
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.