



Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016

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PART 1

TOBACCO, NICOTINE VAPOUR PRODUCTS AND SMOKING

CHAPTER 1

SALE AND PURCHASE OF TOBACCO AND NICOTINE VAPOUR PRODUCTS

Register of tobacco and nicotine vapour product retailers

8 Register of tobacco and nicotine vapour product retailers

- (1) In section 10(1) of the 2010 Act (duty to keep Register), after “tobacco” insert “or nicotine vapour product”.
- (2) In section 35(1) of the 2010 Act (interpretation)—
 - (a) after the definition of “fixed penalty notice” insert—

““nicotine vapour product business” means a business involving the sale of nicotine vapour products by retail,” and
 - (b) after the definition of “tobacco business” insert—

““tobacco or nicotine vapour product business” means a business which involves (either or both) a tobacco business or a nicotine vapour product business,”.

9 Registration and changes to the Register

- (1) In section 11 of the 2010 Act (application for registration and addition of premises etc.)—
 - (a) in subsection (2), after “tobacco”, in both places where it occurs, insert “or nicotine vapour product”,
 - (b) after subsection (2) insert—

Status: This is the original version (as it was originally enacted).

- “(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.”,
- (c) in subsection (3)(b), for “retailing banning order, from carrying on a tobacco” substitute “and nicotine vapour product banning order from carrying on a tobacco or nicotine vapour product”,
- (d) in subsection (4)(b), for “business” substitute “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
- (e) in subsection (5), for “business” substitute “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”.
- (2) In section 12 of the 2010 Act (certificates of registration)—
- (a) the existing text becomes subsection (1), and
 - (b) after that subsection, insert—
- “(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.”.
- (3) In section 13(1) of the 2010 Act (duty to notify certain changes), after paragraph (b) insert—
- “(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.”.
- (4) In section 14 of the 2010 Act (changes to and removal from Register)—
- (a) in subsection (2), for “retailing” substitute “and nicotine vapour product”,
 - (b) in subsection (3)(b), after “tobacco” insert “or nicotine vapour product”, and
 - (c) in subsection (5)(b), after “tobacco” insert “or nicotine vapour product”.

10 Tobacco and nicotine vapour product banning orders

- (1) In section 15 of the 2010 Act (banning orders)—
 - (a) in subsection (1), after “tobacco” insert “or nicotine vapour product”,
 - (b) in subsection (2), after “tobacco” insert “or nicotine vapour product”,
 - (c) in subsection (3)—
 - (i) after “tobacco” insert “or nicotine vapour product”,
 - (ii) in paragraph (a), for “the person has been the subject of” substitute “there have been”, and
 - (iii) in paragraph (d), the word “further” is repealed,
 - (d) in subsection (4)—
 - (i) for “person is the subject of a relevant enforcement action if the person”, substitute “relevant enforcement action occurs where a person mentioned in subsection (4A)”,
 - (ii) the word “or” immediately following paragraph (a) is repealed,
 - (iii) after paragraph (b), insert “, 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.”,
 - (e) after subsection (4), insert—

“(4A) The persons are—

 - (a) the person who is the subject of the application,
 - (b) an employee or agent of that person.”,
 - (f) in subsection (6), for “retailing” substitute “and nicotine vapour product”.
- (2) In section 16 of the 2010 Act (ancillary orders)—
 - (a) in subsection (1), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”,
 - (b) in subsection (2), after “tobacco”, in each place where it occurs, insert “or nicotine vapour product”,
 - (c) in subsection (3)(b), for “retailing” substitute “and nicotine vapour product”,
 - (d) in subsection (4), for “retailing” substitute “and nicotine vapour product”, and
 - (e) in subsection (5), for “retailing” substitute “and nicotine vapour product”.
- (3) In section 17 of the 2010 Act (appeals), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”.
- (4) In section 18(1) of the 2010 Act (notification to Scottish Ministers), for “retailing” substitute “and nicotine vapour product”.
- (5) In section 19 of the 2010 Act (display of notices)—
 - (a) in subsection (1)(a), for “retailing” substitute “and nicotine vapour product”,
 - (b) in subsection (3), for “retailing”, in both places where it occurs, substitute “and nicotine vapour product”, and
 - (c) for subsection (4), for “or smoking related products” substitute “, smoking related products or nicotine vapour products”.

11 Offences relating to the Register

In section 20 of the 2010 Act (offences relating to the Register)—

- (a) in subsection (1), after “tobacco” insert “or nicotine vapour product”,
- (b) in subsection (2), after “Register” insert “as premises at which the person carries on a tobacco business (or both a tobacco business and a nicotine vapour product business)”,
- (c) after subsection (2) insert—

“(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.”

- (d) in subsection (4), for “retailing” substitute “and nicotine vapour product”, and
- (e) in subsection (6)(a), after “(2)” insert “, (2A)”.

12 Public inspection of the Register

In section 21(1) of the 2010 Act (public inspection of the Register), for “at which tobacco businesses are carried on or proposed to be carried on” substitute “, 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”.