POLICY NOTE

THE SALE OF TOBACCO (MISCELLANEOUS AND CONSEQUENTIAL AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/278

The above instrument was made in exercise of the powers conferred by sections 8(5) and 19(5) of the Tobacco and Primary Medical Services (Scotland) Act 2010 and section 169(1)(a) of the Tobacco and Vapes Act 2026. The instrument is subject to negative procedure.

Summary Box

The Sale of Tobacco (Miscellaneous and Consequential Amendment) (Scotland) Regulations 2026 make miscellaneous and consequential amendments to secondary legislation made under the Tobacco and Primary Medical Services (Scotland) Act 2010, including amendments to the size requirements for notices which retailers have to display.

Policy Objectives

Regulation 2 of this instrument amends the Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010 to change the requirements for the dimensions of banning order notices and the size of the text in the statement on the notice. Under section 19(2) of the Tobacco and Primary Medical Services (Scotland) Act 2010 ("2010 Act"), such a notice must be displayed in retail premises where a banning order has been made specifying those premises.

The requirements introduced in regulation 2 will apply to all notices from 27 November 2026, including notices relating to tobacco and vaping product banning orders (which are orders made under section 15 of the 2010 Act before 29 October 2026). Although the minimum dimensions for the notice itself will increase (from size A3 to size A2), the current minimum size requirement for the statement on the notice (36 millimetres) is such that in practice the statement currently requires to be on a notice which is larger than A2. Regulation 2 introduces a smaller minimum text requirement and the new requirements are designed to make it more practical for retailers to comply and ensure that the statement will fit comfortably on a size A2 notice.

Regulation 3 of this instrument amends the Sale of Tobacco (Display of Warning Statements) (Scotland) Regulations 2011 ("the 2011 Regulations"). The 2011 Regulations prescribe the dimensions of the notice and the size of the text in the statement on the notice which must be displayed in any premises where a tobacco business is carried on. The Tobacco and Vapes Act 2026 ("the 2026 Act") introduced a new rising age of sale for tobacco products across the UK. This will come into force on 1 January 2027 and from that date the notice which is displayed must contain the statement, "It is illegal to sell tobacco products to anyone born on or after 1 January 2009". The amendments will ensure the new text comfortably fits on a size A3 notice. The requirements for the minimum dimensions for the notice itself (A3) will not change. The new requirements introduced in regulation 3 are designed to ensure alignment across the UK.

The Tobacco and Vapes Act 2026 (Consequential, Transitional and Saving Provisions) (Scotland) Regulations 2026 ("the 2026 Regulations") contain amendments in consequence of provision in the 2026 Act. Sections 54 and 55 of that Act repealed the offences of a person under the age of 18 purchasing tobacco products, and of a person under the age of 18 failing to comply with a confiscation request. The 2026 Regulations amend the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011 ("the Fixed Penalty Regulations") to ensure there are no longer any prescribed fixed penalties for the repealed offences.

Regulation 4 of this instrument amends the heading of regulation 7 of the Fixed Penalty Regulations to make it clearer that regulation 7 will contain the amount of fixed penalty and discounted amount for all offences in Chapters 1 and 2 of Part 1 of the 2010 Act. This amendment is being made following a commitment to the Delegated Powers and Law Reform Committee that the Scottish Government would consider amending the heading of regulation 7 at an appropriate opportunity.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility
The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Sale of Tobacco (Miscellaneous and Consequential Amendment) (Scotland) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
There was a UK-wide public consultation to support the development of the 2026 Act, which covered policies related to age of sale warning notices and the expansion of legislation to cover nicotine products and herbal smoking products. While the consultation did not ask specifically about the size or appearance of the age of sale notices, a small number of respondents provided comments that were relevant to these issues. This included responses suggesting that the four nations should seek to replicate previous size requirements and that the signs should be in large font and easily visible, as well as others suggesting that A3 is too large.

No public consultation was undertaken for this instrument. The age of sale warning notices broadly replicate current requirements, with only the minimum character size requirement changing. Only a small number of retailers will be affected by the changes to banning order notices, so a public consultation was not felt to be proportionate. However, engagement has taken place with Trading Standards officers to ensure the new size requirements are appropriate and work in practice.

Impact Assessments
A Child Rights and Wellbeing impact assessment has been completed for the instrument. The Scottish Government has concluded that there is no impact on the rights of children.

Financial Effects
The Minister for Mental Wellbeing, Public Health, Sport, Alcohol and Drugs, confirms that no BRIA is necessary. It is not considered proportionate to undertake a BRIA for the number of businesses that will be impacted by the changes to the size requirements for banning order notices. The new size requirement for the text on age of sale notices ensures that the same size of notice can still be used by retailers when the wording in the statement changes, so there will be minimal impact on business.

Scottish Government
Population Health Directorate

September 2026