



# Tobacco and Primary Medical Services (Scotland) Act 2010

2010 asp 3

## PART 1

### TOBACCO PRODUCTS ETC.

#### CHAPTER 1

##### DISPLAY, SALE AND PURCHASE OF TOBACCO PRODUCTS

###### *Sale and purchase of tobacco products*

#### **4 Sale of tobacco products to persons under 18**

- (1) A person who sells a tobacco product or cigarette papers to a person under the age of 18 commits an offence.
- (2) It is a defence to a charge in proceedings against a person (“the accused”) under subsection (1) that—
  - (a) the accused believed the person under the age of 18 (“the customer”) to be aged 18 or over, and
  - (b) the accused had taken reasonable steps to establish the customer’s age.
- (3) For the purposes of subsection (2)(b), the accused is to be treated as having taken reasonable steps to establish the customer’s age if and only if—
  - (a) the accused was shown any of the documents mentioned in subsection (4), and
  - (b) that document would have convinced a reasonable person as to the customer’s age.
- (4) The documents referred to in subsection (3)(a) are any document bearing to be—
  - (a) a passport,
  - (b) a European Union photocard driving licence, or
  - (c) such other document, or a document of such description, as may be prescribed.

- (5) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **5 Purchase of tobacco products by persons under 18**

- (1) A person under the age of 18 who buys or attempts to buy a tobacco product or cigarette papers commits an offence.
- (2) It is not an offence under subsection (1) for a person under the age of 18 to buy or attempt to buy a tobacco product or cigarette papers if the person is authorised to do so by a council officer or a constable for the purpose of determining whether an offence is being committed under section 4.
- (3) A council officer or a constable may authorise a person under the age of 18 to buy or attempt to buy a tobacco product or cigarette papers only if satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of the person.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## **6 Purchase of tobacco products on behalf of persons under 18**

- (1) A person aged 18 or over who knowingly buys or attempts to buy a tobacco product or cigarette papers on behalf of a person under the age of 18 commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.