

*These notes relate to the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14) which received Royal Assent on 06 April 2016*

# **HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 1 – Tobacco, Nicotine Vapour Products and Smoking**

##### *Chapter 1 – Sale of Tobacco and Nicotine Vapour Products*

#### **Sale and purchase of tobacco and nicotine vapour products**

##### *Section 5 – Defence of due diligence for certain offences*

25. **Section 5(1)** of the Act inserts section 4D (defence of due diligence for certain offences) into the 2010 Act.
26. Section 4D(1) and (2) provides a due diligence defence for a person (or any employee or agent of that person) charged with the offence of—
  - selling a tobacco product to a person under the age of 18 (in section 4(1) of the 2010 Act),
  - selling a NVP to someone under the age of 18 (in section 4A(1) of the 2010 Act, inserted by section 2 of this Act), or
  - allowing the sale of a tobacco product or NVP by an unauthorised person under 18 (in section 4C(1) of the 2010 Act, inserted by section 4 of this Act).
27. The defence is that the accused (or the employee or agent of that person, as the case may be) took all reasonable precautions and exercised all due diligence to prevent the offence from being committed.