



Tobacco Advertising and Promotion Act 2002

2002 CHAPTER 36

4 Advertising: exclusions

- (1) No offence is committed under [^{F1}section 2, 3 or 3A] in relation to a tobacco advertisement—
- (a) if it is, or is contained in, a communication made in the course of a business which is part of the tobacco trade, and for the purposes of that trade, and directed solely at persons who—
 - (i) are engaged in, or employed by, a business which is also part of that trade, and
 - (ii) fall within subsection (2),in their capacity as such persons,
 - (b) if it is, or is contained in, the communication made in reply to a particular request by an individual for information about a tobacco product, or
 - [^{F2}(c) if it is contained in a publication (other than in an in-flight magazine)—
 - (i) which is printed [^{F3}outside the United Kingdom], and
 - (ii) whose principal market is not [^{F4}the United Kingdom (or any part of the United Kingdom)].]
 - [^{F5}(d) if it is published by means of an information society service by a person who does not carry on business in [^{F6}the United Kingdom] and it is not intended to be accessed principally by persons in [^{F7}the United Kingdom (or any part of the United Kingdom)].]

[^{F8}(1A) Subsection (1)(b) applies to a communication made by means of an information society service only if the request was made—

- (a) by means of an information society service which does not advertise any tobacco product to persons—
 - (i) who have not made such a request, or
 - (ii) who have not initiated a process by which a tobacco product may be purchased by means of that service; or
- (b) without using an information society service.

Changes to legislation: There are currently no known outstanding effects for the Tobacco Advertising and Promotion Act 2002, Section 4. (See end of Document for details)

- (1B) The supply of information to an individual is not a tobacco advertisement if—
- (a) an information society service provides a means by which tobacco products may be purchased which includes the provision of information about a tobacco product, and
 - (b) the information becomes available only after the individual has initiated the process of making the purchase.]
- (2) A person falls within this subsection if—
- (a) he is responsible for making decisions on behalf of the business referred to in subsection (1)(a)(i) about the purchase of tobacco products which are to be sold in the course of that business,
 - (b) he occupies a position in the management structure of the business in question which is equivalent in seniority to, or of greater seniority than, that of any such person, or
 - (c) he is the person who, or is a member of the board of directors or other body of persons (however described) which, is responsible for the conduct of the business in question.
- (3) The appropriate Minister may provide in regulations that no offence is committed under section 2 in relation to a tobacco advertisement which—
- (a) is in a place or ^{F9}... where tobacco products are offered for sale, and
 - (b) complies with requirements specified in the regulations.
- (4) The regulations may, in particular, provide for the meaning of “place” in subsection (3)
- (a).
- [^{F10}(5) The Schedule has effect in relation to the liability of information society service providers.]

Textual Amendments

- F1** Words in s. 4(1) substituted (28.9.2006) by Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(2)**
- F2** S. 4(1)(c) substituted (28.9.2006) by Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(3)**
- F3** Words in s. 4(1)(c) substituted (31.12.2020) by The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **2(4)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 4(1)(c) substituted (31.12.2020) by The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **2(4)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 4(1)(d) inserted (28.9.2006) by Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(4)**
- F6** Words in s. 4(1)(d) substituted (31.12.2020) by The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **2(4)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 4(1)(d) substituted (31.12.2020) by The Tobacco Products and Nicotine Inhaling Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/41), regs. 1, **2(4)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 4(1A)(1B) inserted (28.9.2006) by Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(5)**

Changes to legislation: *There are currently no known outstanding effects for the Tobacco Advertising and Promotion Act 2002, Section 4. (See end of Document for details)*

- F9** Words in s. 4(3) omitted (28.9.2006) by virtue of Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(6)**
- F10** S. 4(5) inserted (28.9.2006) by Tobacco Advertising and Promotion Act 2002 (Amendment) Regulations 2006 (S.I. 2006/2369), regs. 1(1), **4(7)**

Commencement Information

- I1** S. 4 not in force at Royal Assent see s. 22(1)(2); s. 4(3)(4) in force for the purpose of making regulations at 20.11.2002 by S.I. 2002/2865, **art. 2(1)(b)**; S.S.I. 2002/512, **art. 2(1)(b)**; s. 4(1)(2) in force at 14.2.2003 by S.I. 2002/2865, **art. 2(2)(d)**; S.S.I. 2002/512, **art. 2(2)(d)**
- I2** S. 4(3)(4) in force at 25.2.2003 for S. so far as not already in force by S.S.I. 2003/113, **art. 2(a)**
- I3** S. 4(3)(4) in force at 26.2.2003 for E.W.N.I. so far as not already in force by S.I. 2003/396, **art. 2(a)**

Changes to legislation:

There are currently no known outstanding effects for the Tobacco Advertising and Promotion Act 2002, Section 4.