from the prohibition of advertising are commenced on 6 April 2015.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the Act listed in the table below have been brought into force in relation to Wales by commencement orders S.I. 2010/930 (W.95) (C.63) and S.I. 2011/2362 (W.248) (C.83).

<i>Provision</i>	<i>Date of Commencement</i>
Section 19	1.4.2010 (in so far as it relates to paragraphs 14 to 17, 18 and 19 of Schedule 3).
Section 22	1.2.2012 (in so far as it is not already in force).
Schedule 3, paragraphs 14 to 17	1.4.2010.
Schedule 3, paragraphs 18 and 19	1.4.2010.

The provisions of the Act listed in the table below have been brought into force in relation to Wales by commencement orders made by the Secretary of State.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
Section 36	19.1.2010.	2010/30 (C.5).
Schedule 6 in so far as it gives effect to the repeal relating to the Children and Young Persons Act 1933 (c.12), and section 38 in so far as it gives effect to that provision.	1.10.2011.	2010/1068 (C.70) as amended by 2011/1255 (C.49).
Schedule 6 in so far as it gives effect to the repeal relating to section 14(12) of the Tobacco Advertising and Promotion Act 2002 (c.36), and section 38 in so	6.4.2012.	2010/1068 (C.70) as amended by 2011/1255 (C.49).

far as it gives effect to that provision.		
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Various provisions of the Act have been brought into force in relation to England by S.I. 2010/30 (C.5); S.I. 2010/779 (C.52); S.I.2010/1068 (C.70); S.I. 2010/1863 (C.95) and S.I. 2011/1255 (C.49).

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**NATIONAL HEALTH
SERVICE, WALES**

The Health Act 2009
(Commencement No. 3) (Wales)
Order 2012

Made

14 May 2012

The Welsh Ministers make the following Order in exercise of the powers contained in section 40(2)(b) of the Health Act 2009⁽¹⁾.

Title, application and interpretation

1.—(1) The title of this Order is the Health Act 2009 (Commencement No. 3) (Wales) Order 2012.

(2) This Order applies in relation to Wales.

(3) In this Order—

“the Act” (“*y Ddeddf*”) means the Health Act 2009;

“bulk tobacconist” (“*swmpwerthwr tybaco*”) 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

(1) 2009 c.21.

125 grams or more in their original package;

“large shop” (“*siop fawr*”) means a shop which has a relevant floor area exceeding 280 square metres;

“original package” (“*pecyn gwreiddiol*”) 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” (“*pecyn*”) means any box, carton or other container;

“relevant floor area” (“*arwynebedd perthnasol y llawr*”), 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 used neither for the serving of customers in connection with the sale of goods nor for the display of goods; and

“specialist tobacconist” (“*gwerthwr tybaco arbenigol*”) has the meaning given in section 6 of the Tobacco Advertising and Promotion Act 2002(1).

(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) 1 June 2012 is the day appointed for the coming into force of the following provisions of Schedule 4 to the Act—

- (a) paragraph 7(6);
- (b) paragraph 8(1) and paragraph 8(3); and
- (c) paragraph 2 in so far as it relates to the paragraphs listed in (a) and (b).

(2) 3 December 2012 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, in so far as it inserts sections 7A, 7B and 7C of the Tobacco Advertising and Promotion Act 2002 (prohibition of tobacco displays, tobacco displays: exclusions and defence and displays: prices of tobacco

(1) 2002 c.36.

- products), for the purpose of large shops other than bulk tobacconists and specialist tobacconists;
- (b) the following paragraphs of Schedule 4, and section 24 in so far as it relates to those paragraphs—
 - (i) paragraph 6(2) and paragraph 6(1) in so far as it relates to that sub-paragraph;
 - (ii) paragraph 10;
 - (iii) paragraphs 11 and 12 to the extent that they are not already in force;
 - (iv) paragraph 2 in so far as it relates to the paragraphs listed in (i) to (iii).
- (3) 6 April 2015 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.

Lesley Griffiths

Minister for Health and Social Services, one of the Welsh Ministers

14 May 2012