

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 5 – WELFARE OF CHILDREN

Section 92: Prohibition of sale of nicotine products to persons under 18

397. This section provides the Secretary of State with the power to make regulations to prohibit the sale of nicotine products to persons under the age of 18.
398. Subsections (9) to (11) explain what is meant by nicotine products. Examples of nicotine products include an electronic cigarette and part of an electronic cigarette. Tobacco products, which are already subject to a prohibition on sale to persons aged under 18, are not nicotine products for the purposes of this section. The powers at subsection (7) enable the Secretary of State to provide for exceptions or to make provision in relation to nicotine products of a specified kind or all nicotine products.
399. There is an exemption for under 18s employed in the industry and a due diligence defence. The penalty for committing the offence is a fine not exceeding level 4 on the standard scale. These provisions apply to England and Wales.
400. Regulations made under these powers will be subject to the affirmative parliamentary procedure and the Secretary of State must obtain the consent of the Welsh Ministers before making regulations under this section which would be within the legislative competence of the National Assembly for Wales.