

STATES OF JERSEY



DRAFT RESTRICTION ON SMOKING (VENDING MACHINES) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 11th December 2013
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

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REPORT

Background

Children are most likely to take up smoking during their teenage years. It is estimated that someone who starts smoking at the age of 15 is 3 times more likely to die of smoking-related cancer, than someone who starts in their late 20s. Approximately 17% of young people smoke tobacco. In Jersey, the number of young people who describe themselves as 'smoking regularly', doubles between the ages of 13 and 16 years of age.

Tobacco vending machines continue to represent an accessible and ready supply of tobacco for children under the legal age of purchase. Despite increased retailer vigilance and increased restrictions on their placement, a significant number of children still report buying tobacco from vending machines. Approximately 6% of under-age tobacco purchases by 14–15 year-olds came from tobacco vending machines. Anecdotal evidence from young people would suggest that the extent to which tobacco vending allows access to tobacco is under-represented in the survey. A survey of 11–15 year olds carried out in the UK before their Law was introduced in 2011 found that for 17% of smokers, vending machines were their usual source.

A more detailed picture is offered by a survey by the Local Authority Regulatory Standards, reporting on test purchases by young people under the supervision of trading standards officers. The research found that young people were able to buy cigarettes from coin-operated vending machines on more than 4 in 10 occasions, with a number of Councils reporting a 100% successful purchase rate.

Some Councils found that where children were successfully prevented from purchasing from vending machines, it was because the machine was broken rather than because they were challenged. It also suggests that vending machines are likely to be a common source of cigarettes for 16–18 year-olds and underlines the need to prohibit sales from this source. A similar outcome was found in a test purchase exercise in south-west England, where 73% of attempts by 15 year-olds to purchase tobacco were successful.

Currently, 22 countries in Europe ban or have never allowed sales from vending machines of tobacco. Prohibiting the sale of tobacco products from vending machines will bring Jersey in line with the majority of European nations, and will reduce children's access to tobacco. The sale of tobacco products from vending machines

became illegal in England from 1st October 2011. Prohibition of the sale of tobacco products from vending machines was included as part of the Health Act 2009.

The States of Jersey Tobacco Control Strategy (2010–2015) identifies the prohibition of tobacco vending as a key action. It is a crucial step as part of a breath of measures to meeting the headline targets for reducing the number of children under 16 years old who smoke, to under 5%.

Timeline

The necessary enabling amendment to the Restriction on Smoking (Jersey) Law 1973 was adopted by the States on 30th April 2013 from Projet P.18/2013. The Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013 (“the Law”) was subsequently sanctioned by the Privy Council on 13th June and registered in the Royal Court on 21st June 2013. The Draft Appointed Day Act which will bring the Law into force on 30th October 2014 is lodged, alongside these Regulations, as P.161/2013. These Draft Regulations are set to come into force on the same day as the Law.

Policy aims of the Regulations

- To prevent ease of access to tobacco for young people
- To discourage the number of young people from starting to smoke.

Conclusion

The number of children smoking in Jersey is falling. In order to keep this trend in the future, it is important that we take measures that are consistent with the overall aim of reducing the number of children who smoke.

Financial and manpower implications

The Draft Regulations will impose additional enforcement duties on the Health Protection Department, but these will be managed within existing resources. No further additional resources have been identified.

Explanatory Note

These Regulations are made under Article 1B of the Restriction on Smoking (Jersey) Law 1973 (“Law”) as substituted by the Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013 which comes into force by Appointed Day Act. Article 1B allows the States, by Regulations, to ban the sale of tobacco from a vending machine.

Regulation 1 prohibits the sale of tobacco from a vending machine. Any person who controls or manages premises in which a vending machine is located must take all reasonable steps to ensure compliance with the prohibition. Failure to do so is a criminal offence which carries a maximum penalty of a fine of level 3 on the standard scale (that is, £2,000).

Regulation 2 repeals the Restriction on Smoking (Vending Machines) (Jersey) Regulations 2006.

Regulation 3 sets out the title of these Regulations and provides that they will come into force on the same date as the Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013 comes into force. That Law is intended to come into force on 30th October 2014 by an Appointed Day Act.



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Arrangement

Regulation

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Jersey

DRAFT RESTRICTION ON SMOKING (VENDING MACHINES) (JERSEY) REGULATIONS 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 1, 1B, 1G and 2 of the Restriction on Smoking (Jersey) Law 1973¹, have made the following Regulations –

1 Prohibition of the sale of tobacco from vending machines

- (1) The sale of tobacco from a vending machine is prohibited.
- (2) A person who controls, or is concerned with the management of premises in which a vending machine is located shall take all reasonable steps to ensure compliance with paragraph (1) in those premises.
- (3) A person who contravenes paragraph (2) shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (4) In this Regulation, “premises” includes any place and any vehicle, vessel, hovercraft, stall or moveable structure, but does not apply to a vessel of any description that is within the territorial sea adjacent to Jersey.

2 Restriction on Smoking (Vending Machines) (Jersey) Regulations 2006 repealed

The Restriction on Smoking (Vending Machines) (Jersey) Regulations 2006² are repealed.

3 Citation and commencement

These Regulations may be cited as the Restriction on Smoking (Vending Machines) (Jersey) Regulations 201- and shall come into force on the same date that the Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013³ comes into force.

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- ¹ *chapter 20.825*
² *R&O.36/2006 (20.825.90)*
³ *L.7/2013*