STATUTORY INSTRUMENTS

2015 No. 895

PUBLIC HEALTH, ENGLAND AND WALES

The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

Made - - - - 25th March 2015

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 92(1), (6) and (7), 93(8) and 135(2) of the Children and Families Act 2014(**1**).

In accordance with section 135(6) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

In accordance with section 92(8) of that Act, the Secretary of State makes this instrument with the consent of the Welsh Ministers.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015.

(2) Regulations 1 and 2 come into force on the day after the day on which these Regulations are made.

(3) Regulations 3 to 7 come into force on 1st October 2015.

(4) In these Regulations—

"marketing authorisation" has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012(**2**);

"medical device" has the meaning given by regulation 2(1) of the Medical Devices Regulations 2002(**3**);

"medicinal product" has the meaning given by regulation 2(1) of the Human Medicines Regulations 2012;

"nicotine cartridge" means a cartridge which—

(a) contains a substance which is not tobacco but consists of, or contains, nicotine(**4**), and

(**1**) 2014 c.6. See section 92(12) for the meaning of "specified".
(**2**) S.I. 2012/1916. .Relevant amendments were made by S.I. 2013/235, 1855, 2593, 2014/490, 1878.
(**3**) S.I. 2002/618. Relevant amendments were made by S.I 2008/2936.
(**4**) See the definition of "tobacco" at section 92(12) of the Children and Families Act 2014.

(b) is intended to form part of a nicotine inhaling device;

"nicotine inhaling device" means a device which—

(a) is intended to enable nicotine to be inhaled through a mouth piece (regardless of whether the device is also intended to enable any other substance to be inhaled through a mouth piece), but

(b) is not tobacco, cigarette papers or a device intended to be used for the consumption of lit tobacco;

"nicotine inhaling product" means a nicotine inhaling device, nicotine cartridge or nicotine refill substance;

"nicotine refill substance" means a substance which—

(a) is not tobacco but consists of, or contains, nicotine, and

(b) is intended to be used to refill a nicotine inhaling device;

"parallel import licence" has the meaning given by regulation 48(2) of the Human Medicines Regulations 2012;

"prescription only medicine" has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012.

Proxy purchase of nicotine products

2.—(1) Section 91 of the Children and Families Act 2014 (purchase of tobacco etc. on behalf of persons under 18) is amended in accordance with paragraphs (2) to (4).

(2) In the heading, before "etc." insert ", nicotine products".

(3) In subsection (1), for "or cigarette papers" substitute ", cigarette papers or a relevant nicotine product".

(4) After subsection (7) add—

"(8) In this section "relevant nicotine product" means a nicotine product within the meaning of section 92 the sale of which at the same time and in the same circumstances to the individual aged under 18 would be prohibited by regulations for the time being in force under subsection (1) of that section.".

Prohibition of sale of nicotine inhaling products to persons aged under 18

3. The sale of nicotine inhaling products to persons aged under 18 is prohibited, except where regulation 4 or 5 applies.

Exception for sales of medicines and medical devices in accordance with a prescription etc.

4.—(1) This regulation applies to the sale of a nicotine inhaling product where—

(a) the nicotine inhaling product is a medicinal product or a medical device; and

(b) the circumstances of the sale are such that it would be permitted under Part 12 of the Human Medicines Regulations 2012 (dealings with medicinal products) if the nicotine inhaling product were a prescription only medicine.

(2) For the purposes of paragraph (1)(b), Part 12 of the Human Medicines Regulations 2012 is to be read as if regulation 244 (exemption in cases involving another's default) were omitted.

Exception for medicines indicated for the treatment of persons aged under 18

5.—(1) This regulation applies to the sale of a nicotine inhaling product which—