



# Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016

2016 asp 14

## PART 1

### TOBACCO, NICOTINE VAPOUR PRODUCTS AND SMOKING

#### CHAPTER 1

##### SALE AND PURCHASE OF TOBACCO AND NICOTINE VAPOUR PRODUCTS

###### *Register of tobacco and nicotine vapour product retailers*

### **10 Tobacco and nicotine vapour product banning orders**

- (1) In section 15 of the 2010 Act (banning orders)—
- (a) in subsection (1), after “tobacco” insert “or nicotine vapour product”,
  - (b) in subsection (2), after “tobacco” insert “or nicotine vapour product”,
  - (c) in subsection (3)—
    - (i) after “tobacco” insert “or nicotine vapour product”,
    - (ii) in paragraph (a), for “the person has been the subject of” substitute “there have been”, and
    - (iii) in paragraph (d), the word “further” is repealed,
  - (d) in subsection (4)—
    - (i) for “person is the subject of a relevant enforcement action if the person”, substitute “relevant enforcement action occurs where a person mentioned in subsection (4A)”,
    - (ii) the word “or” immediately following paragraph (a) is repealed,
    - (iii) after paragraph (b), insert “, or
    - (c) convicted of an offence under section 92(1)(b) or (c) of the Trade Marks Act 1994 (unauthorised use of trade mark in relation to goods) in circumstances where the goods in question are, or include, tobacco

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*Status: This is the original version (as it was originally enacted).*

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products, smoking related products or nicotine vapour products.”,

(e) after subsection (4), insert—

“(4A) The persons are—

- (a) the person who is the subject of the application,
- (b) an employee or agent of that person.”, and

(f) in subsection (6), for “retailing” substitute “and nicotine vapour product”.

(2) In section 16 of the 2010 Act (ancillary orders)—

- (a) in subsection (1), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”,
- (b) in subsection (2), after “tobacco”, in each place where it occurs, insert “or nicotine vapour product”,
- (c) in subsection (3)(b), for “retailing” substitute “and nicotine vapour product”,
- (d) in subsection (4), for “retailing” substitute “and nicotine vapour product”, and
- (e) in subsection (5), for “retailing” substitute “and nicotine vapour product”.

(3) In section 17 of the 2010 Act (appeals), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”.

(4) In section 18(1) of the 2010 Act (notification to Scottish Ministers), for “retailing” substitute “and nicotine vapour product”.

(5) In section 19 of the 2010 Act (display of notices)—

- (a) in subsection (1)(a), for “retailing” substitute “and nicotine vapour product”,
- (b) in subsection (3), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”, and
- (c) for subsection (4), for “or smoking related products” substitute “, smoking related products or nicotine vapour products”.