Tobacco and Primary Medical Services (Scotland) Act 2010

2010 asp 3

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 27th January 2010 and received Royal Assent on 3rd March 2010

An Act of the Scottish Parliament to make provision about the retailing of tobacco products, including provision prohibiting the display of tobacco products and establishing a register of tobacco retailers; to amend the criteria for eligibility to provide primary medical services under the National Health Service (Scotland) Act 1978; and for connected purposes.

PART 1

TOBACCO PRODUCTS ETC.

CHAPTER 1

DISPLAY, SALE AND PURCHASE OF TOBACCO PRODUCTS

VALID FROM 26/02/2013

Display of tobacco products etc.

1 Prohibition of tobacco displays etc.

(1) A person who in the course of business displays or causes to be displayed tobacco products or smoking related products in a place where tobacco products are offered for sale commits an offence.

(2) A person does not commit an offence under subsection (1) if the display—
- (a) is in a specialist tobacconist,
- (b) does not include cigarettes or hand-rolling tobacco, and
- (c) complies with any prescribed requirements.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(3) A person does not commit an offence under subsection (1) if—

(a) the tobacco products or smoking related products are displayed in the course of a business involving the sale of tobacco products only to persons who carry on a tobacco business (or their employees), and

(b) the display complies with any prescribed requirements.

(4) The Scottish Ministers may provide in regulations that no offence is committed under subsection (1) in relation to a display of tobacco products or smoking related products which complies with requirements specified in the regulations.

(5) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of subsection (1), a website is not a place.

(7) In subsection (2), "specialist tobacconist" has the meaning given by section 6(2) of the Tobacco Advertising and Promotion Act 2002 (c.36).

2 Displays which are also advertisements

The Scottish Ministers may by regulations provide that a display of tobacco products or smoking related products which also amounts to an advertisement is to be treated for the purposes of offences under this Act and the Tobacco Advertising and Promotion Act 2002—

(a) as an advertisement and not as a display, or

(b) as a display and not as an advertisement.

3 Regulation of display of prices

(1) The Scottish Ministers may by regulations impose requirements in relation to the display in the course of business of prices of tobacco products or smoking related products in a place where tobacco products are offered for sale.

(2) For the purposes of subsection (1), a website is not a place but the regulations may otherwise provide for the meaning of "place" in that subsection.

(3) A person who displays or causes to be displayed prices of tobacco products or smoking related products in breach of a requirement contained in the regulations commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) The regulations may provide that a display of prices which also amounts to an advertisement is to be treated for the purposes of offences under this Act and the Tobacco Advertising and Promotion Act 2002—

(a) as an advertisement and not as a display of prices, or

(b) as a display of prices and not as an advertisement.

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Sale and purchase of tobacco products

4 Sale of tobacco products to persons under 18

(1) A person who sells a tobacco product or cigarette papers to a person under the age of 18 commits an offence.

(2) It is a defence to a charge in proceedings against a person ("the accused") under subsection (1) that—
- (a) the accused believed the person under the age of 18 ("the customer") to be aged 18 or over, and
- (b) the accused had taken reasonable steps to establish the customer's age.

(3) For the purposes of subsection (2)(b), the accused is to be treated as having taken reasonable steps to establish the customer's age if and only if—
- (a) the accused was shown any of the documents mentioned in subsection (4), and
- (b) that document would have convinced a reasonable person as to the customer's age.

(4) The documents referred to in subsection (3)(a) are any document bearing to be—
- (a) a passport,
- (b) a European Union photocard driving licence, or
- (c) such other document, or a document of such description, as may be prescribed.

(5) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I1 S. 4 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

5 Purchase of tobacco products by persons under 18

(1) A person under the age of 18 who buys or attempts to buy a tobacco product or cigarette papers commits an offence.

(2) It is not an offence under subsection (1) for a person under the age of 18 to buy or attempt to buy a tobacco product or cigarette papers if the person is authorised to do so by a council officer or a constable for the purpose of determining whether an offence is being committed under section 4.

(3) A council officer or a constable may authorise a person under the age of 18 to buy or attempt to buy a tobacco product or cigarette papers only if satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of the person.

(4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Commencement Information

I2 S. 5 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

6 Purchase of tobacco products on behalf of persons under 18

(1) A person aged 18 or over who knowingly buys or attempts to buy a tobacco product or cigarette papers on behalf of a person under the age of 18 commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I3 S. 6 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Miscellaneous

7 Confiscation of tobacco products from persons under 18

(1) Where a constable has reasonable grounds for suspecting that a person in a public place—

(a) is under the age of 18, and

(b) is in possession of a tobacco product or cigarette papers,

the constable may require the person to surrender the tobacco product or, as the case may be, the cigarette papers to the constable.

(2) A constable making a requirement under subsection (1) may also require the person to supply the constable with the person's name and address.

(3) Where a constable makes a requirement under subsection (1) the constable must inform the person concerned—

(a) of the constable's suspicion, and

(b) of the fact that failure to comply with a requirement made under subsection (1) or (2) is an offence.

(4) A constable may arrest without warrant any person who fails to comply with a requirement made under subsection (1).

(5) A person who fails to comply with a requirement made under subsection (1) or (2) commits an offence.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) The constable may dispose of any tobacco product or cigarette papers surrendered to the constable in such manner as the constable considers appropriate.

(8) In this section “public place” includes—

(a) any place to which the public have access for the time being (whether on payment of a fee or otherwise), and

(b) any place to which the public do not have access but to which the person mentioned in subsection (1) has unlawfully gained access.

Commencement Information

I4 S. 7 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

8 Display of warning statements

(1) A person who carries on a tobacco business must display a notice in accordance with subsection (2) in any premises where that business is carried on.

(2) The notice must—

(a) contain the following statement— " It is illegal to sell tobacco products to anyone under the age of 18 ", and

(b) be displayed in a prominent position in the premises where the statement is readily visible to persons at the point of sale of the tobacco products.

(3) A person who fails, without reasonable excuse, to comply with subsection (1) commits an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The Scottish Ministers may prescribe the dimensions of the notice to be displayed in accordance with this section and the size of the statement to be displayed on it.

Commencement Information

I5 S. 8 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

VALID FROM 29/04/2013

9 Prohibition of vending machines for the sale of tobacco products

[[F1](1) A person who has the management or control of premises on which a vending machine is available for use commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) In this section, " vending machine " means an automatic machine for the sale of tobacco products (regardless of whether the machine also sells other products). **]**

Textual Amendments

F1 S. 9 repealed and re-enacted (20.3.2013) by The Tobacco and Primary Medical Services (Scotland) Act 2010 (Incidental Provision and Commencement No. 4) Order 2013 (S.S.I. 2013/106), **art. 1(1), 2(2)(3)**

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CHAPTER 2

REGISTER OF TOBACCO RETAILERS

Modifications etc. (not altering text)

C1 Pt. 1 Ch. 2 applied (with modifications) (1.4.2011) by The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011 (S.S.I. 2011/23), regs. 1(1), **regs. 2-4**

Establishment

10 Register of tobacco retailers

(1) The Scottish Ministers must keep a register of persons carrying on a tobacco business (referred to in this Part as "the Register").

(2) In this Part, "registered" means entered in the Register, and "unregistered" is to be construed accordingly.

Commencement Information

I6 S. 10 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Registration

11 Application for registration and addition of premises etc.

(1) A person may apply to the Scottish Ministers—
- (a) to be registered, or
- (b) to add further premises to the person's entry in the Register.

(2) The application must—
- (a) state the name and address of the applicant,
- (b) where it is an application under subsection (1)(a), state the addresses of all premises at which the applicant proposes to carry on a tobacco business,
- (c) where it is an application under subsection (1)(b), state the address of the further premises at which the applicant proposes to carry on a tobacco business,
- (d) contain such other information as is prescribed, and
- (e) be made in such form and manner as is determined by the Scottish Ministers.

(3) The Scottish Ministers must grant the application unless—
- (a) it does not comply with the requirements in subsection (2), or
- (b) at the time the application is made, the applicant is banned, under a tobacco retailing banning order, from carrying on a tobacco business at any premises specified in the application.

(4) On granting an application under subsection (1)(a), the Scottish Ministers must enter the following information in the Register—

(a) the name and address of the applicant,

(b) the addresses of the premises at which the applicant proposes to carry on a tobacco business, and

(c) any other information which the Scottish Ministers consider appropriate.

(5) On granting an application under subsection (1)(b), the Scottish Ministers must amend the applicant's entry in the Register so as to include the address of the further premises at which the applicant proposes to carry on a tobacco business.

Commencement Information

I7 S. 11 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

12 Certificates of registration

On granting an application under section 11(3) the Scottish Ministers must issue to the applicant a certificate of registration in respect of each premises stated in the application.

Commencement Information

I8 S. 12 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Changes to register

13 Duty to notify certain changes

(1) A registered person must give the Scottish Ministers notice of—

(a) a change in the person's name or address,

(b) the fact that the person is no longer carrying on a tobacco business at an address noted in the person's entry in the Register.

(2) A notice under subsection (1) must be given within 3 months of the date of the change to which it relates.

Commencement Information

I9 S. 13 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

14 Changes to and removal from Register

(1) The Scottish Ministers may correct the Register (following notification under section 13 or otherwise) as they consider appropriate.

(2) Where a tobacco retailing banning order is made against a registered person, the Scottish Ministers must amend the person's entry in the Register so as to remove references to the premises specified in the order.

(3) The Scottish Ministers may remove a person's entry from the Register if—

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(a) as a result of a correction or amendment under subsection (1) or (2), there are no premises noted in the person's entry in the Register, or
(b) they are not satisfied that the person is carrying on a tobacco business.

(4) Where the Scottish Ministers correct, amend or remove a person's entry in the Register under this section, they must—
(a) as soon as reasonably practicable notify the person of the correction, amendment or, as the case may be, removal, and
(a) if it is appropriate to do so, issue at the same time to the person a revised certificate of registration.

(5) The Scottish Ministers must reinstate a person's entry in the register if—
(a) the entry was removed under subsection (3)(b), and
(b) the person notifies them no later than 28 days after notice of the removal is given under subsection (4)(a) that the person is still carrying on a tobacco business.

(6) A notice under subsection (4)(a) may be given—
(a) by delivering it to the person,
(b) by leaving it at the person's usual or last known address,
(c) by sending it by post to the person at that address.

Commencement Information
I10 S. 14 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Tobacco retailing banning orders

15 Tobacco retailing banning orders

(1) A council may apply to the sheriff for an order banning a person from carrying on a tobacco business from premises within the council's area.

(2) An application under subsection (1) must specify the premises from which the person is to be banned from carrying on a tobacco business.

(3) The sheriff may make an order banning the person from carrying on a tobacco business at the premises specified in the order if satisfied, on the balance of probabilities, that—
(a) the person has been the subject of 3 or more relevant enforcement actions in respect of each premises specified in the order,
(b) at least one of the actions occurred in the period of 2 months ending on the date the application was made,
(c) the conduct to which the actions relate took place within a period of 2 years, and
(d) the making of the order is necessary to prevent the commission of further offences under Chapter 1 or 2.

(4) A person is the subject of a relevant enforcement action if the person is—
(a) issued with a fixed penalty notice (which is not subsequently withdrawn), or
(b) convicted of an offence under Chapter 1 or 2.

(5) An order made under this section has effect for the period (not exceeding 24 months) specified in the order beginning with the day the order is granted.

(6) In this Part, an order made under this section is referred to as a "tobacco retailing banning order".

Commencement Information
I11 S. 15 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

16 Tobacco retailing banning orders: ancillary orders

(1) This section applies where—
- (a) a council has applied for a tobacco retailing banning order in respect of a person ("P"), or
- (b) a tobacco retailing banning order has been made in respect of P.

(2) A council may apply to the sheriff for an ancillary order—
- (a) banning P from—
  - (i) being connected to a person carrying on a tobacco business at the specified premises,
  - (ii) seeking to control a person carrying on a tobacco business at the specified premises,
- (b) where P is not an individual, banning any person connected to P from—
  - (i) carrying on a tobacco business at the specified premises,
  - (ii) being connected to a person carrying on a tobacco business at the specified premises,
  - (iii) seeking to control a person carrying on a tobacco business at the specified premises.

(3) A sheriff may make the ancillary order if—
- (a) the sheriff is satisfied, on the balance of probabilities, that the order is necessary to prevent the commission of further offences under Chapter 1 or 2, and
- (b) where this section applies by virtue of subsection (1)(a), the sheriff makes the tobacco retailing banning order.

(4) An ancillary order made under this section ceases to have effect when the tobacco retailing banning order to which it relates ceases to have effect.

(5) In subsection (2), "the specified premises" means the premises specified in the tobacco retailing banning order to which the ancillary order relates.

(6) For the purposes of this section, a person is connected to a partnership, a limited liability partnership, a company or other body (whether incorporated or unincorporated) if the person—
- (a) in the case of a partnership, is a partner,
- (b) in the case of a limited liability partnership, is a member,
- (c) in the case of a company—
  - (i) is a director, or

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(ii) has control of the company,

(d) in any other case, is concerned in the management or control of the body.

(7) For the purposes of subsection (6)(c)(ii), a person is taken to have control of a company if—

(a) any of the directors of the company, or of any other company having control of the company, is accustomed to act in accordance with the person's directions or instructions, or

(b) the person is entitled to exercise, or to the control the exercise of, at least one third of the voting power at any general meeting of the company or of any other company having control of the company.

Commencement Information

I12 S. 16 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

17 Tobacco retailing banning orders etc.: appeals

(1) A person against whom a tobacco retailing banning order or an ancillary order under section 16 is made may appeal to the sheriff principal, whose decision is final.

(2) An appeal under this section must be made within 21 days of the order being made.

(3) Where the appeal is against a tobacco retailing banning order, the sheriff principal may determine the appeal by—

(a) quashing the order (and any ancillary order under section 16 relating to the order),

(b) substituting for the period specified in the order under section 15(5) such other period of effect (ending no later than 24 months after the day the order was granted) as the sheriff principal considers appropriate, or

(c) refusing the appeal.

(4) Where the appeal is against an ancillary order under section 16, the sheriff principal may determine the appeal by—

(a) quashing the order, or

(b) refusing the appeal.

Commencement Information

I13 S. 17 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

18 Tobacco retailing banning orders etc.: notification to Scottish Ministers

(1) On making a tobacco retailing banning order or an ancillary order under section 16, the sheriff must notify the Scottish Ministers.

(2) On determining an appeal under section 17, the sheriff principal must notify the Scottish Ministers.

Commencement Information

I14 S. 18 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.** (with art. 4) (which saving provision was amended (21.2.2011) by S.S.I. 2011/131, art. 2; and revoked (29.4.2013) by S.S.I. 2013/106, art. 4(a)(b))

19 Tobacco retailing banning orders: display of notices

(1) This section applies where—

(a) a tobacco retailing banning order has effect in respect of a person, and

(b) the person carries on a retail business at the premises specified in the order.

(2) The person must display a notice in the premises in accordance with subsection (3).

(3) The notice must—

(a) state that the premises have been specified in a tobacco retailing banning order and the period for which the order has effect,

(b) be displayed in a prominent position in the premises where it is readily visible to persons at every relevant point of sale, and

(c) be displayed no later than 14 days after the tobacco retailing banning order is made.

(4) A relevant point of sale is one that was used for the sale of tobacco products or smoking related products at any time during the period of 2 months ending with the making of the banning order.

(5) The Scottish Ministers may prescribe—

(a) the dimensions of the notice to be displayed in accordance with this section,

(b) the wording of the statement to be displayed on the notice, and

(c) the size of the statement.

Commencement Information

I15 S. 19 in force at 24.10.2010 for specified purposes and 1.10.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

Offences

20 Offences relating to the Register

(1) An unregistered person who carries on a tobacco business commits an offence.

(2) A registered person who carries on a tobacco business at premises other than those noted in the person's entry in the Register commits an offence.

(3) A person who fails, without reasonable excuse, to comply with section 13(1) (duty to notify certain changes) commits an offence.

(4) A person who breaches a tobacco retailing banning order or an ancillary order made under section 16 commits an offence.

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(5) A person who fails, without reasonable excuse, to comply with section 19(2) (duty to display notice) commits an offence.

(6) A person guilty of an offence under—

(a) subsection (1), (2) or (4) is liable on summary conviction to—

(i) a fine not exceeding £20,000,

(ii) imprisonment for a term not exceeding 6 months, or

(iii) both,

(b) subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale,

(c) subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I16 S. 20 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Register of tobacco retailers: miscellaneous and supplementary

21 Public inspection of Register

(1) On the basis of information contained in the Register, the Scottish Ministers must make available for public inspection a list of premises at which tobacco businesses are carried on or proposed to be carried on.

(2) The list must be made available free of charge at all reasonable times.

Commencement Information

I17 S. 21 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

22 Council access to Register

(1) The Scottish Ministers must make available to councils the information contained in the Register.

(2) Information disclosed under subsection (1) may by used by councils only for the purpose of enabling or assisting them to perform their functions under this Part.

Commencement Information

I18 S. 22 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

23 Delegation of functions relating to Register

(1) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Chapter (other than excepted functions) to such person as they may determine.

(2) An excepted function is a function relating to—
  (a) the making of regulations, or
  (b) the determination under section 11(2)(e) of the form and manner of an application.

(3) A delegation under subsection (1) may be varied or revoked at any time.

Commencement Information
I19 S. 23 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

24 Vehicles, vessels and moveable structures

The Scottish Ministers may by regulations provide for this Chapter to apply in relation to vessels, vehicles and other moveable structures subject to such modifications as they consider necessary or expedient.

Commencement Information
I20 S. 24 in force at 24.10.2010 by S.S.I. 2010/345, art. 2, **Sch.**

CHAPTER 3

ENFORCEMENT AND FIXED PENALTIES

Enforcement

25 Enforcement

(1) It is the duty of a council to enforce within its area the provisions of Chapters 1 and 2 and regulations made under them.

(2) The Scottish Ministers may direct, in relation to a particular case or cases of a particular description, that any duty imposed on a council by subsection (1) is to be discharged by the Scottish Ministers and not by the council.

(3) Where a direction has effect under subsection (2), sections 27 to 31 apply, in relation to the particular case, or cases of the description, specified in the direction—
  (a) as if references to a council officer were references to a person acting on behalf of the Scottish Ministers, and
  (b) with references to a person's area being read in accordance with any modifications specified in the direction.

Commencement Information
I21 S. 25 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

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26 Programmes of enforcement

(1) A council must, at least once in every period of 12 months, carry out a programme of enforcement action in its area.

(2) For the purposes of subsection (1), a programme of enforcement action is a programme involving one or both of the following—

(a) the investigation of complaints in respect of alleged offences under Chapter 1 or 2,

(b) the taking of other measures intended to reduce the incidence of offences under those Chapters.

Commencement Information

I22 S. 26 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Fixed penalties

27 Fixed penalties

(1) An enforcement officer may give a person a fixed penalty notice if the officer has reason to believe that the person has committed an offence under Chapter 1 or 2.

(2) But a person may be given a fixed penalty notice only if the person is aged 16 or over.

(3) An enforcement officer is—

(a) a council officer for the area in which the offence is believed to have been committed, or

(b) a constable.

(4) Schedule 1 makes further provision about fixed penalties.

Commencement Information

I23 S. 27 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

Powers of entry etc.

28 Powers of entry etc.

(1) For the purpose of carrying out a council's functions under this Part, a council officer is entitled to—

(a) enter any premises (other than premises used only as a private dwelling house),

(b) inspect and examine the premises,

(c) require the production of any book, document, data, record (in whatever form it is held) or product and inspect it, and take copies of or extracts from it,

(d) take possession of any book, document, data, record (in whatever form it is held) or product which is on the premises and retain it for as long as the officer considers necessary,

(e) require any person to give the officer such information, or afford the officer such facilities and assistance, as the officer considers necessary.

(2) A person is not required by subsection (1) to answer any question or produce any document which the person would be entitled to refuse to answer or produce in proceedings in a court in Scotland.

Commencement Information

I24 S. 28 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

29 Warrants for entry

(1) A sheriff may by warrant authorise a council officer to enter (if necessary using reasonable force) any premises (other than premises used only as a private dwelling house) for the purpose of carrying out a council's functions under this Part.

(2) A warrant may be granted under subsection (1) only if the sheriff is satisfied by evidence on oath—

(a) that there are reasonable grounds for entering the premises in question, and

(b) that—

(i) entry to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this section has been given to the occupier,

(ii) a request for entry, or the giving of such notice, would defeat the object of the entry,

(iii) the premises are unoccupied, or

(iv) the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return.

(3) A warrant granted under this section continues in force until the end of the period of one month beginning with the date on which it is granted.

Commencement Information

I25 S. 29 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

30 Powers of entry and warrants for entry: supplementary

(1) A council officer entering any premises under section 28 or in accordance with a warrant granted under section 29 may take on to the premises such other persons and such equipment as the officer considers necessary.

(2) A right to enter any premises conferred by section 28 may be exercised only at a reasonable time.

(3) A council officer exercising a right conferred by section 28 must, if required to do so, produce written evidence of the officer's authorisation to exercise that right.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(4) On leaving any premises which a council officer is authorised to enter by a warrant granted under section 29, the officer must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as the officer found them.

(5) A council officer who takes possession of any item under section 28(1)(d) must leave a statement on the premises from which the item was removed—
  (a) giving particulars of what has been taken, and
  (b) stating that the officer has taken possession of it.

Commencement Information
I26 S. 30 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

31 Obstruction, etc. of council officers

(1) A person who—
  (a) intentionally obstructs a council officer who is acting in the proper exercise of the officer's functions under this Part, or
  (b) without reasonable cause fails to comply with any requirement made by such an officer who is so acting,

commits an offence.

(2) A person who, in giving any information which is properly required by a council officer, makes a statement which is false in a material particular commits an offence.

(3) A person does not commit an offence under subsection (2) if—
  (a) the person did not know the material particular was false, and
  (b) the person had reasonable grounds to believe that it was true.

(4) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I27 S. 31 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

32 Powers of entry: constables

(1) A constable who suspects with reasonable cause that any person is committing or has committed an offence under Chapter 1 or 2 may enter any premises (other than premises used only as a private dwelling house) for the purpose of obtaining evidence of the offence.

(2) A right to enter any premises conferred by subsection (1) may be exercised only at a reasonable time.

(3) A sheriff may by warrant authorise a constable authorised to exercise the power conferred by subsection (1) to do so (if necessary using reasonable force) in accordance with the warrant.

(4) A warrant may be granted under subsection (3) only if the sheriff is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that an offence under Chapter 1 or 2 is or has been committed on the premises.

Commencement Information
I28 S. 32 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

CHAPTER 4

MISCELLANEOUS AND SUPPLEMENTARY

33 Presumption as to contents of container

(1) This section applies for the purpose of any trial in proceedings for an alleged offence under section 1, 4, 5 or 6.

(2) Any substance displayed, sold or purchased in a container (whether sealed or not) is presumed to conform to the description of the substance on the container.

(3) At the trial, any party to the proceedings may rebut the presumption mentioned in subsection (2) by proving that, at the time of its display, sale or purchase, the substance in the container did not match the description on the container.

(4) However, a party may lead evidence for the purpose of rebutting the presumption only if the party has, not less than 7 days before the date of the trial, given notice of the intention to do so to the other parties.

Commencement Information
I29 S. 33 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

34 Offences by bodies corporate etc.

(1) Where—
(a) an offence under this Act has been committed by—
(i) a body corporate,
(ii) a Scottish partnership, or
(iii) an unincorporated association other than a Scottish partnership, and
(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
(i) a relevant individual, or
(ii) an individual purporting to act in the capacity of a relevant individual,
that individual (as well as the body corporate, partnership or, as the case may be, unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), "relevant individual" means—
(a) in relation to a body corporate (other than a limited liability partnership)—

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(i) a director, manager, secretary or other similar officer of the body,

(ii) where the affairs of the body are managed by its members, a member,

(b) in relation to a limited liability partnership, a member,

(c) in relation to a Scottish partnership, a partner, and

(d) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Commencement Information

I30 S. 34 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

35 Interpretation of Part 1

(1) In this Part—

"area"—

(a) in relation to a council, means the local government area for which the council is constituted,

(b) in relation to a council officer, means the area of the council which authorised the officer,

"council" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

"council officer" means a duly authorised officer of a council,

"fixed penalty notice" is to be construed in accordance with section 27 and schedule 1,

"premises" includes any place and any vehicle, vessel, or moveable structure,

"prescribed" means prescribed in regulations made by the Scottish Ministers (and "prescribe" is to be construed accordingly),

"registered" and "unregistered" have the meaning given in section 10(2),

"tobacco business" means a business involving the sale of tobacco products by retail,

"tobacco product" means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed,

"tobacco retailing banning order" has the meaning given in section 15(6).

(2) For the purposes of this Part, the following are smoking related products—

cigarette papers

cigarette tubes

cigarette filters

apparatus for making cigarettes

cigarette holders

pipes for smoking tobacco products.

(3) The Scottish Ministers may by order modify the list in subsection (2) as they consider appropriate.

Commencement Information

I31 S. 35 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

36 Crown application

(1) This Part binds the Crown.

(2) No contravention by the Crown of any provision made by or under this Part makes the Crown criminally liable.

(3) But the Court of Session may, on the application of the council in whose area the contravention is alleged to have taken place, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(4) Despite subsection (2), any provision made by or under this Part applies to persons in the public service of the Crown as it applies to other persons.

Commencement Information
I32 S. 36 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

PART 2

PRIMARY MEDICAL SERVICES

37 Contractual arrangements for the provision of primary medical services

In section 2C of the National Health Service (Scotland) Act 1978 (c.29) (referred to in this Part as "the 1978 Act")—

(a) in subsection (2), omit the words from "(and" to "person)",

(b) after subsection (2), insert—

"(2A) But any contractual arrangement which a Health Board makes in pursuance of subsection (2) (other than an NHS contract) must be an agreement under section 17C, a general medical services contract or a contract which meets the requirement in subsection (2B).

(2B) The requirement is that, were the contract an agreement under section 17C, the parties to the contract (other than the Board) would be persons with whom the Board could enter into such an agreement by virtue of section 17CA.".

Commencement Information
I33 S. 37 in force at 22.12.2010 in so far as not already in force by S.S.I. 2010/372, art. 2(b), **Sch. 2**

38 Section 17C arrangements: persons with whom agreements can be made

After section 17C of the 1978 Act, insert—

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

"17CA Primary medical services: persons with whom agreements can be made

(1) A Health Board may, subject to such conditions as may be prescribed, make an agreement under section 17C under which primary medical services are provided with—
- (a) a medical practitioner,
- (b) a health care professional (other than a medical practitioner),
- (c) a qualifying partnership,
- (d) a qualifying limited liability partnership,
- (e) a qualifying company, or
- (f) two or more of the persons mentioned in paragraphs (a) to (e).

(2) For the purposes of subsection (1)—
- (a) a qualifying partnership is a partnership that satisfies both of the following conditions—
  - (i) at least one partner is a medical practitioner or other health care professional,
  - (ii) all other partners are individuals,
- (b) a qualifying limited liability partnership is a limited liability partnership that satisfies both of the following conditions—
  - (i) at least one member is a medical practitioner or other health care professional,
  - (ii) all other members are individuals,
- (c) a qualifying company is a company which satisfies both of the following conditions—
  - (i) at least one member of the company is a medical practitioner or other health care professional,
  - (ii) all other members are individuals.

(3) A Health Board may only make such an agreement if the Board is satisfied that all the other parties to the agreement ("the contractors") have sufficient involvement in patient care.

(4) A contractor has sufficient involvement in patient care if—
- (a) where the contractor is a medical practitioner or a health care professional, the contractor, or
- (b) where the contractor is a partnership, limited liability partnership or a company, each partner or, as the case may be, member of the contractor,

regularly performs, or is engaged in the day to day provision of, primary medical services in accordance with section 17C arrangements, a general medical services contract or any other arrangement made in pursuance of section 2C(2) (or will so perform or be so engaged by virtue of the agreement in question).

(5) Regulations may—
- (a) make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of, primary medical services for the purposes of subsection (4),

(b) provide that references in subsection (4) to a person who is performing or is engaged in the provision of services include a person who has performed or been engaged in providing the services within such period as may be prescribed.

(6) Regulations under subsection (5)(a) may, in particular, provide that a period of time in which a person is not performing or is not engaged in the provision of primary medical services is, in prescribed circumstances, to be disregarded for the purposes of determining whether the person regularly performs or is engaged in the day to day provision of those services.

(7) In relation to an agreement under section 17C under which primary medical services are provided which is entered into with a partnership, regulations may make provision as to the effect on the agreement of a change in membership of the partnership.

(8) In this section, "health care professional" means a member of a profession which is regulated by a body mentioned (at the time the agreement in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17).".

Commencement Information

I34 S. 38 in force at 8.11.2010 for specified purposes by S.S.I. 2010/372, art. 2(a), **Sch. 1**

I35 S. 38 in force at 22.12.2010 in so far as not already in force by S.S.I. 2010/372, art. 2(b), **Sch. 2**

39 Eligibility to be contractor under general medical services contract

(1) For section 17L of the 1978 Act substitute—

"**17L Eligibility to be contractor under general medical services contract**

(1) A Health Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with—

(a) a medical practitioner,

(b) such other health care professional as may be prescribed,

(c) a qualifying partnership,

(d) a qualifying limited liability partnership, or

(e) a qualifying company.

(2) For the purposes of subsection (1)—

(a) a qualifying partnership is a partnership that satisfies both of the following conditions—

(i) at least one partner is a medical practitioner or other health care professional prescribed under subsection (1)(b),

(ii) all other partners are individuals,

(b) a qualifying limited liability partnership is a limited liability partnership that satisfies both of the following conditions—

(i) at least one member is a medical practitioner or other health care professional prescribed under subsection (1)(b),

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Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(ii) all other members are individuals,

(c) a qualifying company is a company which satisfies both of the following conditions—

(i) at least one member of the company is a medical practitioner or other health care professional prescribed under subsection (1)(b),

(ii) all other members are individuals.

(3) A Health Board may only enter into a general medical services contract if the Board is satisfied that the contractor has sufficient involvement in patient care.

(4) The contractor has sufficient involvement in patient care if—

(a) where the contractor is a medical practitioner or other health care professional prescribed under subsection (1)(b), the contractor, or

(b) where the contractor is a partnership, limited liability partnership or a company, each partner or, as the case may be, member of the contractor,

regularly performs, or is engaged in the day to day provision of, primary medical services in accordance with a general medical services contract, section 17C arrangements or any other arrangement made in pursuance of section 2C(2) (or will so perform or be so engaged by virtue of the contract in question).

(5) Regulations may—

(a) make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of, primary medical services for the purposes of subsection (4),

(b) provide that references in subsection (4) to a person who is performing or is engaged in the provision of services include a person who has performed or been engaged in providing the services within such period as may be prescribed.

(6) Regulations under subsection (5)(a) may, in particular, provide that a period of time in which a person is not performing or is not engaged in the provision of primary medical services is, in prescribed circumstances, to be disregarded for the purposes of determining whether the person regularly performs or is engaged in the day to day provision of those services.

(7) In relation to a general medical services contract under which primary medical services are provided which is entered into with a partnership, regulations may make provision as to the effect on the contract of a change in membership of the partnership.

(8) In this section, "health care professional" means a member of a profession which is regulated by a body mentioned (at the time the contract in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.".

(2) In section 105(3) of the 1978 Act, after "under" where first occurring insert " section 17L(1)(b) ".

Commencement Information

I36 S. 39 in force at 8.11.2010 for specified purposes by S.S.I. 2010/372, art. 2(a), **Sch. 1**

I37 S. 39 in force at 22.12.2010 in so far as not already in force by S.S.I. 2010/372, art. 2(b), **Sch. 2**

PART 3

GENERAL PROVISION

40 Orders and regulations

(1) Any power of the Scottish Ministers under this Act to make an order or regulations is exercisable by statutory instrument.

(2) Any such power includes a power to make—

(a) such incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate,

(b) different provision for different purposes.

(3) Unless subsection (4) makes contrary provision, a statutory instrument containing an order (other than an order made under section 43) or regulations made under this Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4) An order or regulations must not be made under any of the following provisions unless a draft of the statutory instrument containing the order or, as the case may be, the regulations has been laid before, and approved by a resolution of, the Scottish Parliament—

section 24

section 35(3)

section 42 (but only if the order contains provisions which add to, replace or omit any part of the text of an Act)

paragraphs 3, 4, 10 and 11 of schedule 1.

41 Minor and consequential modifications

Schedule 2 has effect.

42 Ancillary provision

(1) The Scottish Ministers may by order make—

(a) such incidental or consequential provision, or

(b) such transitional, transitory or saving provision,

as they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provisions of this Act.

(2) An order under subsection (1) may modify any enactment, instrument or document.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

43 Short title and commencement

(1) This Act may be cited as the Tobacco and Primary Medical Services (Scotland) Act 2010.

(2) This Part comes into force on Royal Assent.

(3) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

SCHEDULE 1

(introduced by section 27)

FIXED PENALTIES

Preliminary

1 In this schedule, unless the context requires otherwise—

"notice" means a fixed penalty notice given under section 27(1),

"the offence" means the offence to which the notice relates,

"the council" means the council in whose area the offence was alleged to have been committed.

Commencement Information

I38 Sch. 1 para. 1 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Content of fixed penalty notice

2 (1) A notice must give reasonable particulars of the circumstances alleged to constitute the offence.

(2) A notice must also contain the following information—

(a) the amount of the fixed penalty,

(b) the payment deadline,

(c) the discounted amount and the discounted payment deadline,

(d) the name of the council (or the person acting on the council's behalf) to which payment should be made,

(e) the address at which payment should be made,

(f) the method by which payment should be made.

(3) A notice must state the following—

(a) any liability to conviction of the offence is discharged if the person makes payment of—

(i) the fixed penalty before the payment deadline, or

(ii) the discounted amount before the discounted payment deadline,

(b) the payment of a fixed penalty is not a conviction nor may it be recorded as such,

(c) no proceedings may be commenced against the person in respect of the offence unless the payment deadline has passed and the fixed penalty has not been paid.

Commencement Information

I39 Sch. 1 para. 2 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Period in which notice can be given

3 A notice may not be given after such time relating to the offence as may be prescribed.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

Commencement Information

I40 Sch. 1 para. 3 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

Amount of penalty

4 (1) The—

(a) amount of the fixed penalty, and

(b) discounted amount,

are such amounts as may be prescribed.

(2) Regulations under sub-paragraph (1) may provide for the amount to be different depending on whether, during a prescribed period, the offender has been—

(a) issued with a fixed penalty notice or notices in respect of any offence or offences of a prescribed description, or

(b) convicted of any offence or offences of a prescribed description.

Commencement Information

I41 Sch. 1 para. 4 in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by S.S.I. 2010/345, art. 2, **Sch.**

Deadlines for payment

5 (1) The payment deadline is the first working day at least 28 days after the day on which the notice is given.

(2) But the council may extend the payment deadline in any particular case after the notice is given if it considers it appropriate to do so.

(3) On extending the payment deadline under sub-paragraph (2), the council must notify the recipient of the fixed penalty notice.

(4) The discounted payment deadline is the first working day at least 14 days after the day on which notice is given.

Commencement Information

I42 Sch. 1 para. 5 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Method of payment

6 The fixed penalty (and the discounted payment amount) is payable—

(a) to the council or the person acting on its behalf specified in the notice,

(b) at the address specified in the notice,

(c) by the method specified in the notice.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

Commencement Information
I43 Sch. 1 para. 6 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Restriction on proceedings and effect of payment

7 (1) The earliest date that proceedings for the offence may be commenced is the day after the payment deadline.

(2) But no such proceedings may be commenced against a person if—

(a) the person makes payment of the discounted amount on or before the discounted payment deadline, or

(b) the person makes payment of the fixed penalty on or before the payment deadline.

(3) In proceedings for the offence, a certificate which—

(a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the council, and

(b) states that payment of an amount specified in the certificate was or was not received by a date so specified,

is sufficient evidence of the facts stated.

Commencement Information
I44 Sch. 1 para. 7 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Withdrawal of fixed penalty notice

8 (1) A recipient of a notice may make representations to the council as to why the notice ought not to have been given.

(2) If, having considered any representations made under sub-paragraph (1), the council considers that a fixed penalty notice ought not to have been given, it may give to the person a notice withdrawing the fixed penalty notice.

(3) Where a notice under sub-paragraph (2) is given—

(a) the council must repay any amount which has been paid in pursuance of the fixed penalty notice, and

(b) no proceedings are to be commenced against the person for the offence.

Commencement Information
I45 Sch. 1 para. 8 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

Effect of prosecution on fixed penalty notice

9 Where proceedings for an offence in respect of which a notice has been given are commenced, the notice is to be treated as withdrawn.

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

Commencement Information
I46 Sch. 1 para. 9 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

General and supplemental

10 The Scottish Ministers may make regulations about—
(a) the application by councils of payments received under this schedule,
(b) the keeping of accounts, and the preparation and publication of statements of account, in relation to payments received under this schedule.

Commencement Information
I47 Sch. 1 para. 10 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

11 (1) The Scottish Ministers may prescribe—
(a) the form of notices,
(b) the circumstances in which notices may not be given, and
(c) the method or methods by which fixed penalties may be paid.

(2) The Scottish Ministers may by regulations modify sub-paragraphs (1) and (4) of paragraph 5 so as to substitute a different deadline for the deadline for the time being specified there.

Commencement Information
I48 Sch. 1 para. 11 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

SCHEDULE 2

(introduced by section 41)

MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 1

TOBACCO PRODUCTS ETC.

Children and Young Persons (Scotland) Act 1937 (c.37)

1 Section 18 of the Children and Young Persons (Scotland) Act 1937 is repealed.

Children and Young Persons (Protection from Tobacco) Act 1991 (c.23)

2 The Children and Young Persons (Protection from Tobacco) Act 1991 is amended as follows—
(a) sections 2 and 4 are repealed,
(b) in section 6—

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(i) in subsection (1)(a), for the word from "18" to "4" substitute " 3 ",
(ii) in subsection (2), for "provisions" substitute " provision ",
(iii) in subsection (2)(a), for "those provisions" substitute " that provision ",
(iv) in subsection (2)(b), for "those provisions" substitute " that provision ",
(v) subsection (2)(c) is repealed,

(c) in section 8—
(i) in subsection (3), the words "or 2" are repealed,
(ii) in subsection (4), the words "or 2" are repealed,
(iii) in subsection (5), in the definition of "the relevant provision", paragraph (b) is repealed.

Tobacco Advertising and Promotion Act 2002 (c.36)

3 In section 6(1)(a) of the Tobacco Advertising and Promotion Act 2002 (c.36), the words ", or fixed to the outside of the premises of," are repealed.

4 In section 8 of that Act—
(a) in subsection (1), the words "in a place or" are repealed,
(b) subsection (3) is repealed.

Smoking, Health and Social Care (Scotland) Act 2005 (asp 13)

5 Section 9 of the Smoking, Health and Social Care (Scotland) Act 2005 is repealed.

PART 2

PRIMARY MEDICAL SERVICES

National Health Service (Scotland) Act 1978 (c.29)

6 (1) Section 17D of the National Health Service (Scotland) Act 1978 is amended as follows—
(a) in subsection (1), after "section 17C" insert " under which personal dental services are provided ",
(b) in subsection (1)(b), for "in the case of an agreement under which primary medical services are provided" substitute " a company which is limited by shares all of which are legally and beneficially owned by persons falling within the following sub-paragraphs and paragraphs (c) to (d) ",
(c) in subsection (1)(c)—
(i) the words "in the case of an agreement under which personal dental services are provided" are repealed, and
(ii) sub-paragraphs (i) and (ii) become paragraphs (c) and (ca) respectively of subsection (1),
(d) in subsection (1)(d)—
(i) after "section 17C employee," insert " or ",

Status: *Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010. (See end of Document for details)*

(ii) the words "or (in the case of an agreement under which primary medical services are provided) an Article 15B employee" are repealed,

(e) subsections (1A) and (1B) are repealed,

(f) in subsection (2), in the definition of "qualifying body"—

(i) paragraph (a) and the words "and also" immediately following it are repealed,

(ii) in paragraph (b), the words "in the case of an agreement under which person dental services are provided," are repealed.

(2) In the section title of section 17D of that Act, for "Persons" substitute " Personal dental services: persons ".

Primary Medical Services (Scotland) Act 2004 (asp 1)

7 In section 2(3) of the Primary Medical Services (Scotland) Act 2004, paragraph (c) is repealed.

Status:
Point in time view as at 01/10/2011. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010.