

RAPID REVIEW 2: PROD



CONTENTS

SUMMARY & KEY POINTS

- *This report presents the findings from a second review of product compliance with the Tobacco and Related Products Regulations 2016; the first review has been published and is available on the Chartered Trading Standards Institute website.*
- *The review was carried out between April and June 2018 by Trading Standards Services across 5 English regions.*

1. INTRODUCTION

This is a Department of Health and Social Care supported project delivered and managed by CTSI; the primary purpose is to **assess product compliance with the Tobacco and Related Products Regulations 2016¹**. Specifically, the compliance of nicotine inhaling products; E-cigarettes and E-liquids.

A primary review² of regulatory compliance was carried out in early 2018 by Trading Standards services across three regions in England: South East, Eastern and North West. At that time, product compliance was found to be around 75% for both devices and liquids. A quarter therefore of all products examined were assessed as being non-compliant with the regulations for a variety of reasons including: Lack of warnings, non-provision of information leaflets and exceeding the size permitted for tanks. More commonly, products were assessed as being

2. PURPOSE

The purpose of this review is to assess whether levels of regulatory compliance by retail businesses with the Tobacco and Related Products Regulations 2016 has changed over the last 4-6 months. The focus of the review is on nicotine inhaling products.

It was also requested that observations be made of the availability of 0% nicotine liquids. These products are not subject to the requirements of the Tobacco and Related Products Regulations 2016 however, it has been suggested that this is a growing area of the market and worthy of examination. Further observations and recommendations will be made where appropriate for future activity.

3. SCOPE

This was designed to be an additional rapid review of business compliance carried out by Trading Standards Services (TSS) across a number of councils in England. A total of 263 compliance visits have been made during this phase.

Laboratory testing of a number of E-liquids has also been undertaken and is subject of a separate report; this separate report was commissioned by the MHRA.

4. METHOD

The review has been carried out by trading standards services in five English regions:

North East, North West, South West, Yorkshire and Humber and Central Regions.

Each region has undertaken between 40 -60 compliance visits. At each visit, officers were requested to assess a range of products for compliance with the regulations. In addition, officers were asked to estimate the percentage of products that were avail.15818(c)-0.300048(e)48(i319

5.2.2 PREMISES WITH NON-COMPLIANT E CIGARETTES

A total of 103 non-compliant products were found across 50 different premises during this review. The greatest proportion of non-compliant products were found in convenience stores [28%] this sector of the market recorded the highest proportion on non-compliant products in the last review with 32%.

16% of products assessed in specialist shops were found to be non-compliant, this is l

5.3.1 PHASE 3 – REFILL CONTAINERS NON-COMPLIANCE

Where non-compliant products were found (109 visits) a variety of reasons were given however the most often recorded reason was “multiple” indicating that the product assessed had several aspects of non-compliance.

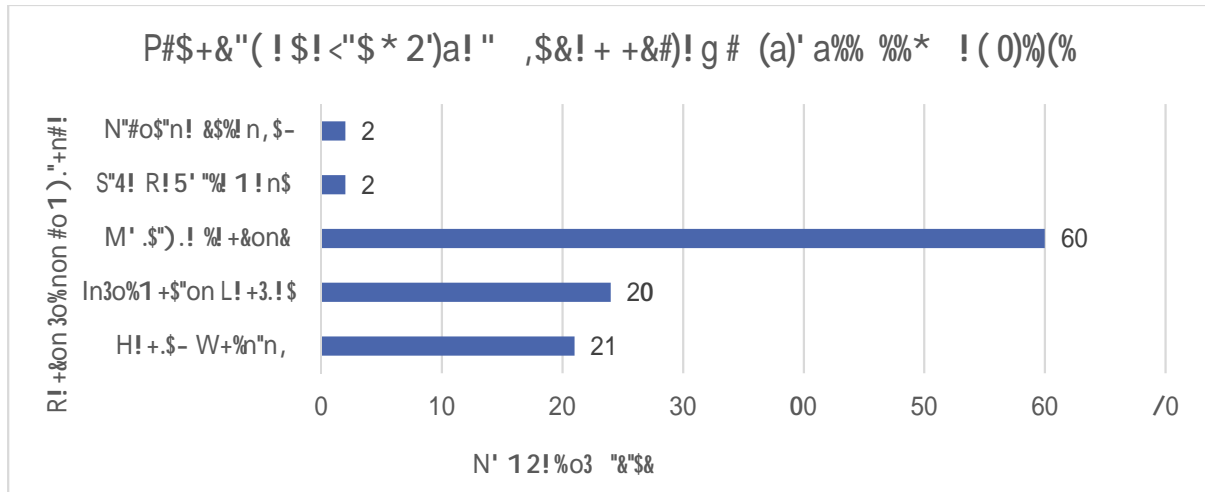


Chart 6: Reasons for Refill container product non-compliance

5.3.2 PREMISES WITH NON-COMPLIANT REFILL CONTAINERS

A total of 344 non-compliant products were found at 109 different premises during this review. The greatest proportion of non-compliant products were found in independent newsagents [31%] this sector of the market recorded the highest proportion on non-compliant products in the last review with 40% along with convenience stores.

Product compliance in convenience stores is higher on this occasion. Whereas during the first review 40% of products were found to be non-compliant, during this review, 20% of products were assessed as non-compliant.

Of products assessed at specialist businesses, 20% were found to be non-compliant, this is higher than the 17% of products found during the last review.

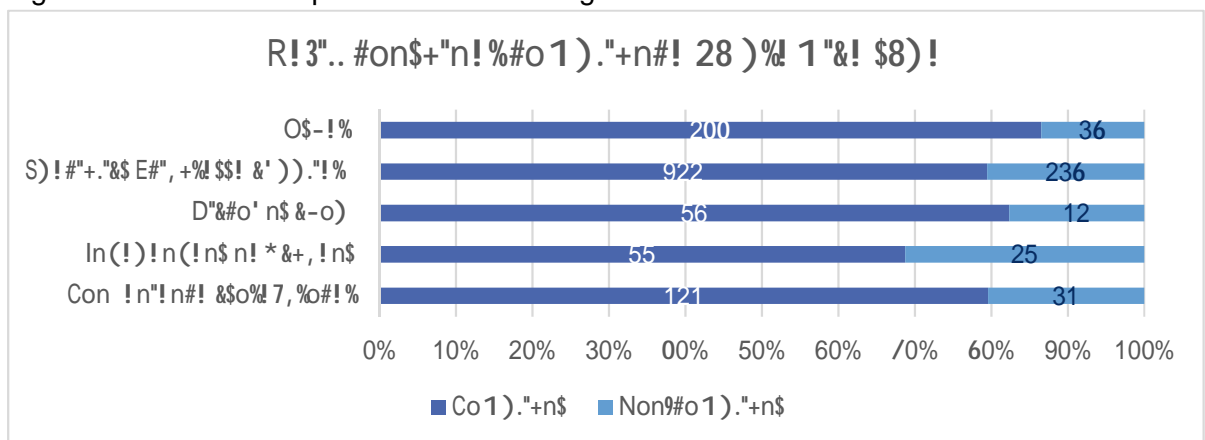


Chart 7: Refill container compliance by premise type

5.4 ACTIONS TAKEN BY TRADING STANDARDS DURING COMPLIANCE MONITORING

A range of actions were taken by Trading Standards during this review; however, the most often cited course of action was “advice given to retailer”.

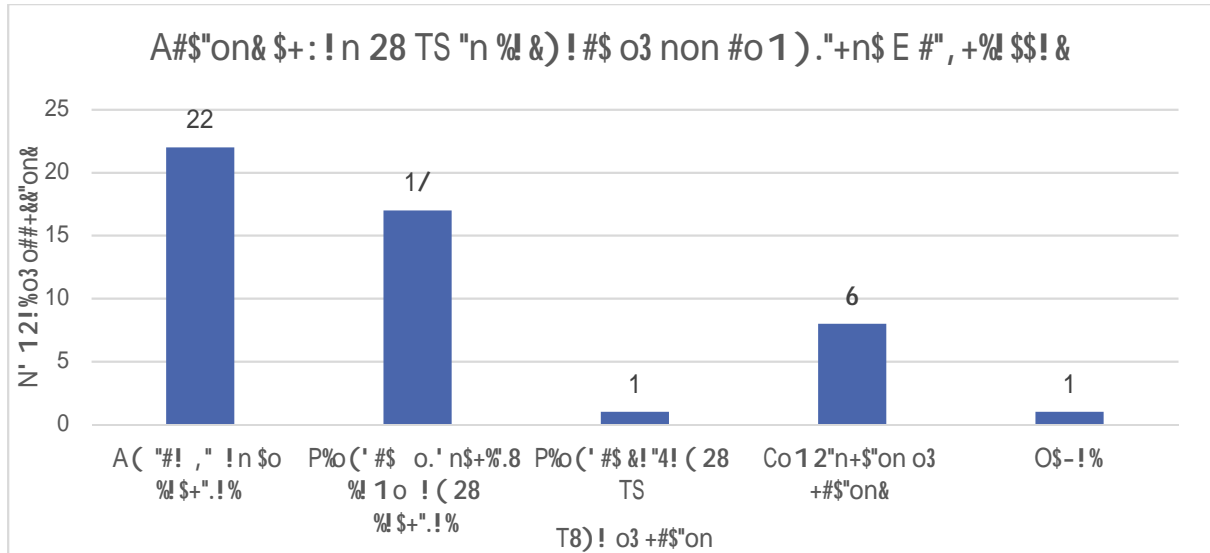


Chart 8: Actions taken by Trading Standards during phase 3 of the review: E cigarettes

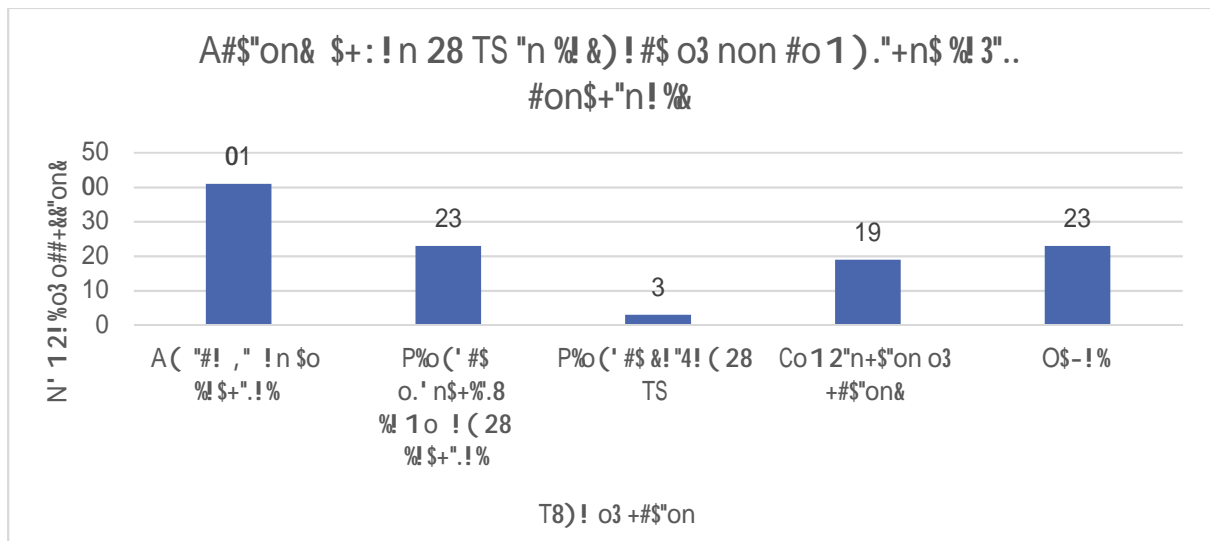


Chart 9: Actions taken by Trading Standards during phase 3 of the review: Refill Containers

Note: reference to “other” as a course of action includes: referral of the matter to the Home Authority trading standards service and voluntary surrender of product to TS

5.5 PERCENTAGE OF LIQUID PRODUCTS DESCRIBED AS 0% NICOTINE

6. OBSERVATIONS

- The Regulations provide for both consumer safety and for a level playing field for businesses. Failure to comply with the Regulations is a criminal offence;
- Guidance has been produced by MHRA, DHSC and via business companion to assist businesses in compliance; in addition, the IBVTA and the UKVIA are key trade associations offering advice and support for their members in terms of compliance;

- CTSI to share the report with the DHSC and MHRA and facilitate a meeting between the organisations to discuss the findings, with particular focus on the rise of 0% liquids;
- DHSC to consider the matter of illegal sales of nicotine inhaling products to young people in conjunction with the findings from the Tobacco Control Survey 2017-18 [not yet published] and to determine whether this is an area of enforcement activity that could be commissioned by the DHSC for 2018 -19.

LIMITATIONS OF THIS REVIEW OF COMPLIANCE

- It is acknowledged that this is a limited review of compliance. The premises that have been visited have been chosen by local TSS across a total of 46 different council areas in England however the sample size is restricted to 263 premises.
- In some cases, the total number of visits made to a particular premise type is correspondingly small and thus the findings of this review are suggestive rather than indicative. See Chart 1 for the total number of visits made by TSS by premise type.

ACKNOWLEDGEMENTS

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TRPs Product Compliance – Refill containers and reasons for non-compliance where found

