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## Health and Sport Committee Comataidh Slàinte is Spòrs

# Subordinate Legislation



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# Health and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Sport.



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# Committee Membership



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Scottish Labour



**Deputy Convener**  
**Clare Haughey**  
Scottish National Party



**Tom Arthur**  
Scottish National Party



**Miles Briggs**  
Scottish Conservative  
and Unionist Party



**Donald Cameron**  
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and Unionist Party



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Scottish National Party



**Colin Smyth**  
Scottish Labour



**Maree Todd**  
Scottish National Party

# **The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft]**

1. The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft] was laid before the Parliament on 23 January 2017 and referred to the Health and Sport Committee.
2. The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to the Parliament whether the Regulations should be approved.
3. This instrument is made by the Scottish Ministers in exercise of the powers confirmed by sections 24 and 40(2) of the Tobacco and Primary Medical Services (Scotland) Act 2010 ("the Act").
4. These Regulations specifically amend the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011 (SSI 2011/23) ("the 2011 Regulations").
5. The 2011 Regulations modify and apply provisions in chapter 2, Part 1 of the Act which creates a registration process in respect of tobacco sales. The modifications were made to take account of the different circumstances surrounding the sale of products in moveable structures. In addition, the 2011 Regulations make provision in respect of fixed penalty notices for offences under chapters 1 and 2 of Part 1 of the Act.
6. Through these Regulations, the sales of nicotine vapour products from moveable premises (such as market stalls or sales vans) will be subject to the same registration requirements as for sales of tobacco products already in place. These Regulations amend the definition of "moveable premises" in the 2011 Regulations to include those premises selling nicotine vapour products.
7. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 31 January 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

## [Delegated Powers and Law Reform Committee, 7th Report, 2017 \(Session 5\)](#)

8. At the Health and Sport Committee's 5th meeting, on the 21 February 2017, the Committee took evidence on the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft] from—
  - Aileen Campbell, Minister for Public Health and Sport;
  - Johanna Irvine, Principal Legal Officer;

- Morris Fraser, Team Leader, Health Improvement: Tobacco Control Policy; and
  - Elaine Mitchell, Senior Policy Officer, Health Improvement: Tobacco Control Policy, Scottish Government.
9. Motion S5M-03790 was lodged by Aileen Campbell, Minister for Public Health and Sport. Following the evidence session, Aileen Campbell moved the motion S5M-03790—

That the Health and Sport Committee recommends that the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft] be approved.

The motion was agreed to.

10. The evidence taken and debate held at the meeting on 21 February 2017 can be found in the Official Report at the following link:

[Official Reports Health and Sport Committee](#)

11. The Health and Sport Committee recommends to Parliament that the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Amendment Regulations 2017 [draft] be approved.

# **The National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft]**

12. The National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft] was laid before the Parliament on 27 January 2017 and referred to the Health and Sport Committee.
13. The National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to the Parliament whether the Order should be approved.
14. The instrument was made in exercise of the powers conferred by sections 10G and 105(7) of the National Health Service (Scotland) Act 1978.
15. Independent clinics were brought within the regulation of Healthcare Improvement Scotland through a series of Scottish statutory instruments (SSIs) which came into force on 1 April 2016. Those SSIs, among other things, amended and commenced provisions in the National Health Service (Scotland) Act 1978. The policy was to ensure that where certain healthcare professionals are working independently from the NHS, they do so in a clinic which is registered.
16. The policy behind this instrument, which makes further amendments to the independent clinic definition, is to ensure all clinics directly provided by the Common Services Agency, NHS National Services Scotland, health boards or special health boards are exempt from regulation by Healthcare Improvement Scotland. This provides assurance that services such as medical practitioners operating in blood donor centres outside hospitals, or registered nurses working in NHS 24 services, or dentists working for a Health Board outside hospitals, are exempt from regulation. These NHS services are exempted as all their services are governed by the clinical governance systems of their Boards.
17. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 7 February 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

## [Delegated Powers and Law Reform Committee, 8th Report, 2017 \(Session 5\)](#)

18. At the Health and Sport Committee's 5th meeting, on the 21 February 2017, the Committee took evidence on the National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft] from the following—
  - Aileen Campbell, Minister for Public Health and Sport;
  - Dr Sara Davies, Public Health Consultant; and
  - Ailsa Garland, Principal Legal Officer, Scottish Government.
- 19.



Motion S5M-03893 was lodged by Shona Robison, Cabinet Secretary for Health and Sport and supported by Aileen Campbell, Minister for Public Health and Sport and Maureen Watt, Minister for Mental Health. Following the evidence session, Aileen Campbell moved the motion S5M-03893—

That the Health and Sport Committee recommends that the National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft] be approved.

The motion was agreed to.

20. The evidence taken and debate held at the meeting on 21 February 2017 can be found in the Official Report at the following link:

[Official Reports Health and Sport Committee](#)

21. The Health and Sport Committee recommends to Parliament that the National Health Service (Scotland) Act 1978 (Independent Clinic) Amendment Order 2017 [draft] be approved.

