



Public Health (Wales) Act 2017

2017 anaw 2

PART 3

TOBACCO AND NICOTINE PRODUCTS

CHAPTER 4

HANDING OVER TOBACCO ETC. TO PERSONS UNDER 18

52 Offence of handing over tobacco etc. to persons under 18

- (1) A person (“A”) commits an offence if—
- (a) in connection with arrangements under section 53, A hands over in Wales tobacco, cigarette papers or nicotine products to a person aged under 18 (“B”),
 - (b) the handing over does not take place either—
 - (i) in the course of B’s trade, profession, business or employment, or
 - (ii) in the presence of another person who is aged 18 or over,
 - (c) at the time of the handing over, A knows that tobacco or cigarette papers or nicotine products (whichever is the case) are being handed over, and
 - (d) when handed over, the tobacco, cigarette papers or nicotine products are not contained in a package that—
 - (i) is sealed, and
 - (ii) has an address on it, for the purpose of its delivery to that address in accordance with arrangements within section 53.
- (2) “Package” in subsection (1)(d) means a package in addition to the original package in which the tobacco, cigarette papers or nicotine products were supplied for the purpose of retail sale by their manufacturer or importer.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Status: This is the original version (as it was originally enacted).

- (4) Where a person (“the accused”) is charged with an offence under this section by reason of the accused’s own conduct (and otherwise than by virtue of section 44 of the [Magistrates’ Courts Act 1980 \(c.43\)](#) (aiders and abettors)) it is a defence for the accused to show—
- (a) that the accused believed, when the handing over took place, that the person to whom the tobacco, cigarette papers or nicotine products were handed over, or another person present at the time of the handing over, was aged 18 or over, and
 - (b) either—
 - (i) that the accused had taken reasonable steps to establish the age of that person, or
 - (ii) that nobody could reasonably have suspected from that person’s appearance that the person was aged under 18.
- (5) For the purposes of subsection (4)(b), the accused is to be treated as having taken reasonable steps to establish the age of a person if—
- (a) the accused asked that person for evidence of that person’s age, and
 - (b) the evidence would have convinced a reasonable person.
- (6) Where a person is charged with an offence under this section by reason of the act or default of another person, or by virtue of the application of section 44 of the [Magistrates’ Courts Act 1980 \(c.43\)](#) (aiders and abettors), it is a defence to show that the person took reasonable precautions and exercised due diligence to avoid committing the offence.
- (7) In this section, “employment” means any employment, whether paid or unpaid, and includes—
- (a) work under a contract for services or as an office holder, and
 - (b) work experience provided pursuant to a training course or programme or in the course of training for employment.