

**2017 No. 13**

**PUBLIC HEALTH**

**The Sale of Nicotine Vapour Products (Prescribed Documents)  
(Scotland) Regulations 2017**

*Made* - - - - - *19th January 2017*  
*Laid before the Scottish Parliament* *23rd January 2017*  
*Coming into force* - - - *1st April 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 4A(4)(c) of the Tobacco and Primary Medical Services (Scotland) Act 2010(a) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Sale of Nicotine Vapour Products (Prescribed Documents) (Scotland) Regulations 2017 and come into force on 1st April 2017.

**Sale of nicotine vapour products to persons under 18: prescribed documents**

2. The documents and descriptions of documents prescribed(b) for the purpose of section 4A(4)(c) of the Tobacco and Primary Medical Services (Scotland) Act 2010 (documents establishing a person's age) are—

- (a) a Ministry of Defence Form 90 (Defence Identity Card);
- (b) a photographic identity card bearing the national Proof of Age Standards Scheme hologram(c);
- (c) a national identity card issued by a member State(d) (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland(e); and

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(a) 2010 asp 3. Section 4A was inserted by section 2(1) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14).

(b) "Prescribed" is defined in section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010 to mean prescribed in regulations made by the Scottish Ministers.

(c) The national Proof of Age Standards Scheme is run by PASSCO, company number 4570623, a company limited by guarantee with its registered office at 21 Dartmouth Street, London SW1 9BP.

(d) Part II of schedule 1 of the European Communities Act 1972 (c.68) ("the 1972 Act") provides that "member" in the expression "member State" refers to membership of the EU. Section 1(2) of that Act defines "the EU" to mean the European Union, being the Union established by the Treaty on the European Union signed at Maastricht on 7th February 1992 (as amended by any later Treaty). Schedule 1 (read with section 25(1)) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) provides that "the EU" and other expressions defined by section 1 and schedule 1 of the 1972 Act have the meanings given by that Act when used in a Scottish instrument.

(e) The States listed are the present members of the European Economic Area and Switzerland.

(d) a Biometric Immigration Document<sup>(a)</sup>.

*AILEEN CAMPBELL*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
19th January 2017

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<sup>(a)</sup> A Biometric Immigration Document is issued in accordance with the Immigration (Biometric Registration) Regulations 2008 (S.I. 2008/3048) as amended by S.I. 2009/819, S.I. 2009/3321, S.I. 2010/2958, S.I. 2012/594, S.I. 2015/433 and S.I. 2015/897.

## **EXPLANATORY NOTE**

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

These Regulations prescribe documents and descriptions of documents which may be used for proof of age for the purposes of section 4A of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the Act”).

It is an offence to sell a nicotine vapour product to a person under the age of 18 by virtue of section 4A of the Act. Under section 4A(2) it is a defence to a charge under section 4A(1) that the accused believed the person under the age of 18 to be aged 18 or over and the accused had taken reasonable steps to establish that person’s age. Section 4A(4) provides that a passport or a European Union photocard driving licence may be used to establish the person’s age for the purpose of section 4A(2)(b). These Regulations prescribe additional forms of identification which may be used for that purpose.

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