
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 12 (C. 2)

PUBLIC HEALTH

**The Health (Tobacco, Nicotine etc. and Care) (Scotland)
Act 2016 (Commencement No. 1) Regulations 2017**

<i>Made</i>	- - - -	<i>19th January 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd January 2017</i>
<i>Coming into force</i>	- -	<i>6th February 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 36(2) and (3) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (Commencement No. 1) Regulations 2017 and come into force on 6th February 2017.

Appointed day

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 specified in column 1 of the schedule (the subject matter of which is described in column 2 of the schedule) is the day specified in column 3 of the schedule.

(2) Where a purpose is specified in column 4 of that schedule, a provision mentioned in column 1 comes into force in accordance with paragraph (1) only for that purpose.

St Andrew's House,
Edinburgh
19th January 2017

AILEEN CAMPBELL
Authorised to sign by the Scottish Ministers

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SCHEDULE

Regulation 2

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Provisions of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016</i>	<i>Subject matter</i>	<i>Appointed day</i>	<i>Purpose</i>
Section 1	Meaning of “nicotine vapour products”	6th February 2017	
Section 2	Sale of nicotine vapour products to persons under 18	6th February 2017	So far as is necessary to enable the Scottish Ministers to make regulations under section 4A(4)(c) of the Tobacco and Primary Medical Services (Scotland) Act 2010(2)
Section 2	Sale of nicotine vapour products to persons under 18	1st April 2017	For all other purposes
Section 3	Age verification policy	1st April 2017	
Section 4	Sale by persons under 18	6th February 2017	So far as is necessary to enable the Scottish Ministers to make regulations under section 4C(5) of the Tobacco and Primary Medical Services (Scotland) Act 2010
Section 4	Sale by persons under 18	1st April 2017	For all other purposes
Section 5	Defence of due diligence for certain offences	1st April 2017	
Section 6	Purchase of nicotine vapour products on behalf of persons under 18	1st April 2017	
Section 7	Extension of vending machine prohibition	1st April 2017	
Section 8	Register of tobacco and nicotine vapour product retailers	6th February 2017	So far as is necessary to enable the Scottish

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Provisions of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016</i>	<i>Subject matter</i>	<i>Appointed day</i>	<i>Purpose</i>
			Ministers to make regulations under section 11(2)(d) of the Tobacco and Primary Medical Services (Scotland) Act 2010
Section 8	Register of tobacco and nicotine vapour product retailers	1st April 2017	For all other purposes
Section 9(1)	Registration and changes to the Register	6th February 2017	So far as is necessary to enable the Scottish Ministers to make regulations under section 11(2)(d) of the Tobacco and Primary Medical Services (Scotland) Act 2010
Section 9(1)	Registration and changes to the Register	1st April 2017	For all other purposes
Section 9(2), (3) and (4)	Registration and changes to the Register	1st April 2017	
Section 10	Tobacco and nicotine vapour product banning orders	6th February 2017	So far as is necessary to allow the Scottish Ministers to make regulations under section 19(5) of the Tobacco and Primary Medical Services (Scotland) Act 2010
Section 10	Tobacco and nicotine vapour product banning orders	1st October 2017	For all other purposes
Section 11	Offences relating to the Register	1st October 2017	
Section 12	Public inspection of the Register	1st April 2017	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Provisions of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016</i>	<i>Subject matter</i>	<i>Appointed day</i>	<i>Purpose</i>
Section 13	Power to exclude certain premises	6th February 2017	
Section 14	Presumption as to contents of container	1st April 2017	
Section 15(1), (2), (9), (10) and (11)	Part 1 of the 2010 Act: miscellaneous	1st April 2017	
Section 15(3), (4), (5), (6), (7) and (8)	Part 1 of the 2010 Act: miscellaneous	1st October 2017	
Section 16	Meaning of “the 2010 Act”	6th February 2017	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the provisions in chapter 1 of Part 1 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (“the Act”) which concerns the sale and purchase of nicotine vapour products. The provisions come into force in 3 stages on 6th February 2017, 1st April 2017 and on 1st October 2017.

Sections 1 to 6 and 8 and 9 of the Act make amendments to the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) to introduce controls on the sale and purchase of nicotine vapour products whilst section 7 provides a regulation making power to allow the definition of “vending machine” in section 9(3) of the 2010 Act to be amended to include automatic machines for the sale of nicotine vapour products.

Those provisions which come into force on 6th February 2017 are for the purposes of enabling the Scottish Ministers to make regulations under certain provisions of the 2010 Act. Section 1 of the Act, which provides a definition for “nicotine vapour product” in the 2010 Act, section 13, which amends the definition of “premises”, in the 2010 Act, and section 16, which defines “the 2010 Act” for the purposes of Part 1 of the Act, are also brought into force on 6th February 2017.

Sections 2 and 3 of the Act introduce two new offences under the 2010 Act – the sale of nicotine vapour products to persons under 18 (new section 4A) and the failure to operate an age verification policy whilst carrying on a tobacco or nicotine vapour product business (new section 4B). Section 4 of the Act inserts new section 4C into the 2010 Act. It provides that it is an offence for a responsible person to allow a tobacco product, cigarette papers or a nicotine vapour product to be sold by a person under the age of 18. That offence does not apply where the sale is made at premises noted in the register maintained by the Scottish Ministers under section 10 of the 2010 Act (“the Register”)

and is authorised by the person registered for those premises. 1st April 2017 is the appointed day for the coming into force of those provisions and section 7 of the Act.

Sections 10 and 11 of the Act make amendments to the 2010 Act to include nicotine vapour product banning orders and introduce offences in relation to the Register in respect of nicotine vapour product businesses. 1st October 2017 is the appointed day for the coming into force of those provisions.

The Bill for the Act received Royal Assent on 6th April 2016. By virtue of section 36(1) of the Act, sections 34 (regulations), 35 (ancillary provision), 36 (commencement) and 37 (short title) came into force on the day after Royal Assent.