

*These notes refer to the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c.26) which received Royal Assent on 12 May 2016*

# Health (Miscellaneous Provisions) Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Commentary on Sections in Part 1 of the Act*

##### ***Section 1: Prohibition of sale of nicotine products to persons under 18***

Provides a regulation-making power for the Department to prohibit the sale of nicotine products to a person under 18. The penalty for committing this offence is a fine not exceeding level 5 on the standard scale. There is an exemption for persons employed in the industry and a due diligence defence. Section 1 also includes a regulation-making power for the creation of an offence in relation to the proxy purchasing of nicotine products.

##### ***Section 2: Prohibition of sale of nicotine products from vending machines***

Provides a regulation-making power for the Department to prohibit the sale of nicotine products from an automatic vending machine. Regulations made under this power must state who would be responsible for breaching the ban, the penalty for which is a fine not exceeding level 5 on the standard scale.

##### ***Section 3: Amendments consequential on sections 1 and 2***

This section makes consequential amendments to integrate the new age of sale offence for nicotine products into the existing age of sale legislation for tobacco products. Consequential amendments to Article 6 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 apply the enforcement regime for tobacco age of sale offences to offences under sections 1 and 2. Consequential amendments to sections 5, 6, 8, 9, 10, 11, 12, 16 and 22 of the Tobacco Retailers (Northern Ireland) Act 2014 integrate the offences under sections 1 and 2 into the existing regime for repeated tobacco age of sale offences.

##### ***Section 4: Amendment of the Order of 1991***

Increases the penalty for selling tobacco from an automatic vending machines from a level 4 offence to a level 5 offence. This is in line with similar offences for underage sales of tobacco products.

***Section 5: Prohibition of use of tobacco or nicotine products in enclosed vehicles***

This section seeks to amend Article 6 of the Smoking (Northern Ireland) Order 2006 in relation to smokefree vehicles, to allow offences to apply to private vehicles where under eighteens are present in the vehicle. It also provides that regulations may be made in relation to prohibiting the use of nicotine products in cars when persons under the age of 18 are present.

***Section 6: Review***

This section requires the Department to publish a report on the implementation of Part 1 of the Act not later than 3 years after the commencement of Section 6 of the Act.

***Section 7: Interpretation of Part 1***

“Nicotine product” is defined in this section. Examples include an electronic cigarette and part of an electronic cigarette. Tobacco products, which are already subject to a prohibition on sale to persons aged under 18, are not nicotine products for the purposes of this clause. Through subordinate legislation, the Department may provide for exceptions or make provision in relation to nicotine products of a specified kind, such as licensed NRT products, or all nicotine products.