

*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*

#### **The 2010 Act: miscellaneous**

#### *Section 14 – Presumption as to contents of container*

50. [Section 14](#) of the Act amends section 33 (presumption as to contents of container) of the 2010 Act. This section of the 2010 Act currently contains a presumption in prosecutions for displaying tobacco products (and smoking related products) or for selling tobacco to persons under 18. The presumption is that the contents of a container are what would be expected given the packaging. The presumption can be rebutted by the accused or another party in a trial. As amended by the Act, the presumption now applies in the case of the following offences—

- selling a tobacco product to a person under the age of 18 (section 4),
- selling a NVP to a person under the age of 18 (section 4A),
- failing to operate an age verification policy (section 4B),
- allowing the sale of a tobacco product or NVP by an unauthorised person under 18 (section 4C),
- purchasing of tobacco by a person under 18 (section 5),
- purchasing a tobacco product or NVP on behalf of a person under 18 (section 6 and 6A),
- managing or controlling premises on which a tobacco vending machine is available for use (section 9).