



Number 47 of 2024

Public Health (Tobacco) (Amendment) Act 2024



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[No. 47.]

Public Health (Tobacco) (Amendment) Act 2024.

[2024.]

ACTS REFERRED TO

Intoxicating Liquor Act 1988 (No. 16)

Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023 (No. 35)

Public Health (Tobacco) Act 2002 (No. 6)

Public Health (Tobacco) Acts 2002 to 2023



Number 47 of 2024

Public Health (Tobacco) (Amendment) Act 2024

An Act to prohibit the sale by retail of tobacco products to persons under the age of 21 years; and for those and other related purposes, to amend the Public Health (Tobacco) Act 2002 and the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023; and to provide for related matters. [13th November, 2024]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Act of 2002” means the Public Health (Tobacco) Act 2002;

“Act of 2023” means the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023.

Amendment of section 54 of Act of 2002

2. Section 54 of the Act of 2002 is amended, in subsection (12)(c), by the substitution of “28, 28A,” for “28”.

Amendment of section 55 of Act of 2002

3. Section 55 of the Act of 2002 is amended, in subsection (13)(b), by the substitution of “28, 28A” for “28”.

Amendment of section 2 of Act of 2023

4. Section 2 of the Act of 2023 is amended by the insertion of the following definition:

“ ‘age card’ has the same meaning as it has in Part IV of the Intoxicating Liquor Act 1988;”.

Prohibition on sale of nicotine inhaling products to child

5. The Act of 2023 is amended by the substitution of the following section for section 28:

“28. (1) A person shall not sell by retail, or cause to be sold by retail, a nicotine inhaling product to a child.

(2) A person who contravenes subsection (1) commits an offence.

- (3) In proceedings against a person for an offence under subsection (2), it shall be a defence for such person to prove that the child to whom the alleged offence relates produced to him or her—
- (a) an age card,
 - (b) a passport, or
 - (c) a driving licence,
- for the time being in force, relating to that child.”.

Prohibition on sale of tobacco products to person under age of 21 years

6. The Act of 2023 is amended by the insertion of the following section after section 28:

- “28A. (1) A person shall not sell by retail, or cause to be sold by retail, a tobacco product to a person under the age of 21 years.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) In proceedings against a person for an offence under subsection (2), it shall be a defence for such person to prove that the person under the age of 21 years to whom the alleged offence relates produced to him or her—
- (a) an age card,
 - (b) a passport, or
 - (c) a driving licence,
- for the time being in force, relating to that person under the age of 21 years.”.

Amendment of section 33 of Act of 2023

7. Section 33 of the Act of 2023 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) An authorised officer may, in the course of his or her duty as such officer and in accordance with guidelines issued under subsection (2), send a person who is at least 15 years of age but under 18 years of age into a premises at which nicotine inhaling products are for sale by retail for the purpose of the person purchasing nicotine inhaling products on those premises if, but only if—

 - (a) the parent or guardian of the person has consented in writing to him or her being sent into those premises for that purpose, and
 - (b) the authorised officer is satisfied that all reasonable steps have been or will be taken to avoid harm to the welfare of the person.”,
- (b) by the insertion of the following subsection after subsection (1):

“(1A) An authorised officer may, in the course of his or her duty as such officer and in accordance with guidelines issued under subsection (2), send a person who is at least 15 years of age but under 21 years of age into a premises at which tobacco products are for sale by retail for the purpose of the person purchasing tobacco products on those premises if, but only if—

- (a) in the case of a person who is aged between 15 and 18 years old, the parent or guardian of the person has consented in writing to him or her being sent into those premises for that purpose, and
- (b) in all cases, the authorised officer is satisfied that all reasonable steps have been or will be taken to avoid harm to the welfare of the person.”,

and

(c) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (a):

“(a) prohibiting any active instigation of a contravention of section 28 or 28A such as a false representation, whether made orally or by means of the production of any document, that a person is—

- (i) in the case of section 28, over the age of 18 years, and
- (ii) in the case of section 28A, over the age of 21 years, and”,

and

(ii) in paragraph (b)(iii), by the substitution of “section 28 or 28A” for “section 28”.

Amendment of section 35 of Act of 2023

8. Section 35 of the Act of 2023 is amended, in subsection (1), by the substitution of “27(3), 28(2) or 28A(2)” for “27(3) or 28(2)”.

Amendment of section 39 of Act of 2023

9. Section 39 of the Act of 2023 is amended, in subsection (5)(a), by the substitution of “26(3), 28(2) or 28A(2)” for “26(3) or 28(2)”.

Amendment of section 45 of Act of 2023

10. Section 45 of the Act of 2023 is amended by the substitution of the following paragraph for paragraph (d):

“(d) by the substitution of the following subsections for subsection (4):

‘(4) Subject to subsections (4A) and (4B) and the European Communities (Requirements to Indicate Product Prices)

Regulations 2002 (S.I. No. 639 of 2002), a licensee shall ensure that—

- (a) no notice, sign or display shall be displayed, and
 - (b) no leaflet, circular, pamphlet or brochure shall be issued to the public or given to a purchaser of a product,
at any place, indicating that tobacco products may be purchased at the premises concerned.
- (4A) Notwithstanding subsection (4) and subject to subsection (4B), a sign may be displayed indicating that tobacco products may be purchased at the premises concerned in such manner and form as may be prescribed by regulations made by the Minister.
- (4B) A sign under subsection (4A)—
- (a) shall, on or before 31 January 2028, inform the public that tobacco products may be sold at the premises to persons who have attained the age of 18 years,
 - (b) shall, on or after 1 February 2028, inform the public that tobacco products may be sold at the premises to persons who have attained the age of 21 years, and
 - (c) may provide such other information as may be prescribed.’.”.

Short title, collective citation and commencement

- 11.** (1) This Act may be cited as the Public Health (Tobacco) (Amendment) Act 2024.
- (2) The Public Health (Tobacco) Acts 2002 to 2023 and this Act may be cited as the Public Health (Tobacco) Acts 2002 to 2024.
- (3) Subject to *subsection (4)*, this Act shall come into operation on 1 February 2028.
- (4) *Section 10* shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.