

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

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 4 – Sale by persons under 18

20. [Section 4\(1\)](#) of the Act inserts section 4C (sale of tobacco or nicotine vapour products by persons under 18) into the 2010 Act.
21. Section 4C(1) makes it an offence for a responsible person to allow the unauthorised sale of tobacco products or NVPs by a person under the age of 18. In accordance with section 4C(2) the “responsible person” is the registered person, where premises from which the sale is made is noted in the Register against that person’s name, or where the premises is unregistered it is the employer of the person who made the sale and/or a person having management and control of the premises. Section 4C(3) provides an exception to the offence, which allows persons under 18 to make sales where a registered person has authorised a person under 18 to make sales at the premises noted in the Register against that registered person’s name.
22. Section 4C(4) requires the authorisation to be recorded and kept at premises where a person under 18 has been authorised to make sales. Section 4C(5) enables the Scottish Ministers by regulations to prescribe the form and content of authorisations, and the method of how authorisations must be recorded.
23. If an authorisation is not recorded and kept in accordance with section 4C(4) and regulations made under section 4C(5), then section 4C(6) provides that the authorisation is deemed not to have been made. That means the person under 18 is not authorised and the responsible person is liable for the offence under section 4C(1) if the responsible person allows the person under 18 to make a sale.
24. Section 4C(7) provides that a responsible person who commits an offence under section 4C(1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale (currently £200).