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**South Ayrshire Council
Consultation Response**

Date Consultation Was Received: 7th December 2006

**Subject: Consultation on The Draft Smoking, Health and Social Care (Scotland) Act 2005
(Variation Of Age Limit For Sale Of Tobacco Purchase And Consequential Modifications)
Order 2007**

Respondent: South Ayrshire Council Trading Standards service

Date of Response: 9th February 2007

This response is submitted on behalf of Trading Standards as part of Legal and Protective Services within the Development Safety & Regulation Department of South Ayrshire Council.

About South Ayrshire Council

South Ayrshire Council is a unitary local authority that was formed in April 1996 following the re-organisation of Scottish local government.

Situated in the South West of Scotland, South Ayrshire covers an area of 422 square miles (120,223 hectares) and has an approximate population of 114,000. The area is made up of a mixture of large towns (including Ayr, Prestwick, Troon, Maybole and Girvan) with many rural villages spread across a wide area. Containing a rich mix of agricultural land, woodlands and forests, South Ayrshire also has a long and spectacular coastline. Farming, tourism, and sport (particularly golf), form an integral part of the area's economy.

South Ayrshire Council consists of four Departments:

- Chief Executive
- Education, Culture & Lifelong Learning,
- Social Work, Housing & Health,
- Development, Safety & Regulation.

The Development Safety & Regulation Department consists of enforcement, legal and regulatory services, such as Planning, Building Standards, Licensing, Legal, Community Safety, Trading Standards and Environmental Health.

Trading Standards in South Ayrshire

Trading Standards is broadly responsible for ensuring that the markets for goods and services operate fairly for consumers and business alike. The bulk of our work comes from legislation that both empowers and imposes duties on our officers. We facilitate and police the commercial market by a combination of consumer complaints, routine visits, sampling and special projects. Advice is given where possible and enforcement action is taken where necessary.

Specifically, Trading Standards deals with areas as diverse as metrology, product safety, credit, animal health & welfare and fair trading - including prices, trade and property descriptions, counterfeit goods, trademark infringement and advertisement accuracy. High quality consumer and business advice as well as consumer debt counselling is also provided by Trading Standards.

Trading Standards in South Ayrshire has traditionally striven to be innovative in matters of service delivery and at the forefront of developments that affect the profession. In this regard we

are grateful to be able to respond on the relevant matters within this consultation document and look forward to positive change as a result.

Response

Q1: Do you agree that the age of purchase of tobacco products should be raised to 18 as provided for in the draft Order, and with the assumptions made in the partial Regulatory Impact Assessment?

Yes. South Ayrshire supports the raising of the age limit from 16 to 18

Q2: With this in mind, we would welcome views on:

Issues which you think require to be addressed in preparation for the proposed change in the legal age of purchase; and

Prior to the change as identified in the partial Regulatory Impact Assessment all traders will have to be informed of the new age limit. There is no complete database of traders selling tobacco products so contact will have to be made with them in a number of ways. The publicity campaign is welcome as is liaison through trade representative groups. However many independent traders will not be members of such groups. South Ayrshire recommends that local authorities, in most cases through their Trading Standards Services, are contracted to contact all retailers in tobacco products to inform them of these changes. This may involve postal contacts or visits as routine inspections are conducted. Trading Standards Services will have information on tobacco retailers in a number of forms. Their main business databases may identify such traders, they may have underage sales lists used for previous projects focusing on tobacco products, they will also have access to lists of off sales premises who are almost certainly all selling tobacco products and they will have local knowledge from their officers.

Traders will (as identified in the partial Regulatory Impact Assessment) be required to display new proof of age signs but there will also be a requirement to replace training materials and other proof of age information. This will include door stickers, additional proof of age posters and materials used to train staff. In many cases these have been supplied by Trading Standards Services through their own proof of age schemes or on behalf of Young Scot.

Training bodies such as colleges delivering packages to sectors such as the licensed trade need to be fully aware of the changes in order that they can fully incorporate them into their training packages.

It is vitally important that this message gets through to all retailers as any confusion over the changes is likely to lead to an illegal sale to someone in the 16-17 age bracket.

Enforcement of the older age limit is likely to be more clear cut with the new age limit mirroring other age restricted products such as alcohol, fireworks and butane gas.

The use of underage test purchase volunteers is likely to be less problematic due to the higher age of the volunteers i.e. 15 – 16 ½ as opposed to 13 – 14 ½. Schools, parents and volunteers are more likely to take part in these test purchasing exercises.

The period of time required between the announcement of the change and its implementation.

South Ayrshire recommends that Option 2 (increase age limit from 16 to 18 with a 6 – 12 month period of transition) be used. Any delay in implementing the increase in the age limit delays the health benefits outlined in the partial Regulatory Impact Assessment. It appears that the

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Scottish Retail Consortium believes its members can implement changes in this time scale. It is the view of South Ayrshire Council that we could also fulfil our requirements in this time scale.

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