

*Draft Regulations laid before the Scottish Parliament under section 34(2) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

**PUBLIC HEALTH**

**The Health (Tobacco, Nicotine etc. and Care) (Scotland)  
Act 2016 (Supplementary Provision) Regulations 2022**

*Made* - - - - 2022

*Coming into force* - - 19th September 2022

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 35 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 34(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (Supplementary Provision) Regulations 2022 and come into force on 19 September 2022.

**Amendment of schedule 1 of the Smoking, Health and Social Care (Scotland) Act 2005**

2. In paragraph 1 of schedule 1 (fixed penalty for offences under sections 1, 2, 3, 4A, 4B and 4C(5)) of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(2)</sup>—

- (a) in sub-paragraph (1), for the words from “under”, in the first place where it occurs, to “council”, in the second place where it occurs, (including the words inserted by section 20(8)(a) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016) substitute “mentioned in sub-paragraph (1A)”,

- (b) after sub-paragraph (1) insert—

“(1A) An offence referred to in sub-paragraph (1) is—

- (a) an offence under section 1, 2 or 3 in no-smoking premises within the area of the council,

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(1) 2016 asp 14.

(2) 2005 asp 13. Schedule 1 was amended by section 20(8) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14).

- (b) an offence under section 4A or 4B within the no-smoking area outside a hospital building within the area of the council,
- (c) an offence under section 4C(5) in relation to a hospital building within the area of the council.”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend schedule 1 of the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”).

Regulation 2 amends paragraph 1 of schedule 1 of the 2005 Act to enable an authorised officer of a council to issue a fixed penalty notice if they have reason to believe that a person is committing or has committed an offence under section 4B and 4C(5) of that Act. This is in addition to the power of an authorised officer of a council to issue a fixed penalty notice in respect of an offence under section 1, 2, 3 and 4A of that Act.

Section 4B of the 2005 Act provides that it is an offence for a person to smoke within the no-smoking area outside a hospital building. Section 4C(5) of the 2005 Act provides that it is an offence if the person having the management and control of a hospital building fails to conspicuously display no-smoking notices at every entrance to the building.