

## **POLICY NOTE**

### **The Sale of Tobacco and Nicotine Vapour Products by Persons Under 18 (Scotland) Regulations 2017**

**SSI 2017/50**

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 4C(5)(a) of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”). The instrument is subject to the negative procedure.

#### **Policy Objectives**

2. These Regulations are necessary to prescribe the form and content of authorisations to permit the sale of tobacco products, cigarettes papers or nicotine vapour products by persons under the age of 18 and the method of recording authorisations. The 2010 Act makes provision for the sale of such products by a person under 18 to be an offence. The Act allows for a defence whereby an offence will not be committed if the person under 18 has been authorised by the registered person for those premises to sell these products.

3. Section 4C(3)(a) of the 2010 Act allows the Scottish Ministers to prescribe the form and content of authorisations. These Regulations provide that an authorisation for the sale of tobacco or nicotine vapour products by persons under 18 must be signed by the responsible person and the person under the age of 18 who is to sell the tobacco or nicotine vapour product and; include:

- the name and date of birth of the person under the age of 18 who is to sell the tobacco or nicotine vapour product (“the staff member”);
- the name and address of the premises at which the tobacco or nicotine vapour product is to be sold;
- the name of the registered person; and
- a statement that the staff member is authorised by the responsible person to sell tobacco products, cigarette papers or a nicotine vapour product.

4. Guidance for retailers on the form and content of authorisations will be available on the Scottish Government website.

#### **Consultation**

5. A full public consultation was carried out prior to the introduction of the Bill which led to the Health (Tobacco, Nicotine etc. and Care) (Scotland) 2016 Act (“the 2016 Act”). Responses were received from academic, industry and public health groups as well as from concerned individuals, members of the public and retailers.

An overwhelming majority of 87% across all respondent groups agreed that sales by under 18s should be authorised.

### **Impact Assessment**

6. The Bill for the 2016 Act was subject to a full range of impact assessments, including a Business and Regulatory Impact Assessment. Those assessments concluded that these regulations will have a limited impact on retailers.

### **Financial Effects**

7. Authorisations for sale of tobacco or nicotine vapour products by persons under 18 will be produced and carried out by retailers themselves and should not have financial implications. Penalties will apply to those retailers who do not comply with this policy and a fine of up to £200 could be imposed.

Elaine Mitchell

Directorate for Population Health

Health Improvement Division

0131 244 1707