

**2011 No. 131**

**PUBLIC HEALTH**

**The Tobacco and Primary Medical Services (Scotland) Act 2010  
(Commencement No. 1, Consequential and Saving Provisions)  
Amendment Order 2011**

*Made* - - - - *21st February 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 40(1) and (2) and 43(3) of the Tobacco and Primary Medical Services (Scotland) Act 2010(a).

**Citation**

1. This Order may be cited as the Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 1, Consequential and Saving Provisions) Amendment Order 2011.

**Amendment of the Tobacco and Primary Medical Services (Scotland) Act 2010  
(Commencement No. 1, Consequential and Saving Provisions) Order 2010**

2. In article 4 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 1, Consequential and Saving Provisions) Order 2010(b), for “the definition of “tobacco” in section 4(8) of the 1991 Act.” substitute—

“—

- (a) section 18(2); and
- (b) the definition of “tobacco” in section 4(8) of the 1991 Act.”.

*SHONA ROBISON*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
21st February 2011

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(a) 2010 asp 3.  
(b) S.S.I. 2010/345.

## EXPLANATORY NOTE

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

The Tobacco and Primary Medical Services (Scotland) Act 2010 (Commencement No. 1, Consequential and Saving Provisions) Order 2010 (“the first Commencement Order”) brings section 4 and other provisions of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) into force on 1st April 2011.

Schedule 2 to the 2010 Act provides for minor and consequential modifications including, in paragraph 1, the repeal of section 18 of the Children and Young Persons (Scotland) Act 1937 (“the 1937 Act”). Section 41 of the 2010 Act, which gives effect to Schedule 2, came into force on Royal Assent. Its commencement however is subject to the Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (S.S.I. 2010/77) (“the Ancillary Order”) which provides that the modifications in Schedule 2 to the 2010 Act shall not take effect until the coming into force for all purposes of specified sections of the 2010 Act.

In terms of the Ancillary Order, section 18 of the 1937 Act is repealed on the coming into force for all purposes of section 4 of the 2010 Act.

Article 4 of the first Commencement Order saves section 18 for a specified purpose. This Order extends that saving to section 18(2) of the 1937 Act. Section 18(2) provides for a court order to be obtained if a tobacco vending machine is proved to have been used by persons under 18.

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