

POLICY NOTE

THE SALE OF NICOTINE VAPOUR PRODUCTS (VENDING MACHINES) (SCOTLAND) REGULATIONS 2017

SSI 2017/422

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 7 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (“the 2016 Act”). The instrument is subject to the negative procedure.

Policy Objectives

2. These Regulations are necessary to give full effect to amendments made to the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (“the 2016 Act”). The 2016 Act makes amendments to the 2010 Act. These Regulations add automatic machines for the sale of nicotine vapour products to the definition of “vending machines” into section 9 of the Tobacco and Primary Services (Scotland) Act 2010 (“the 2010 Act”). The current definition applies only to automatic machines for the sale of tobacco products. Section 9 of the 2010 Act makes it an offence to manage or control premises on which a vending machine is available for use.

Consultation

3. A full public consultation was carried out prior to the introduction of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill which resulted in the 2016 Act. Responses were received from academic groups, industry groups, public health groups as well as from concerned individuals, members of the public and retailers. While there is no evidence of nicotine vapour products being sold from automatic vending machines in Scotland a prohibition was considered necessary to ensure that those aged under 18 cannot access these products from automatic machines.

Impact Assessment

4. The Bill for the 2016 Act was subject to a full range of impact assessments, including a Business and Regulation Impact Assessment. Those assessments concluded that this policy will have little or no impact on retailers.

Financial Effects

5. As there are no known sales of nicotine vapour products from automatic vending machines in Scotland we do not anticipate any negative financial effects. The prohibition is precautionary.

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