

PUBLIC HEALTH (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3

Tobacco and Nicotine Products

Chapter 4: Handing Over of Tobacco Etc. to Persons under 18

Sections 52 and 53 - Offence of handing over tobacco etc. to persons under 18 and Arrangements in connection with handing over tobacco etc.

85. **Section 52** makes it an offence to hand over tobacco, cigarette papers or nicotine products during the course of a delivery of goods, to a person who is under the age of 18. The offence applies unless they are accompanied by someone who is aged 18 or older, or the handing over takes place as part of their trade, profession, business or employment (for example, where an employee hands tobacco or nicotine products to a colleague aged under 18 to take to another part of a shop).
86. In order to avoid committing an offence, where tobacco, cigarette papers or nicotine products are included in a purchase of goods (whether on their own or as part of a larger purchase), the person delivering the goods might, for example, need to remove any tobacco, cigarette papers or nicotine products from the delivery if not satisfied the person receiving the goods is aged 18 or over.
87. The offence also covers any tobacco, cigarette papers or nicotine products which have been purchased remotely (for example by telephone or via the internet) for collection from premises in Wales (often referred to as “click and collect”).
88. The offence may only be tried in the magistrates’ court and is punishable on conviction by a fine not exceeding level 4 on the standard scale. The levels on the standard scale are set out in section 37 of the Criminal Justice Act 1982.
89. No offence is committed if the tobacco, cigarette papers or nicotine products are wrapped and sealed or the accused could not reasonably have suspected from the person’s appearance that they were under the age of 18. For example the products could be sealed in an envelope, or wrapped in brown paper and sealed with tape. The parcel must also have on it the address of the person to whom the parcel should be delivered.