Tobacco and Primary Medical Services (Scotland) Act 2010

2010 asp 3

PART 1 S

[[F1]TOBACCO AND NICOTINE VAPOUR PRODUCTS ETC.]

CHAPTER 2 S

[[F1]REGISTER OF TOBACCO AND NICOTINE VAPOUR PRODUCT RETAILERS]

Textual Amendments

F1 Pt. 1 Ch. 2 title substituted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(10)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

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 [[F2]Register of tobacco and nicotine vapour product retailers] S

(1) The Scottish Ministers must keep a register of persons carrying on a tobacco [[F3]or nicotine vapour product] 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.

Textual Amendments

F2 S. 10 heading substituted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(2)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F3 Words in s. 10(1) inserted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 8(1)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I1 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. S

(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 **[**[F4]or nicotine vapour product**]** 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 **[**[F4]or nicotine vapour product**]** 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.

[[F5](2A) An application under subsection (1) must state, in relation to each of the premises included in it, whether the applicant proposes to carry on—

(a) a tobacco business at the premises,

(b) a nicotine vapour product business at the premises, or

(c) both a tobacco business and a nicotine vapour product business at the premises.**]**

(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 **[**[F6]and nicotine vapour product banning order from carrying on a tobacco or nicotine vapour product**]** 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 **[**[F7]or nicotine vapour product business, noting, in relation to each of the premises, whether the applicant proposes to carry on—

(i) a tobacco business at the premises,

(ii) a nicotine vapour product business at the premises, or

(iii) both a tobacco business and a nicotine vapour product business at the premises**]**, 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 **[**[F8]or nicotine vapour product business, noting, in relation to each of the premises, whether the applicant proposes to carry on—

(a) a tobacco business at the premises,

(b) a nicotine vapour product business at the premises, or

(c) both a tobacco business and a nicotine vapour product business at the premises**]**.

Textual Amendments

F4 Words in s. 11(2) inserted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(1)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F5 S. 11(2A) inserted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(1)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F6 Words in s. 11(3)(b) substituted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(1)(c)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F7 Words in s. 11(4)(b) substituted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(1)(d)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F8 Words in s. 11(5) substituted (6.2.2017 for specified purposes, 1.4.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(1)(e)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I2 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 S

[F9]**[**(1)**]** 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.

[[F10](2) A certificate issued under subsection (1) must state whether the premises are noted in the applicant's entry in the Register as premises at which the person carries on—

(a) a tobacco business,

(b) a nicotine vapour product business, or

(c) both a tobacco business and a nicotine vapour product business.**]**

Textual Amendments

F9 S. 12(1): s. 12 renumbered as s. 12(1) (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(2)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F10 S. 12(2) inserted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(2)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I3 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 S

(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.

[[F11](c) the fact that the person is no longer carrying on a nicotine vapour product 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.

Textual Amendments

F11 S. 13(1)(c) inserted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(3)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I4 S. 13 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

14 Changes to and removal from Register S

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

(2) Where a tobacco **[**[F12]and nicotine vapour product**]** 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—

(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 **[**[F13]or nicotine vapour product**]** 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 **[**[F14]or nicotine vapour product**]** 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.

Textual Amendments

F12 Words in s. 14(2) substituted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(4)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F13 Words in s. 14(3)(b) inserted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(4)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F14 Words in s. 14(5)(b) inserted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 9(4)(c)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I5 S. 14 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, **Sch.**

[[F15]Tobacco and nicotine vapour product banning orders]

Textual Amendments

F15 S. 15 cross-heading substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(8)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

15 [[F16]Tobacco and nicotine vapour product banning orders] S

(1) A council may apply to the sheriff for an order banning a person from carrying on a tobacco **[**[F17]or nicotine vapour product**]** 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 **[**[F18]or nicotine vapour product**]** business.

(3) The sheriff may make an order banning the person from carrying on a tobacco **[**[F19]or nicotine vapour product**]** business at the premises specified in the order if satisfied, on the balance of probabilities, that—

(a) **[**[F20]there have been**]** 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 [F21]... offences under Chapter 1 or 2.

(4) A **[**[F22]relevant enforcement action occurs where a person mentioned in subsection (4A)**]** is—

(a) issued with a fixed penalty notice (which is not subsequently withdrawn), [F23]...

(b) convicted of an offence under Chapter 1 or 2**[**[F24], or

(c) convicted of an offence under section 92(1)(b) or (c) of the Trade Marks Act 1994 (unauthorised use of trade mark in relation to goods) in circumstances where the goods in question are, or include, tobacco products, smoking related products or nicotine vapour products.**]**

[[F25](4A) The persons are—

(a) the person who is the subject of the application,

(b) an employee or agent of that person.**]**

(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 **[**[F26]and nicotine vapour product**]** banning order".

Textual Amendments

F16 S. 15 title substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(3)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F17 Words in s. 15(1) inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F18 Words in s. 15(2) inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F19 Words in s. 15(3) inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(c)(i)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F20 Words in s. 15(3)(a) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(c)(ii)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F21 Word in s. 15(3)(d) repealed (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(c)(iii)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F22 Words in s. 15(4) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(d)(i)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F23 Word in s. 15(4) repealed (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(d)(ii)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F24 S. 15(4)(c) and word inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(d)(iii)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F25 S. 15(4A) inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(e)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F26 Words in s. 15(6) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(1)(f)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I6 S. 15 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

16 [F27Tobacco and nicotine vapour product banning orders: ancillary orders] S

(1) This section applies where—

(a) a council has applied for a tobacco [F28and nicotine vapour product] banning order in respect of a person ("P"), or

(b) a tobacco [F28and nicotine vapour product] 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 [F29or nicotine vapour product] business at the specified premises,

(ii) seeking to control a person carrying on a tobacco [F29or nicotine vapour product] business at the specified premises,

(b) where P is not an individual, banning any person connected to P from—

(i) carrying on a tobacco [F29or nicotine vapour product] business at the specified premises,

(ii) being connected to a person carrying on a tobacco [F29or nicotine vapour product] business at the specified premises,

(iii) seeking to control a person carrying on a tobacco [F29or nicotine vapour product] 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 [F30and nicotine vapour product] banning order.

(4) An ancillary order made under this section ceases to have effect when the tobacco [F31and nicotine vapour product] banning order to which it relates ceases to have effect.

(5) In subsection (2), "the specified premises" means the premises specified in the tobacco [F32and nicotine vapour product] 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

(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.

Textual Amendments

F27 S. 16 title substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(4)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F28 Words in s. 16(1) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(2)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F29 Words in s. 16(2) inserted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(2)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F30 Words in s. 16(3)(b) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(2)(c)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F31 Words in s. 16(4) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(2)(d)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F32 Words in s. 16(5) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(2)(e)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I7 S. 16 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

17 [F33Tobacco and nicotine vapour product banning orders etc.: appeals] S

(1) A person against whom a tobacco [F34and nicotine vapour product] 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 [F34and nicotine vapour product] 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.

Textual Amendments

F33 S. 17 title substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(5)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F34 Words in s. 17 substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(3)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I8 S. 17 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

18 [F35Tobacco and nicotine vapour product banning orders etc.: notification to Scottish Ministers] S

(1) On making a tobacco [F36and nicotine vapour product] 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 [F37Clerk of the Sheriff Appeal Court] must notify the Scottish Ministers.

Textual Amendments

F35 S. 18 title substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(6)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F36 Words in s. 18(1) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(4)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F37 Words in s. 18(2) substituted (28.11.2016) by The Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 (S.S.I. 2016/387), art. 1, **sch. 3 para. 5** (with art. 4(2))

Commencement Information

I9 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 [F38Tobacco and nicotine vapour product banning orders: display of notices] S

(1) This section applies where—

(a) a tobacco [F39and nicotine vapour product] 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 [F40and nicotine vapour product] 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 [F40and nicotine vapour product] banning order is made.

(4) A relevant point of sale is one that was used for the sale of tobacco products [F41, smoking related products or nicotine vapour 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.

Textual Amendments

F38 S. 19 title substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(7)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F39 Words in s. 19(1)(a) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(5)(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F40 Words in s. 19(3) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(5)(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F41 Words in s. 19(4) substituted (6.2.2017 for specified purposes, 1.10.2017 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 10(5)(c)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I10 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 S

(1) An unregistered person who carries on a tobacco [F42or nicotine vapour product] 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 [F43as premises at which the person carries on a tobacco business (or both a tobacco business and a nicotine vapour product business)] commits an offence.

[[F44](2A) A registered person who carries on a nicotine vapour product business at premises other than those noted in the person's entry in the Register as premises at which the person carries on a nicotine vapour product business (or both a tobacco business and a nicotine vapour product business) 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 **[**[F45]and nicotine vapour product**]** banning order or an ancillary order made under section 16 commits an offence.

(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) **[**[F46], (2A)**]** 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.

Textual Amendments

F42 Words in s. 20(1) inserted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 11(a)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F43 Words in s. 20(2) inserted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 11(b)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F44 S. 20(2A) inserted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 11(c)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F45 Words in s. 20(4) substituted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 11(d)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

F46 Word in s. 20(6)(a) inserted (1.10.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 11(e)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I11 S. 20 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

[[F47]*Register of tobacco and nicotine vapour product retailers: miscellaneous and supplementary]*

Textual Amendments

F47 S. 21 crossheading substituted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 15(9)**, 36(2); S.S.I. 2017/12, reg. 2, sch.

21 Public inspection of Register S

(1) On the basis of information contained in the Register, the Scottish Ministers must make available for public inspection a list of premises[F48, specifying for each of those premises whether there is carried on, or there is proposed to be carried on—

(a) a tobacco business,

(b) a nicotine vapour product business, or

(c) both a tobacco business and a nicotine vapour product business].

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

Textual Amendments

F48 Words in s. 21(1) substituted (1.4.2017) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), **ss. 12**, 36(2); S.S.I. 2017/12, reg. 2, sch.

Commencement Information

I12 S. 21 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

22 Council access to Register S

(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

I13 S. 22 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

23 Delegation of functions relating to Register S

(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

I14 S. 23 in force at 1.10.2011 by S.S.I. 2010/345, art. 2, **Sch.**

24 Vehicles, vessels and moveable structures S

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

I15 S. 24 in force at 24.10.2010 by S.S.I. 2010/345, art. 2, **Sch.**

Changes to legislation:
There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, Chapter 2.