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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings section 9 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) into force on 29th April 2013 (article 3). Section 9 makes it an offence for a person who has the management or control of premises to have an automatic vending machine for the sale of tobacco products available for use.

Article 2 of the Order repeals section 9 and re-enacts it in identical terms. This provision is required as a procedural step incidental to the commencement of section 9 to comply with the requirements of the notification procedure under [Directive 98/34/EC](#) of the European Parliament and of the Council (OJNo. L 204, 21.7.98, p.37) as amended by [Directive 98/48/EC](#) of the same institutions (OJ No. L 217, 5.8.98, p.18), which lays down a procedure for the provision of information in the field of technical standards and regulations (the technical standards Directive) so that section 9 is brought into force with full effect.

Article 2 of the Order was notified in draft to the European Commission in accordance with the technical standards Directive (Notification No. 2010/699/UK on 28th October 2010).

The Bill for the 2010 Act received Royal Assent on 3rd March 2010. Sections 40, 41, 42 and 43 of the 2010 Act came into force on Royal Assent.

The commencement of section 41 which gives effect to schedule 2 to the 2010 Act (Minor and Consequential Modifications) must be read subject to the Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 ([S.S.I. 2010/77](#)) (“the Ancillary Order”). It provides that the modifications in that schedule shall not take effect until the coming into force for all purposes of specified sections of the 2010 Act. Article 2 of the Ancillary Order specifies that the modification in paragraph 2(a) of schedule 2 to the 2010 Act as it relates to section 4 of the Children and Young Persons (Protection from Tobacco) Act 1991 has effect on the coming into force for all purposes of section 9 of the 2010 Act. Section 4 of the 1991 Act (Display of warning statements in retail premises and on vending machines) is therefore repealed on the coming into force of section 9.

Article 4 of the Order revokes articles 3 and 4 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 1, Consequential and Saving Provisions) Order 2010 and the Order which amended article 4 of that Order. These articles made provision in relation to the legislation regulating tobacco vending machines. In view of the commencement of section 9 they are no longer required. On 6th April 2015 (when section 1 of the 2010 Act comes into force for all purposes) all of the sections specified in the Ancillary Order will be in force for all purposes. It is therefore revoked with effect from that date.