



Tobacco and Primary Medical Services (Scotland) Act 2010

2010 asp 3

PART 1

[^{F1}TOBACCO AND NICOTINE VAPOUR PRODUCTS ETC.]

CHAPTER 2

[^{F1}REGISTER OF TOBACCO AND NICOTINE VAPOUR PRODUCT RETAILERS]

[^{F1}Tobacco and nicotine vapour product banning orders]

16 [^{F1}Tobacco and nicotine vapour product banning orders: ancillary orders]

- (1) This section applies where—
- (a) a council has applied for a tobacco [^{F2}and nicotine vapour product] banning order in respect of a person (“P”), or
 - (b) a tobacco [^{F2}and 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 [^{F3}or nicotine vapour product] business at the specified premises,
 - (ii) seeking to control a person carrying on a tobacco [^{F3}or 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 [^{F3}or nicotine vapour product] business at the specified premises,
 - (ii) being connected to a person carrying on a tobacco [^{F3}or nicotine vapour product] business at the specified premises,
 - (iii) seeking to control a person carrying on a tobacco [^{F3}or nicotine vapour product] business at the specified premises.

Changes to legislation: There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, Section 16. (See end of Document for details)

- (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 [^{F4}and nicotine vapour product] banning order.
- (4) An ancillary order made under this section ceases to have effect when the tobacco [^{F5}and 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 [^{F6}and 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

- F1** 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.
- F2** 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.
- F3** 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.
- F4** 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.
- F5** 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.
- F6** 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.

Changes to legislation: There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, Section 16. (See end of Document for details)

Commencement Information

II S. 16 in force at 1.10.2011 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, Section 16.