



UPDATED MARCH 2012

Timeline of legal challenges against tobacco legislation in Scotland

The Smoking, Health and Social Care (Scotland) Act 2005

3 July 2005 – The Tobacco Manufacturers Association and Scottish Licensed Trade Association were reportedly questioning whether the Smoking, Health and Social Care (Scotland) Act complied with European Human rights legislation. Neither organisation progressed with legal action against the Act.

5 August 2005 – The Smoking, Health and Social Care (Scotland) bill receives Royal Assent becoming the Smoking, Health and Social Care (Scotland) Act 2005.

3 November 2005 – The Swallow Group is said to be preparing for legal action against Scotland's smoke-free legislation. It was thought that the action would be pursued under Article 8 of the Geneva Convention, which guarantees 'respect for private and family life'.

3 March 2006 – Alan Bowes, chairman of the Swallow Group, lodged four petitions seeking a judicial review of the Smoking, Health and Social Care (Scotland) Act on the grounds of breaching of human rights, an allegedly flawed consultation process and a lack of fairness.

7 March 2006 – At a brief hearing at the Court of Session in Edinburgh Lord Brodie granted formal orders for the four petitions seeking a judicial review of the Smoking, Health and Social Care (Scotland) Act be served on Scottish ministers and the Lord Advocate Colin Boyd QC. London & Edinburgh Swallow Group Limited, Edinburgh City Football Club Limited and Donald Lawson were all challenging the legislation.

26 March 2006 – The Smoking, Health and Social Care (Scotland) Act enters into force at 6am, without any delays to the intended implementation date.

13 June 2006 – The legal challenge to Scotland's smoke-free legislation is dropped. Alan Bowes, chairman of the Swallow Group had vowed to challenge the legislation in the Scottish courts. The case was due to be heard on June 20th but was formally abandoned today.

The Tobacco and Primary Medical Services (Scotland) Act 2010

3 March 2010 – The Tobacco and Primary Medical Services (Scotland) Bill received Royal Assent becoming the Tobacco and Primary Medical Services (Scotland) Act 2010

24 June 2010 – Imperial Tobacco moves to seek a judicial review of sections of the Tobacco and Primary Medical Services (Scotland) Act 2010 on the grounds of the legislative competence of the Scottish Parliament.

29 June 2010 – The judicial review of the Tobacco and Primary Medical Services (Scotland) Act sought by Imperial Tobacco opens at the Court of Session in Edinburgh. Imperial Tobacco argues that the ban on tobacco displays and cigarette vending machines falls outside of the legislative scope of the Scottish Parliament.

30 September 2010 – Lord Bracadale [dismisses](#) the legal challenge by Imperial Tobacco Limited which sought a judicial review of sections of the Tobacco and Primary Medical Services (Scotland) Act.

In a statement Imperial Tobacco said its vending machine subsidiary Sinclair Collis was still pursuing a legal challenge to Scotland's vending machine ban. A hearing would be held at the Court of Session in October.

25 January 2011 – The Scottish Government announces that the expected 1 October 2011 commencement date for the tobacco display ban in large shops will be delayed because Imperial Tobacco is appealing the Court of Session judgement which found in favour of the Scottish Government.

9 March 2011 – The Scottish Government confirms that a revised timetable for implementing the tobacco display ban in Scotland will be published. Public Health Minister Shona Robison said that she expected, subject to the satisfactory conclusion of the legal challenge, Scotland's implementation dates for the tobacco display ban will now mirror the English implementation timetable of 1 April 2012 for large retailers and from 1 April 2015 for small retailers.

1 April 2011 – Some sections of the Tobacco and Primary Medical Services (Scotland) Act 2010 enter into force.

13 May 2011 – A legal challenge against the ban on the sale of tobacco from vending machines by Imperial Tobacco subsidiary Sinclair Collis Ltd is rejected by the Court of Session as Lord Doherty issues his [decision](#).

31 May 2011 – Imperial Tobacco returns to the Court of Session to launch an appeal against the ruling made by Lord Bracadale in September 2010 and continues to put forward their case that the Scottish Parliament was acting beyond its powers when enacting the legislation.

2 June 2011 – The Scottish Government defers the 1 October implementation date for the ban on cigarette sales from vending machines because of indications that Sinclair Collis will appeal Lord Doherty's decision and because Imperial Tobacco's appeal proceedings are currently before the Court of Session. A new implementation date is to be announced in due course.

15 August 2011 – Imperial Tobacco will reportedly take its case to the Supreme Court if the appeal at the Court of Session fails. The Court is expected to issue its decision later in the year.

02 February 2012 - Appeal judges reject a bid by Imperial Tobacco ([see BBC report](#)) to challenge Scottish government plans to ban the open display of cigarettes, having claimed the measures were beyond the legislative competence of Holyrood. Imperial Tobacco's challenge against the legislation was originally [rejected by Lord Bracadale in September 2010](#).

16 March 2012 – Imperial Tobacco lodges an appeal against the legislation with the UK Supreme Court.

**ASH Scotland, 8 Frederick Street, Edinburgh, EH2 2HB.
0131 225 4725**

**E-mail: enquiries@ashscotland.org.uk
www.ashscotland.org.uk**

Action on Smoking and Health (Scotland) (ASH Scotland) is a registered Scottish charity (SC 010412) and a company limited by guarantee (Scottish company no 141711)