

*These notes relate to the Health (Tobacco, Nicotine etc. and Care)  
(Scotland) Act 2016 (asp 14) which received Royal Assent on 06 April 2016*

# **HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 1 – Tobacco, Nicotine Vapour Products and Smoking**

##### *Chapter 1 – Sale of Tobacco and Nicotine Vapour Products*

#### **Sale and purchase of tobacco and nicotine vapour products**

##### *Section 2 – Sale of nicotine vapour products to persons under 18*

11. **Section 2(1)** inserts a section 4A (sale of nicotine vapour products to persons under 18) into the 2010 Act.
12. Section 4A(1) makes it an offence for a person to sell an NVP to a person under the age of 18. The person who sells can be an individual (e.g. an employee) or a legal person (e.g. a body corporate) or both depending on the circumstances; where it is a legal person then section 34 (offences by bodies corporate etc.) of the 2010 Act may be relevant.
13. Section 4A(2) provides a defence for a person accused of an offence under section 4(1) where that person believed the customer was aged 18 or over and took reasonable steps to establish the customer's age. The reasonable steps are those provided for in section 4A(3). This includes being shown identification such as a passport, a driving licence or such other identification as may be prescribed in regulations made subject to negative procedure (by virtue of section 40(3) of the 2010 Act) by the Scottish Ministers (section 4A(4)). Section 4(5) provides that the penalty for committing the offence in section 4A(1) is, on summary conviction, a fine not exceeding level 4 on the standard scale (currently £2,500).