

The Sale and Supply of Tobacco Products (Sark) Ordinance, 2011

THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the 4th May, 2011, and in exercise of the powers conferred on them by section 37 of the Reform (Sark) Law, 2008^a and all other powers in that behalf, hereby order:-

Prohibition of sale or supply to persons under 16.

1. (1) A person who sells or supplies any tobacco product to a person under the age of 16 years commits an offence.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the Sark uniform scale, a term of imprisonment not exceeding one month, or both.

General defence and other provisions relating to offences.

2. (1) It is a defence for a person against whom proceedings for an offence are brought to prove that –

- (a) he believed the person under the age of 16 years ("**the customer**") to be aged 16 years or over, and
- (b) he had taken reasonable steps to establish the age of the customer.

^a Order in Council No. V of 2008; amended by Nos. VI and XXVII of 2008, and No. XIV of 2010.

(2) Where an offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where an offence is alleged to have been committed by an unincorporated body, proceedings for the offence must be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence must be paid from the funds of that body.

(6) Where an offence is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
 - (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty
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whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or

- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

he as well as the unincorporated body is guilty of the offence and is liable to be proceeded against and punished accordingly.

(7) In this section, "**an offence**" means an offence under section 1(1).

Interpretation.

3. (1) In this Ordinance, unless the context requires otherwise –

"**cigarettes**" includes cut tobacco rolled up in paper, tobacco leaf, or other material, in such form as to be capable of immediate use for oral smoking,

"**enactment**" means any Law, Ordinance or subordinate legislation,

"**person**" includes any unincorporated body,

"**sell**" includes –

- (a) sell for resale (including as a constituent part of another thing),
- (b) offer or attempt to sell,

- (c) receive for sale,
- (d) display or otherwise expose for sale,
- (e) have in possession for sale,
- (f) agree for sale,
- (g) send or deliver for sale,
- (h) cause or permit to be sold or to be offered or exposed for sale,
- (i) barter,
- (j) supply a product under an agreement, together with any other thing or service or both, in consideration of an inclusive charge for the product and the other thing or service,
- (k) offer as a public prize or reward, or give away for the purpose of advertisement or in the furtherance of any trade or business, and
- (l) every other method of disposition for valuable consideration,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any

enactment and having legislative effect,

"supply" includes –

- (a) sell, give, exchange, distribute, convey, consign, deliver, furnish, or transfer possession of or title to, or arrange, offer, or agree to do so, whether for a fee or other consideration or without charge,
- (b) have in one's possession for the purpose of doing any of the things specified in paragraph (a), and
- (c) do any of the things specified in paragraph (a) by way or by use of a vending machine or other device, and

"tobacco product" means –

- (a) tobacco or any product containing tobacco, including cigarettes, cigars and pipe tobacco,
- (b) smoking mixtures intended as a substitute for tobacco,
or
- (c) cigarette paper.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Ordinance as it applies to the interpretation of a Guernsey

enactment.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Extent.

4. (1) This Ordinance has effect throughout Sark except –

(a) in the territorial sea adjacent to Sark, and

(b) in the Island of Brecqhou.

(2) For the purposes of subsection (1)(a), the breadth of the territorial sea is to be measured from the baselines established by the Territorial Waters Order in Council 1964^c.

Citation.

5. This Ordinance may be cited as the Sale and Supply of Tobacco Products (Sark) Ordinance, 2011.

Commencement.

6. This Ordinance comes into force on the 1st of August, 2011.

^b Ordres en Conseil Vol. XIII, p. 355.

^c Order in Council of the 25th September, 1964.