

Tobacco and Vapes Bill

[AS AMENDED IN COMMITTEE]

CONTENTS

PART 1

SALE AND DISTRIBUTION: ENGLAND AND WALES

Tobacco etc

- 1 Sale of tobacco etc
- 2 Purchase of tobacco etc on behalf of others
- 3 Tobacco vending machines
- 4 Sale of un-packaged cigarettes
- 5 Age of sale notice at point of sale: England
- 6 Age of sale notice at point of sale: Wales

Vaping and nicotine products

- 7 Sale of vaping products to under 18s
- 8 Purchase of vaping products on behalf of under 18s
- 9 Free distribution of vaping products to under 18s
- 10 Power to extend vaping provisions to nicotine products
- 11 Displays of vaping and nicotine products

Restricted premises orders

- 12 Restricted premises orders
- 13 Restricted premises orders: interested persons
- 14 Breach of restricted premises orders
- 15 Power to extend restricted premises orders

Restricted sale orders

- 16 Restricted sale orders
- 17 Breach of restricted sale orders

Offences by bodies

- 18 Liability of others for certain offences committed by bodies

Enforcement functions

- 19 Enforcement by local weights and measures authorities
- 20 Programme of enforcement: England
- 21 Programme of enforcement: Wales

Powers of ministers to take over enforcement

- 22 Power of ministers to take over enforcement functions
- 23 Power of ministers to take over proceedings

Fixed penalties

- 24 Fixed penalty notices
- 25 Fixed penalties: use of proceeds
- 26 Power to change amount of fixed penalties

Handing over tobacco etc to underage people in Wales

- 27 Handing over tobacco etc to underage people in Wales

Consequential, transitional and transitory provision

- 28 Consequential amendments to do with this Part
- 29 Power to make consequential provision
- 30 Application of programmes of enforcement to old offences
- 31 Application of fixed penalty regime to old offences
- 32 Transitional provision: general

Crown application

- 33 Crown application

Interpretation etc

- 34 Interpretation of Part 1
- 35 Meaning of “nicotine product”
- 36 Alignment of definition of “tobacco product” in other legislation

PART 2

SALE AND DISTRIBUTION: SCOTLAND

Tobacco etc

- 37 Age of sale for tobacco products etc
- 38 Sale of unpackaged cigarettes
- 39 Repeal of offence of purchasing tobacco products by under 18s
- 40 Repeal of power to confiscate tobacco products from persons under 18
- 41 Extension of tobacco legislation to herbal smoking products
- 42 Power to make provision about warning statements

Vaping and nicotine products

- 43 Power to regulate nicotine products
- 44 Free distribution of nicotine products
- 45 Displays of vaping and nicotine products

Miscellaneous and consequential provision

- 46 Alignment of definitions
- 47 Power to make consequential provision

PART 3

SALE AND DISTRIBUTION: NORTHERN IRELAND

Tobacco etc

- 48 Age of sale for tobacco products etc
- 49 Power to restrict tobacco offences to sale by retail
- 50 Power to make provision about warning statements

Vaping and nicotine products

- 51 Power to regulate non-nicotine vapes etc
- 52 Power to restrict nicotine products offence to sale by retail
- 53 Free distribution of vapes and nicotine products
- 54 Power to regulate displays of vaping and nicotine products
- 55 Consequential amendments to do with sections 51 to 54

Enforcement

- 56 Power to extend restricted premises orders

Consequential provision

- 57 Power to make consequential provision

PART 4

PRODUCT REQUIREMENTS

Tobacco product requirements

- 58 Tobacco retail packaging
- 59 Flavour of tobacco products
- 60 Other tobacco product requirements

Vaping and nicotine product requirements

- 61 Retail packaging of vaping products and nicotine products
- 62 Contents and flavour of vaping products and nicotine products
- 63 Other product requirements of vaping and nicotine products

Supplementary

- 64 Power to include provision about enforcement
- 65 Power to make provision binding the Crown
- 66 Power to amend other legislation
- 67 Consent to regulations under Part 4
- 68 Consequential repeal

Interpretation

- 69 Interpretation of Part 4
- 70 Meaning of “nicotine product”

PART 5

NOTIFICATION REQUIREMENTS ETC FOR VAPING AND NICOTINE PRODUCTS

- 71 Extension of notification requirements etc
- 72 Power to amend information to be notified
- 73 Exceptions to publication
- 74 Consent to regulations under Part 5

PART 6

GENERAL

- 75 Application to Parliament
- 76 Regulations: general
- 77 Regulations: procedure
- 78 Extent
- 79 Commencement
- 80 Transitional provision
- 81 Citation

-
- Schedule 1 – Handing over tobacco etc to underage people in Wales
 - Schedule 2 – Part 1 consequential amendments commencing after 2 months
 - Schedule 3 – Part 1 consequential amendments commencing after 6 months
 - Schedule 4 – Part 1 consequential amendments commencing on 1 January 2027
 - Schedule 5 – Consequential amendments to do with sections 51 to 54

[AS AMENDED IN COMMITTEE]

A

B I L L

TO

Make provision about the supply of tobacco, vapes and other products, including provision prohibiting the sale of tobacco to people born on or after 1 January 2009; and to enable product requirements to be imposed in connection with tobacco, vapes and other products.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

SALE AND DISTRIBUTION: ENGLAND AND WALES

Tobacco etc

1 Sale of tobacco etc

- (1) It is an offence to sell any of the following to a person born on or after 1 January 2009— 5
- (a) a tobacco product;
 - (b) a herbal smoking product;
 - (c) cigarette papers.
- (2) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to avoid the commission of the offence. 10
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

2 Purchase of tobacco etc on behalf of others 15

- (1) It is an offence for a person aged 18 or over to buy, or attempt to buy, any of the following on behalf of a person born on or after 1 January 2009—
- (a) a tobacco product;
 - (b) a herbal smoking product;
 - (c) cigarette papers. 20

-
- (2) It is a defence for a person charged with an offence under this section to prove that they had no reason to suspect that the other person was born on or after 1 January 2009.
- (3) It is a defence for a person charged with an offence under this section in respect of cigarette papers to prove that they had no reason to suspect that the other person intended to use the papers for smoking. 5
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- 3 Tobacco vending machines**
- (1) A person commits an offence if the person has the management or control of premises on which a tobacco vending machine is available for use. 10
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) In this section “tobacco vending machine” means an automatic machine for the sale of— 15
- (a) tobacco products, or
 - (b) herbal smoking products.
- 4 Sale of unpackaged cigarettes**
- (1) It is an offence for a tobacco retailer to sell cigarettes that are not in their original packaging. 20
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section “original packaging” means the retail packaging in which the cigarettes were supplied to the tobacco retailer for the purpose of sale.
- 5 Age of sale notice at point of sale: England** 25
- (1) A tobacco retailer who sells tobacco products at premises in England must display an age of sale notice at those premises.
- (2) For the purposes of this section an “age of sale notice” is a notice containing the following statement— 30
- “It is illegal to sell tobacco products to anyone born on or after 1 January 2009”.
- (3) The notice must be displayed in a prominent position where it is readily visible to people at each point of sale of tobacco products.
- (4) The notice must comply with any requirements set out in regulations made by the Secretary of State as to the size or appearance of— 35
- (a) the statement to be displayed on the notice, or
 - (b) any other aspect of the notice.

- (5) Regulations under subsection (4) are subject to the negative resolution procedure.
- (6) A person who fails to display an age of sale notice as required by this section commits an offence.
- (7) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to avoid the commission of the offence. 5
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 6 Age of sale notice at point of sale: Wales** 10
- (1) A tobacco retailer who sells tobacco products at premises in Wales must display an age of sale notice at those premises.
- (2) For the purposes of this section an “age of sale notice” is a notice containing both the following statements –
- “It is illegal to sell tobacco products to anyone born on or after 1 January 2009”;
- “Mae’n anghyfreithlon gwerthu cynhyrchion tybaco i unrhyw un a anwyd ar neu ar ôl 1 Ionawr 2009”.
- 15
- (3) The notice must be displayed in a prominent position where it is readily visible to people at each point of sale of tobacco products. 20
- (4) The notice must comply with any requirements set out in regulations made by the Welsh Ministers as to the size or appearance of –
- (a) the statement to be displayed on the notice, or
- (b) any other aspect of the notice.
- (5) Regulations under subsection (4) are subject to the negative resolution procedure. 25
- (6) A person who fails to display an age of sale notice as required by this section commits an offence.
- (7) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to avoid the commission of the offence. 30
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Vaping and nicotine products

- 7 Sale of vaping products to under 18s** 35
- (1) It is an offence to sell a vaping product to a person who is under the age of 18.

- (2) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to avoid the commission of the offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale. 5

8 Purchase of vaping products on behalf of under 18s

- (1) It is an offence for a person aged 18 or over to buy, or attempt to buy, a vaping product on behalf of a person who is under the age of 18.
- (2) It is a defence for a person charged with an offence under this section to prove that they had no reason to suspect that the other person was under the age of 18. 10
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

9 Free distribution of vaping products to under 18s

- (1) A person commits an offence if, in the course of business, the person— 15
- (a) gives away a vaping product, or a coupon for a vaping product, to someone who is under the age of 18, or
 - (b) causes or permits that to happen.
- (2) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to avoid the commission of the offence. 20
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In this section “coupon for a vaping product” means anything (whether in physical or electronic form) which, by itself or not, can be redeemed for a vaping product. 25

10 Power to extend vaping provisions to nicotine products

- (1) The appropriate national authority may by regulations amend any of the following sections so that it applies in relation to some or all nicotine products as it applies in relation to vaping products— 30
- section 7 (sale of products to under 18s);
 - section 8 (purchase of products on behalf of under 18s);
 - section 9 (free distribution of products to under 18s).
- (2) The consequential provision that may be made by regulations under this section by virtue of section 76(1)(a) includes provision amending any provision of this Part. 35
- (3) Regulations under this section are subject to the affirmative resolution procedure.

- (4) In this section “the appropriate national authority” means –
- (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Welsh Ministers.

11 Displays of vaping and nicotine products

- (1) The Secretary of State may by regulations impose prohibitions, requirements or limitations on retailers in relation to – 5
- (a) the display, in the course of business, of vaping products or nicotine products in a place in England where the products are offered for sale;
 - (b) the display, in the course of business, of empty retail packaging for vaping products or nicotine products in a place in England where the products are offered for sale; 10
 - (c) the display, in the course of business, of prices of vaping products or nicotine products in a place in England where the products are offered for sale. 15
- (2) The Welsh Ministers may by regulations impose prohibitions, requirements or limitations on retailers in relation to –
- (a) the display, in the course of business, of vaping products or nicotine products in a place in Wales where the products are offered for sale;
 - (b) the display, in the course of business, of empty retail packaging for vaping products or nicotine products in a place in Wales where the products are offered for sale; 20
 - (c) the display, in the course of business, of prices of vaping products or nicotine products in a place in Wales where the products are offered for sale. 25
- (3) In subsections (1)(a) and (2)(a) a reference to a vaping product or nicotine product includes anything that represents such a product and that is intended to be exchanged for the product at the point of sale.
- (4) Regulations under subsection (1) or (2) may create offences in relation to a failure to comply with the regulations. 30
- (5) The regulations must provide for any offence to be triable either way and punishable –
- (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both. 35
- (6) Regulations under this section are subject to the affirmative resolution procedure.

*Restricted premises orders***12 Restricted premises orders**

- (1) Where a person convicted of a relevant offence is a persistent offender, the person who brought the proceedings for the offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which the offence was committed ("the relevant premises"). 5
- (2) A magistrates' court may make the restricted premises order only if satisfied that the applicant has complied with section 13(1) (notice to interested persons). 10
- (3) A "restricted premises order" is an order prohibiting the sale on the relevant premises of any one or more of the following –
- (a) tobacco products,
 - (b) herbal smoking products,
 - (c) cigarette papers, 15
 - (d) vaping products, and
 - (e) any nicotine products the sale of which to people aged under 18 is for the time being prohibited by section 7 (for the power to extend that section to nicotine products, see section 10).
- (4) The prohibition imposed by a restricted premises order applies to sales whether made – 20
- (a) by the offender or any other person, or
 - (b) by means of any machine kept on the premises or any other means.
- (5) A restricted premises order has effect for the period specified in the order, which may not exceed one year. 25
- (6) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.
- (7) A person convicted of a relevant offence is a "persistent offender" for the purposes of this section if, on at least two other occasions within the period of two years ending with the date of the offence, the person committed a relevant offence in relation to the relevant premises. 30
- (8) In this section "relevant offence" means –
- (a) an offence under any of the following provisions of this Part –
 - (i) section 1 (sale of tobacco to people born on or after 1 January 2009); 35
 - (ii) section 3 (tobacco vending machines);
 - (iii) section 7 (sale of vaping products to under 18s);
 - (b) an offence under any of the following before their repeal by this Act –
 - (i) section 7 of the Children and Young Persons Act 1933 (sale of tobacco, etc., to under 18s); 40

- (ii) section 3A of the Children and Young Persons (Protection from Tobacco) Act 1991 (tobacco vending machines);
- (iii) section 92 of the Children and Families Act 2014 (sale of nicotine products to under 18s).

13 Restricted premises orders: interested persons 5

- (1) An applicant for a restricted premises order must, after making reasonable enquiries, give notice of the application to anyone appearing to the applicant to be an interested person.
- (2) An interested person may make representations to the court as to why the order should not be made. 10
- (3) If a restricted premises order is made without an interested person having been given a notice under subsection (1), and without them having made representations to the court, the person may by complaint apply to the court for an order varying or discharging the restricted premises order.
- (4) On an application under subsection (3) the court may, after hearing the interested person and the applicant for the restricted premises order, make such order varying or discharging the restricted premises order as it considers appropriate. 15
- (5) In this section “interested person”, in relation to an application for a restricted premises order, means – 20
 - (a) the occupier of the premises, and
 - (b) any other person who has an interest in the premises.

14 Breach of restricted premises orders

- (1) A person commits an offence if the person –
 - (a) sells anything on premises in breach of a restricted premises order, 25
 - and
 - (b) knows, or ought reasonably to know, that the sale is in breach of the order.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine. 30

15 Power to extend restricted premises orders

- (1) The Secretary of State may by regulations amend section 12 so as to add an offence to the definition of “relevant offence” where that offence is committed on premises in England.
- (2) The Welsh Ministers may by regulations amend section 12 so as to add an offence to the definition of “relevant offence” where that offence is committed on premises in Wales. 35

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- (3) Regulations may be made under subsection (1) or (2) only if the additional offence relates to tobacco products, herbal smoking products, cigarette papers, vaping products or nicotine products.
- (4) Before making regulations under this section, the Secretary of State or Welsh Ministers must— 5
- (a) consider whether there are any persons who appear to be representative of the interests of those likely to have an interest in the regulations, and
- (b) if there are, consult any of those persons whom the Secretary of State or Welsh Ministers consider it appropriate to consult. 10
- (5) Regulations under this section are subject to the affirmative resolution procedure.

Restricted sale orders

16 Restricted sale orders

- (1) Where a person convicted of a relevant offence is a persistent offender, the person who brought the proceedings for the offence may by complaint to a magistrates' court apply for a restricted sale order against the offender. 15
- (2) A “restricted sale order” is an order prohibiting the offender –
- (a) selling any one or more of the following— 20
- (i) tobacco products,
- (ii) herbal smoking products,
- (iii) cigarette papers,
- (iv) vaping products, and
- (v) any nicotine products the sale of which to people aged under 18 is for the time being prohibited by section 7 (for the power to extend that section to nicotine products, see section 10), 25
- (b) from having any management functions in respect of any premises in so far as those functions relate to the sale of anything listed in paragraph (a)(i) to (v),
- (c) from keeping any machine on any premises for the purpose of selling anything listed in paragraph (a)(i) to (v) or permitting any machine to be kept on any premises by any other person for that purpose, and 30
- (d) from having any management functions in respect of any premises in so far as those functions relate to any machine kept on the premises for the purpose of selling anything listed in paragraph (a)(i) to (v). 35
- (3) A restricted sale order has effect for the period specified in the order, which may not exceed one year.
- (4) A person convicted of a relevant offence is a “persistent offender” for the purposes of this section if, on at least two other occasions within the period of two years ending with the date of the offence, the person committed a relevant offence. 40

- (5) In this section “relevant offence” means –
- (a) an offence under any of the following provisions of this Part –
 - (i) section 1 (sale of tobacco to people born on or after 1 January 2009);
 - (ii) section 3 (tobacco vending machines); 5
 - (iii) section 7 (sale of vaping products to under 18s);
 - (b) an offence under any of the following before their repeal by this Act –
 - (i) section 7 of the Children and Young Persons Act 1933 (sale of tobacco, etc., to under 18s);
 - (ii) section 3A of the Children and Young Persons (Protection from Tobacco) Act 1991 (tobacco vending machines); 10
 - (iii) section 92 of the Children and Families Act 2014 (sale of nicotine products to under 18s).

17 Breach of restricted sale orders

- (1) A person who fails to comply with a restricted sale order commits an offence. 15
- (2) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable steps to avoid the commission of the offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine. 20

Offences by bodies

18 Liability of others for certain offences committed by bodies

- (1) Where an offence under section 14 is committed by a body and the offence is committed with the consent or connivance of a relevant person in relation to the body, or a person purporting to act in the capacity of a relevant person in relation to the body, the person (as well as the body) commits the offence and is liable to be proceeded against and punished accordingly. 25
- (2) Where any other offence under this Part, or under any regulations under section 11 –
 - (a) is committed with the consent or connivance of a relevant person in relation to the body, or a person purporting to act in the capacity of a relevant person in relation to the body, or 30
 - (b) is attributable to neglect on the part of such a person, the person (as well as the body) commits the offence and is liable to be proceeded against and punished accordingly. 35
- (3) In this section –
 - “body” means –
 - (a) a body corporate,
 - (b) a partnership, or

- (c) an unincorporated association;
- “relevant person” means –
- (a) in relation to a body corporate other than one whose affairs are managed by its members, a director, manager, secretary or other similar officer of the body; 5
 - (b) in relation to a limited liability partnership or other body corporate whose affairs are managed by its members, a member who exercises functions of management with respect to it;
 - (c) in relation to a limited partnership, a general partner (within the meaning given by section 3 of the Limited Partnerships Act 1907); 10
 - (d) in relation to any other partnership, a partner;
 - (e) in relation to an unincorporated association, a person who exercises functions of management with respect to it.

Enforcement functions 15

19 Enforcement by local weights and measures authorities

- (1) It is the duty of each local weights and measures authority to enforce within its area the provisions of this Part and any regulations under section 11.
- (2) In Schedule 5 to the Consumer Rights Act 2015 (investigatory powers), in paragraph 10 (enforcer’s legislation), at the appropriate place (according to date of enactment) insert – 20

“section 19 of the Tobacco and Vapes Act 2024.”

20 Programme of enforcement: England

- (1) Each local weights and measures authority in England must, at least once a year, consider – 25
 - (a) whether it is appropriate to carry out a programme of enforcement action in its area, and
 - (b) if so, what that programme should involve.
- (2) For the purposes of subsection (1), a programme of enforcement action is a programme involving one or more of the following – 30
 - (a) the investigation of complaints in respect of an alleged offence under this Part or any regulations under section 11;
 - (b) the bringing of prosecutions in respect of such an offence;
 - (c) the taking of other measures intended to reduce the incidence of such offences. 35

21 Programme of enforcement: Wales

- (1) Each local weights and measures authority in Wales must, at least once a year, consider –

- (a) whether it is appropriate to carry out a programme of enforcement action in its area, and
 - (b) if so, what that programme should involve.
- (2) For the purposes of subsection (1), a programme of enforcement action is a programme involving one or more of the following— 5
- (a) the investigation of complaints in respect of an alleged offence that is a listed offence;
 - (b) the bringing of prosecutions in respect of a listed offence;
 - (c) the taking of other measures intended to reduce the incidence of listed offences. 10
- (3) In this section “listed offence” means—
- (a) an offence under any provision of this Part or regulations under section 11, or
 - (b) an offence under either of the following provisions of the Public Health (Wales) Act 2017 (anaw 2)— 15
 - section 51A (offence of handing over tobacco etc. to people born on or after 1 January 2009),
 - section 52 (offence of handing over vaping or nicotine products to under 18s).

Powers of ministers to take over enforcement 20

22 Power of ministers to take over enforcement functions

- (1) The Secretary of State may direct that, in relation to cases of a particular description or a particular case, the duty imposed by section 19(1) on a local weights and measures authority in England is to be discharged by the Secretary of State and not by the authority. 25
- (2) The Welsh Ministers may direct that, in relation to cases of a particular description or a particular case, the duty imposed by section 19(1) on a local weights and measures authority in Wales is to be discharged by the Welsh Ministers and not by the authority.

23 Power of ministers to take over proceedings 30

- (1) The Secretary of State may take over the conduct of any proceedings from a local weights and measures authority in England in respect of an offence committed under this Part or any regulations under section 11.
- (2) The Welsh Ministers may take over the conduct of any proceedings from a local weights and measures authority in Wales in respect of an offence committed under this Part or any regulations under section 11. 35

*Fixed penalties***24 Fixed penalty notices**

- (1) A local weights and measures authority that has reason to believe that a person has committed an offence under any of the following provisions of this Part may give the person a fixed penalty notice in respect of the offence— 5
- section 1 (sale of tobacco to people born on or after 1 January 2009);
 - section 2 (purchase of tobacco on behalf of others);
 - section 7 (sale of vaping products to under 18s);
 - section 8 (purchase of vaping products on behalf of under 18s);
 - section 9 (free distribution of vaping products to under 18s). 10
- (2) A fixed penalty notice is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by payment of an amount specified in the notice within the relevant period.
- (3) The amount specified in a fixed penalty notice must be £100.
- (4) For the purposes of this section “the relevant period” is the period of 28 days beginning with the day on which the fixed penalty notice is given. 15
- (5) A fixed penalty notice must explain—
- (a) that the local weights and measures authority giving the notice is satisfied that the person has committed the offence, and why,
 - (b) the effect of subsection (6), and 20
 - (c) when and how payment may be made.
- (6) Where a fixed penalty notice has been given to a person (and has not been withdrawn)—
- (a) no proceedings may be instituted for the offence before the end of the relevant period, and 25
 - (b) the person may not be convicted of the offence if the person pays—
 - (i) the full amount of the fixed penalty in the notice before the end of the relevant period, or
 - (ii) 50% of that amount before the end of the period of 14 days beginning with the day on which the relevant period starts. 30
- (7) Where proceedings are instituted for the offence after the end of the relevant period, that period is to be disregarded for the purposes of calculating the period mentioned in section 127(1) of the Magistrates’ Court Act 1980.
- (8) A fixed penalty notice given under this section may be withdrawn by the local weights and measures authority that gave it at any time before a payment is made in pursuance of the notice. 35

25 Fixed penalties: use of proceeds

Any sums received by a local weights and measures authority in pursuance of a fixed penalty notice given under section 24 must be used in connection with their functions under or under regulations made under –

- (a) this Act; 5
- (b) the Tobacco Advertising and Promotion Act 2002;
- (c) Part 1 of the Health Act 2006 (smoke-free premises);
- (d) the Tobacco and Related Products Regulations 2016 (S.I. 2016/507).

26 Power to change amount of fixed penalties

- (1) The Secretary of State may by regulations amend section 24 in relation to the giving of fixed penalty notices by local weights and measures authorities in England so as to – 10
 - (a) change the amount which must be specified in notices, or
 - (b) change the percentage discount for early payment.
- (2) The Welsh Ministers may by regulations amend section 24 in relation to the giving of fixed penalty notices by local weights and measures authorities in Wales so as to – 15
 - (a) change the amount which must be specified in notices, or
 - (b) change the percentage discount for early payment.
- (3) Regulations under this section are subject to the affirmative resolution procedure. 20

Handing over tobacco etc to underage people in Wales

27 Handing over tobacco etc to underage people in Wales

Schedule 1 contains amendments to Chapter 4 of Part 3 of the Public Health (Wales) Act 2017 (anaw 2) (handing over tobacco, cigarettes and nicotine products to persons under 18), including – 25

- (a) amendments extending that Chapter to all vaping products, and
- (b) amendments that are consequential on this Part.

Consequential, transitional and transitory provision

28 Consequential amendments to do with this Part 30

- (1) See Schedule 2 for consequential amendments coming into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (2) See Schedule 3 for consequential amendments coming into force at the end of the period of 6 months beginning with the day on which this Act is passed.
- (3) See Schedule 4 for consequential amendments coming into force on 1 January 2027. 35

29 Power to make consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on this Part.
- (2) Regulations under this section may amend, repeal or revoke provision made by or under – 5
- (a) an Act passed –
- (i) before this Act, or
- (ii) later in the same session of Parliament as this Act, or
- (b) an Act or Measure of Senedd Cymru passed before this Act.
- (3) Regulations under this section that amend or repeal any provision of an Act, or an Act of Measure of Senedd Cymru, are subject to the affirmative resolution procedure. 10
- (4) Any other regulations under this section are subject to the negative resolution procedure.

30 Application of programmes of enforcement to old offences 15

- (1) Sections 20 and 21 have effect in relation to times before the end of the period of 6 months beginning with the day on which this Act is passed as if subsection (2) of each of those sections included a reference to an offence under section 92 of the Children and Families Act 2014 (sale of nicotine products to under 18s). 20
- (2) Sections 20 and 21 have effect in relation to times before 1 January 2027 as if subsection (2) of each of those sections included a reference to –
- (a) an offence under section 7 of the Children and Young Persons Act 1933 (sale of tobacco, etc., to under 18s);
- (b) an offence under section 3 of the Children and Young Persons (Protection from Tobacco) Act 1991 (sale of unpackaged cigarettes); 25
- (c) an offence under section 4 of the Children and Young Persons (Protection from Tobacco) Act 1991 (age of sale notices).

31 Application of fixed penalty regime to old offences

- (1) Section 24 has effect in relation to times before the end of the period of 6 months beginning with the day on which this Act is passed as if subsection (1) of that section included a reference to section 92 of the Children and Families Act 2014 (prohibition of sale of nicotine products to under 18s). 30
- (2) Section 24 has effect in relation to times before 1 January 2027 as if subsection (1) of that section included a reference to – 35
- (a) section 7 of the Children and Young Persons Act 1933 (sale of tobacco, etc. to persons under eighteen);
- (b) section 91 of the Children and Families Act 2014 (purchase of tobacco etc. on behalf of under 18s).

- (3) Section 25 has effect in relation to times before 1 January 2027 as if it included a reference to section 91 of the Children and Families Act 2014 (purchase of tobacco etc. on behalf of under 18s).

32 Transitional provision: general

- (1) In relation to times before the end of the period of 6 months beginning with the day on which this Act is passed— 5
- (a) sections 12(8), 16(5) and 24(1) have effect as if they did not include a reference to section 7 or 8;
 - (b) a reference in section 18(2), 19(1), 20(2), 21(3), 23(1) or (2) to “this Part” does not include section 7 or 8. 10
- (2) In relation to times before 1 January 2027—
- (a) sections 12(8), 16(5) and 24(1) have effect as if they did not include a reference to any of sections 1 to 3, 5 or 6;
 - (b) a reference in section 18(2), 19(1), 20(2), 21(3), 23(1) or (2) to “this Part” does not include any of sections 1 to 6. 15
- (3) In relation to times before section 51A of the Public Health (Wales) Act 2017 (anaw 2) comes into force, section 21(3) has effect as if it did not include a reference to that section.
- (4) In relation to times before section 52 of the Public Health (Wales) Act 2017 (anaw 2) comes into force, section 21(3) has effect as if it did not include a reference to that section. 20

Crown application

33 Crown application

- (1) This Part and regulations made under it bind the Crown.
- (2) Nothing in this Part or regulations made under it makes the Crown criminally liable. 25
- (3) The High Court may declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (2).
- (4) Subsection (2) does not affect the criminal liability of persons in the service of the Crown. 30

Interpretation etc

34 Interpretation of Part 1

In this Part—

- “cigarette papers” includes anything intended to be used for encasing tobacco products or herbal smoking products for the purpose of enabling them to be smoked; 35

- “herbal smoking product” means a product consisting wholly or partly of vegetable matter and intended to be smoked but not containing tobacco;
- “medical device” has the meaning given by the Medical Devices Regulations 2002 (S.I. 2002/618); 5
- “medicinal product” has the meaning given by the Human Medicines Regulations 2012 (S.I. 2012/1916);
- “nicotine product” has the meaning given by section 35;
- “premises” means any place (including a vehicle or moveable structure);
- “retail packaging”, in relation to a product, means the packaging in which it is, or is intended to be, presented for sale by retail; 10
- “sell” means sell by retail;
- “tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way; 15
- “tobacco retailer” means a person who carries on a business involving the sale of tobacco by retail;
- “vape” means –
- (a) a device which –
 - (i) vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it also vaporises tobacco), and 20
 - (ii) is not a medical device or a medicinal product;
 - (b) an item which is intended to form part of a device within paragraph (a) (including anything intended to be attached to it with a view to imparting flavour); 25
- “vaping product” means –
- (a) a vape, or
 - (b) a vaping substance;
- “vaping substance” means a substance, other than tobacco, that is intended to be vaporised by a vape; 30
- “vaporises” includes aerosolises (and “vaporised” is to be construed accordingly);
- “vehicle” means every type of vehicle, including a vessel, aircraft and hovercraft. 35

35 Meaning of “nicotine product”

- (1) For the purposes of this Part “nicotine product” means –
- (a) a device which is intended to enable nicotine to be delivered into the human body,
 - (b) an item which is intended to form part of a device within paragraph (a), 40
 - (c) nicotine, or any substance containing nicotine, which is intended to be delivered into the human body, or
 - (d) an item containing anything within paragraph (c).

- (2) But the following are not “nicotine products” for the purpose of this section—
- (a) a tobacco product;
 - (b) a herbal smoking product;
 - (c) cigarette papers;
 - (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products; 5
 - (e) a vaping product.

36 Alignment of definition of “tobacco product” in other legislation

In section 1 of the Tobacco Advertising and Promotion Act 2002 (interpretation), for the definition of “tobacco product” substitute— 10

““tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way.”

PART 2

SALE AND DISTRIBUTION: SCOTLAND 15

Tobacco etc

37 Age of sale for tobacco products etc

- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows.
- (2) In section 4 (sale of tobacco products to persons under 18)— 20
- (a) in subsection (1), for “under the age of 18” substitute “born on or after 1 January 2009”;
 - (b) in subsection (2)(a), for “under the age of 18 (“the customer”) to be aged 18 or over” substitute “born on or after 1 January 2009 (“the customer”) to be born before that date”; 25
 - (c) after subsection (5) insert—
“(6) In this section “sell” means sell by retail.”;
 - (d) in the heading, for “under 18” substitute “born on or after 1 January 2009”.
- (3) In section 4B (age verification policy)— 30
- (a) for subsection (3) substitute—
“(3) An “age verification policy”— 35
 - (a) in relation to a tobacco business or herbal smoking product business, is a policy that steps are to be taken to establish the age of a person attempting to buy a tobacco product, herbal smoking product or cigarette papers on the premises (the “customer”) if it appears to the person selling the tobacco product, herbal

- smoking product or cigarette papers that the customer may have been born on or after 1 January 2009 (or such earlier date as may be specified in the policy);
- (b) in relation to a nicotine vapour product business, is a policy that steps are to be taken to establish the age of a person attempting to buy a nicotine vapour product on the premises (the “customer”) if it appears to the person selling the nicotine vapour product that the customer may be under the age of 25 (or such older age as may be specified in the policy).
- (3A) In relation to times before the end of 2033, the reference in subsection (3)(a) to the customer being born on or after 1 January 2009 (or such earlier date as may be specified in the policy) has effect as a reference to the customer being under the age of 25 (or such older age as may be specified in the policy).”;
- (b) in subsection (4), for “(3)” substitute “(3)(b)”.
- (4) In section 6 (purchase of tobacco products on behalf of persons under 18)–
- (a) in subsection (1), for “under the age of 18” substitute “born on or after 1 January 2009”;
- (b) in the heading, for “under 18” substitute “born on or after 1 January 2009”.
- (5) In section 8 (display of warning statements), in subsection (2)(a), for “under the age of 18” substitute “born on or after 1 January 2009”.
- 38 Sale of unpackaged cigarettes**
- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows.
- (2) After section 4D insert–
- “4E Sale of unpackaged cigarettes**
- (1) A person who sells cigarettes that are not in their original packaging commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section–
- “original packaging” means the retail packaging in which the cigarettes were supplied to the person for the purpose of sale;
- “sell” means sell by retail.”
- (3) In section 35(1), at the appropriate place insert–
- ““retail packaging”, in relation to a product, means the packaging in which it is, or is intended to be, presented for sale by retail;”.

39 Repeal of offence of purchasing tobacco products by under 18s

- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows.
- (2) Omit section 5 (purchase of tobacco products by people under 18).
- (3) In section 33 (presumption as to contents of container), in subsection (1), omit “, 5”. 5

40 Repeal of power to confiscate tobacco products from persons under 18

Omit section 7 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) (confiscation of tobacco products from people under 18).

41 Extension of tobacco legislation to herbal smoking products

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- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows.
- (2) In section 4 (sale of tobacco products to persons under 18), in subsection (1), after “tobacco product” insert “, herbal smoking product”.
- (3) In section 4B (age verification policy) – 15
 - (a) in subsection (1)(a) and (b), after “tobacco”, insert “, herbal smoking product”;
 - (b) in subsection (2) –
 - (i) in paragraph (a), after “tobacco products” insert “, herbal smoking products”; 20
 - (ii) in paragraph (b), after “tobacco”, insert “, herbal smoking product”;
 - (c) in subsection (5)(b) and (c), after “tobacco product,” insert “herbal smoking product,”;
 - (d) in subsection (6), after “tobacco”, insert “, herbal smoking product”. 25
- (4) In section 4C (sale of tobacco or nicotine vapour products by persons under 18), in subsection (1), after “tobacco product” insert “, herbal smoking product”.
- (5) In section 6 (purchase of tobacco products on behalf of persons under 18), in subsection (1), after “tobacco product” insert “, herbal smoking product”.
- (6) In section 9 (prohibition of vending machines for the sale of tobacco products), for subsection (3) substitute – 30
 - “(3) In this section, “vending machine” means an automatic machine for the sale of any of the following products (regardless of whether the machine also sells other products) –
 - (a) tobacco products; 35
 - (b) herbal smoking products;
 - (c) nicotine vapour products.”

- (7) In section 35 (interpretation), in subsection (1), at the appropriate places insert –

““herbal smoking product” means a product consisting wholly or partly of vegetable matter and intended to be smoked but not containing tobacco,”;

5

““herbal smoking product business” means a business involving the sale of herbal smoking products by retail,”;

““tobacco, herbal smoking product or nicotine vapour product business” means a business which involves any one or more of the following –

(a) a tobacco business,

10

(b) a herbal smoking product business,

(c) a nicotine vapour product business.”.

42 Power to make provision about warning statements

In section 8 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) (display of warning statements), for subsection (5) substitute –

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“(5) The Scottish Ministers may by regulations make provision as to the size or appearance of –

(a) the statement on the notice to be displayed in accordance with this section, or

(b) any other aspect of the notice.”

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Vaping and nicotine products

43 Power to regulate nicotine products

- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows.

- (2) After section 9 insert –

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“9A Power to extend nicotine vapour product provisions to nicotine products

- (1) The Scottish Ministers may by regulations amend any of the following sections so that it applies in relation to some or all nicotine products that are not nicotine vapour products as it applies in relation to nicotine vapour products –

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section 4A (sale of nicotine vapour products to persons under 18);

section 4B (age verification policy);

section 4C (sale of tobacco or nicotine vapour products by persons under 18);

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section 4D (defences), so far as it relates to section 4A;

section 6A (purchase of nicotine vapour products on behalf of persons under 18).

- (2) The consequential provision that may be made by regulations under this section by virtue of section 40(2) includes provision amending any provision of this Act.”
- (3) After section 35A insert—
- “35B Meaning of “nicotine product” in this Part** 5
- (1) In this Part, a “nicotine product” is—
- (a) a device which is intended to enable nicotine to be delivered into the human body,
 - (b) an item which is intended to form part of a device within paragraph (a), 10
 - (c) nicotine, or any substance containing nicotine, which is intended to be delivered into the human body, or
 - (d) an item containing anything within paragraph (c).
- (2) But the following are not nicotine products—
- (a) a tobacco product; 15
 - (b) a smoking related product;
 - (c) a herbal smoking product;
 - (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products.”
- (4) In section 40(4) (orders and regulations subject to the affirmative procedure), at the appropriate place insert— 20
- “section 9A”.

44 Free distribution of nicotine products

- (1) The Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14) is amended as follows. 25
- (2) In the heading of Chapter 2 of Part 1, at the end insert “and nicotine products”.
- (3) In section 18 (free distribution and nominal pricing of nicotine vapour products)—
- (a) in subsection (1)(a) and (b), after “nicotine vapour product” insert “or a nicotine product that is not a nicotine vapour product”; 30
 - (b) in subsection (4), at the appropriate place insert—
- ““nicotine product” has the meaning given in section 35B of the 2010 Act.”.

45 Displays of vaping and nicotine products

- (1) The Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) is amended as follows. 35

- (2) After section 3 insert –

“Display of nicotine vapour products and other nicotine products

3A Display of nicotine vapour products and other nicotine products

- (1) The Scottish Ministers may by regulations impose prohibitions, requirements or limitations in relation to – 5
- (a) the display, in the course of business, of nicotine vapour products or nicotine products that are not nicotine vapour products in a place where the products are offered for sale;
 - (b) the display, in the course of business, of empty retail packaging for nicotine vapour products or nicotine products that are not nicotine vapour products in a place where the products are offered for sale; 10
 - (c) the display, in the course of business, of prices of nicotine vapour products or nicotine products that are not nicotine vapour products in a place where the products are offered for sale. 15
- (2) In subsection (1)(a) a reference to a nicotine vapour product or nicotine product that is not a nicotine vapour product includes anything that represents such a product and that is intended to be exchanged for the product at the point of sale. 20
- (3) For the purposes of subsection (1), a website is not a place.
- (4) A person commits an offence if the person displays anything, or causes anything to be displayed, in breach of a prohibition, requirement or limitation contained in regulations under subsection (1).
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.” 25
- (3) In section 40(4) (orders and regulations subject to the affirmative resolution procedure), at the appropriate place insert –
- “section 3A(1)”.

Miscellaneous and consequential provision 30

46 Alignment of definitions

In the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3) –

- (a) in section 35 (interpretation of Part 1), in subsection (1), for the definition of “tobacco product” substitute –

““tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way;” 35

- (b) in section 35A (meaning of “nicotine vapour product”), after subsection (2) insert—

“(3) In this section “vapour” includes aerosol (and vaporised is to be construed accordingly).”

47 Power to make consequential provision 5

- (1) The Scottish Ministers may by regulations make provision that is consequential on this Part.
- (2) Regulations under this section may amend, repeal or revoke provision made by or under—
 - (a) an Act passed— 10
 - (i) before this Act, or
 - (ii) later in the same session of Parliament as this Act, or
 - (b) an Act of the Scottish Parliament passed before this Act.
- (3) Regulations under this section that amend or repeal provision made by an Act of the Scottish Parliament, or an Act, are subject to the affirmative resolution procedure. 15
- (4) Any other regulations under this section are subject to the negative resolution procedure.

PART 3

SALE AND DISTRIBUTION: NORTHERN IRELAND 20

Tobacco etc

48 Age of sale for tobacco products etc

- (1) The Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)) is amended in accordance with subsections (2) to (9).
- (2) In the heading of Part 2, for “apparently under 18” substitute “underage”. 25
- (3) In Article 3 (prohibition on sale of tobacco, etc. to persons apparently under 18)—
 - (a) in paragraph (1), for “under the age of 18” substitute “born on or after 1 January 2009”;
 - (b) in the heading, for “apparently under 18” substitute “born on or after 1 January 2009”. 30
- (4) In Article 4 (control of automatic machines for sale of tobacco), in paragraph (1), for “under the age of 18” substitute “born on or after 1 January 2009”.

- (5) After Article 4 insert –
- “4ZA Purchase of tobacco on behalf of persons born on or after 1 January 2009**
- (1) A person aged 18 or over who knowingly buys or attempts to buy tobacco or cigarette papers on behalf of a person born on or after 1 January 2009 shall be guilty of an offence. 5
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”
- (6) In Article 4A (purchase of tobacco or nicotine products on behalf of persons under 18) – 10
- (a) in paragraph (1), omit “tobacco, cigarette papers or”;
- (b) in the heading, omit “tobacco or”.
- (7) Omit Article 5 (seizure of tobacco, etc. from under 18s).
- (8) In Article 6 (exemption for persons employed in trade), omit paragraph (b) and the “or” before it. 15
- (9) In Article 7 (interpretation), omit the definitions of “public place” and “street”.
- (10) In Article 5 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (S.I. 1991/2872 (N.I. 25)) (display of warning statements in retail premises and on vending machines) –
- (a) in paragraph (1), for “under the age of 18” substitute “born on or after 1 January 2009”; 20
- (b) in paragraph (2), for “aged 18 or over” substitute “born before 1 January 2009”.
- (11) In Schedule 2A to the Police (Northern Ireland) Act 2003 (powers and duties of community support officer) – 25
- (a) omit paragraph 7 and the italic heading before it;
- (b) in paragraph 8 –
- (i) omit sub-paragraph (2);
- (ii) in sub-paragraphs (3), (4) and (5), omit “or (2)”.
- (12) In the Smoking (Northern Ireland) Order 2006 (S.I. 2006/2957 (N.I. 20)) – 30
- (a) in Article 1 (commencement), in paragraph (3)(h), for “14 to” substitute “15 and”;
- (b) omit Article 14 (power to change age of sale of tobacco, etc);
- (c) in Article 15 (regulations), in paragraph (3)(a), for “, 10(1B) or 14” substitute “or 10(1B)”. 35
- (13) In the Tobacco Retailers Act (Northern Ireland) 2014 (c. 4 (N.I.)) –
- (a) in section 11 (powers of entry), in subsection (1)(a)(ii), after “4” insert “, 4ZA”;
- (b) in section 12 (fixed penalties for certain offences), in subsection (1)(b), after “4” insert “, 4ZA”. 40

49 Power to restrict tobacco offences to sale by retail

In Article 7 of the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)) (interpretation) –

- (a) the existing text becomes paragraph (1);
- (b) after that paragraph insert – 5
 - “(2) The Department may by regulations amend paragraph (1) so as to define “sale” in this Part to mean sale by retail.
 - (3) The power to make regulations under paragraph (2) includes power to make consequential, supplementary, incidental, transitional or saving provision (including provision amending Article 6). 10
 - (4) Regulations may not be made by the Department under this Article unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.”

50 Power to make provision about warning statements 15

In Article 5 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (S.I. 1991/2872 (N.I. 25)) (display of warning statements), for paragraph (3) substitute –

- “(3) The Department may by regulations subject to negative resolution make provision as to the size or appearance of – 20
 - (a) the statement on the notice to be exhibited in accordance with paragraph (1) or (2), or
 - (b) any other aspect of the notice.”

Vaping and nicotine products

51 Power to regulate non-nicotine vapes etc 25

- (1) The Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26 (N.I.)) is amended as follows.
- (2) In the heading of Part 1, for “and tobacco” substitute “, tobacco and non-nicotine vaping products”.
- (3) In section 1 (prohibition of sale of nicotine products to persons under 18) – 30
 - (a) in subsection (1), after “nicotine products” insert “or non-nicotine vaping products”;
 - (b) in subsection (3)(a), omit “nicotine”, in both places;
 - (c) in subsection (6)(a) and (b), after “nicotine products” insert “or non-nicotine vaping products”; 35
 - (d) in the heading, after “nicotine products” insert “or non-nicotine vaping products”.

(4) For section 7(4) (interpretation) substitute –

“(4) In this Part –

“non-nicotine vaping product” means a vaping product (as defined by section 69 of the Tobacco and Vapes Act 2024) that is not a nicotine product;

“tobacco” has the same meaning as in Part 2 of the Health and Personal Social Services (Northern Ireland) Order 1978.”

5

52 Power to restrict nicotine products offence to sale by retail

In section 1 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26 (N.I.)) (prohibition of sale of nicotine products to persons under 18) after subsection (6) insert –

10

“(7) The Department may by regulations amend this section so as to define “sale” in this section to mean sale by retail.

(8) Regulations under subsection (7) may include consequential provision, including provision repealing subsection (3).”

15

53 Free distribution of vapes and nicotine products

In the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26 (N.I.)), after section 2 insert –

“2A Free distribution of nicotine products and non-nicotine vaping products

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(1) The Department may by regulations make provision prohibiting a person acting in the course of business from –

(a) giving away a nicotine product or non-nicotine vaping product, or a coupon for a nicotine product or non-nicotine vaping product, to someone who is under the age of 18, or

25

(b) causing or permitting that to happen.

(2) A person who breaches a prohibition in regulations under subsection (1) commits an offence.

(3) Where a person is charged with an offence under this section it is a defence that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence.

30

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In this section “coupon for a nicotine product or non-nicotine vaping product” means anything (whether in physical or electronic form) which, by itself or not, can be redeemed for a nicotine product or non-nicotine vaping product.”

35

54 Power to regulate displays of vaping and nicotine products

In the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26 (N.I.)), after section 2A (inserted by section 53 of this Act) insert—

“2B Displays of nicotine products and non-nicotine vaping products

- (1) The Department may by regulations impose prohibitions, requirements or limitations on retailers in relation to—
 - (a) the display, in the course of business, of nicotine products or non-nicotine vaping products in a place where the products are offered for sale; 5
 - (b) the display, in the course of business, of empty retail packaging for nicotine products or non-nicotine vaping products in a place where the products are offered for sale; 10
 - (c) the display, in the course of business, of prices of nicotine products or non-nicotine vaping products in a place where the products are offered for sale. 15
- (2) In subsection (1)(a) a reference to a nicotine product or a non-nicotine vaping product includes anything that represents such a product and that is intended to be exchanged for the product at the point of sale.
- (3) A person commits an offence if the person displays anything, or causes anything to be displayed, in breach of a prohibition, requirement or limitation contained in regulations under subsection (1). 20
- (4) The Department may by regulations provide for defences to the offence under subsection (3).
- (5) A person guilty of an offence under subsection (3) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both; 25
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (6) In this section “retail packaging”, in relation to a product, means the packaging in which it is, or is intended to be, presented for sale by retail.” 30

55 Consequential amendments to do with sections 51 to 54

Schedule 5 contains consequential amendments to do with sections 51 to 54.

Enforcement

35

56 Power to extend restricted premises orders

- (1) The Tobacco Retailers Act (Northern Ireland) 2014 (c. 4 (N.I.)) is amended as follows.

- (2) In section 5 (restricted premises orders), in subsection (14), omit “and section 6”.
- (3) In section 6 (restricted sale orders)–
- (a) in subsection (8), after “In” insert “the preceding provisions of”;
 - (b) after subsection (8) insert–
 - “(9) In this section “tobacco, nicotine or non-nicotine vape offence” means–
 - (a) an offence committed under Article 3 of the Health and Personal Social Services (Northern Ireland) Order 1978 on any premises (which are accordingly “the premises in relation to which the offence is committed”);
 - (b) an offence committed under Article 4 of the Health and Personal Social Services (Northern Ireland) Order 1978 in respect of an order relating to any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”);
 - (c) an offence relating to tobacco committed under section 170 or 170B of the Customs and Excise Management Act 1979 on any premises in Northern Ireland (which are accordingly “the premises in relation to which the offence is committed”);
 - (d) an offence committed under section 8F, 8G or 8H of the Tobacco Products Duty Act 1979 on any premises in Northern Ireland (which are accordingly “the premises in relation to which the offence is committed”);
 - (e) an offence committed under Article 4A of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 in respect of any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”);
 - (f) an offence committed under section 10 in respect of any premises (which are accordingly “the premises in relation to which the offence is committed”);
 - (g) an offence committed under section 1 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 on any premises (which are accordingly “the premises in relation to which the offence is committed”); or
 - (h) an offence committed under section 2 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 in respect of any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”).”

- (4) After section 9 insert –
- “9A Power to extend restricted premises orders**
- (1) Regulations may amend the definition of “tobacco, nicotine or non-nicotine vape offence” in section 5(14) so as to add other offences.
- (2) An offence may be added by regulations under subsection (1) only if it relates to tobacco, cigarette papers, nicotine products or non-nicotine vaping products. 5
- (3) Before making regulations under this section, the Department must –
- (a) consider whether there are any persons who appear to be representative of the interests of those likely to have an interest in the regulations, and 10
- (b) if there are, consult any of those persons whom the Department considers it appropriate to consult.”
- (5) In section 24 (regulations and orders), in subsection (2), after “section 2(7)” insert “, 9A”. 15

Consequential provision

57 Power to make consequential provision

- (1) The Department of Health in Northern Ireland may by regulations make provision that is consequential on this Part.
- (2) Regulations under this section may amend, repeal or revoke provision made by or under – 20
- (a) an Act passed –
- (i) before this Act, or
- (ii) later in the same session of Parliament as this Act, or
- (b) Northern Ireland legislation passed or made before this Act. 25
- (3) Regulations under this section that amend, repeal or revoke any provision of an Act or Northern Ireland legislation are subject to the affirmative resolution procedure.
- (4) Any other regulations under this section are subject to the negative resolution procedure. 30

PART 4

PRODUCT REQUIREMENTS

Tobacco product requirements

58 Tobacco retail packaging

- (1) The Secretary of State may by regulations make provision about the retail packaging of tobacco products. 35

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- (2) The regulations may, in particular, impose prohibitions, requirements or limitations in relation to—
- (a) the production or importation of tobacco products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector; 5
 - (b) the supply of tobacco products in the course of business.
- (3) Provision made by the regulations may, in particular, include provision about—
- (a) the markings on packaging (including the use of branding, trademarks or logos); 10
 - (b) the information provided on packaging or otherwise supplied with a product;
 - (c) the appearance of packaging;
 - (d) the materials used for packaging;
 - (e) the texture of packaging; 15
 - (f) the size of packaging;
 - (g) the shape of packaging;
 - (h) the means by which packaging is opened;
 - (i) any other features of packaging which could be used to distinguish between different brands of tobacco products; 20
 - (j) the number of individual tobacco products contained in an individual packet;
 - (k) the quantity of a tobacco product contained in an individual packet.
- (4) The regulations may create offences in relation to a failure to comply with the regulations. 25
- (5) The regulations must provide for any offence to be triable either way and punishable—
- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both; 30
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both; 35
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (6) Regulations under this section are subject to the affirmative resolution procedure. 40

59 Flavour of tobacco products

- (1) The Secretary of State may by regulations make provision about the flavour of tobacco products.
- (2) The regulations may, in particular, impose prohibitions, requirements or limitations in relation to—
 - (a) the production or importation of tobacco products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector;
 - (b) the supply of tobacco products in the course of business.
- (3) The regulations may include provision about how the flavour of a product is to be determined.
- (4) The regulations may create offences in relation to a failure to comply with the regulations.
- (5) The regulations must provide for any offence to be triable either way and punishable—
 - (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court, or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (6) Regulations under this section are subject to the affirmative resolution procedure.

60 Other tobacco product requirements

- (1) The Secretary of State may by regulations make provision about—
 - (a) the markings on tobacco products (including the use of branding, trademarks or logos);
 - (b) the appearance of tobacco products;
 - (c) the size of tobacco products;
 - (d) the shape of tobacco products;
 - (e) any other features of tobacco products which can be used to distinguish between different brands of tobacco product.
- (2) The regulations may, in particular, impose prohibitions, requirements or limitations in relation to—

- (a) the production or importation of tobacco products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector;
 - (b) the supply of tobacco products in the course of business.
- (3) The regulations may create offences in relation to a failure to comply with the regulations. 5
- (4) The regulations must provide for any offence to be triable either way and punishable –
- (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both; 10
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both; 15
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both. 20
- (5) Regulations under this section are subject to the affirmative resolution procedure.

Vaping and nicotine product requirements

61 Retail packaging of vaping products and nicotine products

- (1) The Secretary of State may by regulations make provision about the retail packaging of vaping products or nicotine products. 25
- (2) The regulations may, in particular, impose prohibitions, requirements or limitations in relation to –
- (a) the production or importation of vaping products or nicotine products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector; 30
 - (b) the supply of vaping products or nicotine products in the course of business.
- (3) Provision made by the regulations may, in particular, include provision about – 35
- (a) the markings on packaging (including the use of branding, trademarks or logos);
 - (b) the information provided on packaging or otherwise supplied with a product;
 - (c) the appearance of packaging; 40
 - (d) the materials used for packaging;

- (e) the texture of packaging;
 - (f) the size of packaging;
 - (g) the shape of packaging;
 - (h) the means by which packaging is opened;
 - (i) any other features of the packaging of vaping products or nicotine products which could be used to distinguish between different brands of the product; 5
 - (j) the number of individual vaping products or nicotine products contained in an individual packet;
 - (k) the quantity of vaping products or nicotine products contained in an individual packet. 10
- (4) The regulations may create offences in relation to a failure to comply with the regulations.
- (5) The regulations must provide for any offence to be triable either way and punishable – 15
- (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both; 20
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both; 25
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (6) Regulations under this section are subject to the affirmative resolution procedure.
- 62 Contents and flavour of vaping products and nicotine products 30**
- (1) The Secretary of State may by regulations make provision about –
- (a) the substances that may be included in vaping products or nicotine products or the amount of any given substance that may be included;
 - (b) the flavour of vaping products or nicotine products.
- (2) The Secretary of State may, in particular, impose prohibitions, requirements or limitations in relation to – 35
- (a) the production or importation of vaping products or nicotine products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector;
 - (b) the supply of vaping products or nicotine products in the course of business. 40

-
- (3) The regulations may include provision about how the flavour of a product is to be determined.
- (4) The regulations may create offences in relation to a failure to comply with the regulations.
- (5) The regulations must provide for any offence to be triable either way and punishable – 5
- (a) on summary conviction –
- (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both; 10
- (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both;
- (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both; 15
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (6) Regulations under this section are subject to the affirmative resolution procedure. 20

63 Other product requirements of vaping and nicotine products

- (1) The Secretary of State may by regulations make provision about –
- (a) the markings on vaping products or nicotine products (including the use of branding, trademarks or logos);
- (b) the information provided on vaping products or nicotine products; 25
- (c) the appearance of vaping products or nicotine products;
- (d) the size of vaping products or nicotine products;
- (e) the shape of vaping products or nicotine products;
- (f) any other features of vaping products or nicotine products which can be used to distinguish between different brands of the product. 30
- (2) The regulations may, in particular, impose prohibitions, requirements or limitations in relation to –
- (a) the production or importation of vaping products or nicotine products in the course of business with a view to their supply for consumption in the United Kingdom or for retail by the travel retail sector; 35
- (b) the supply of vaping products or nicotine products in the course of business.
- (3) The regulations may create offences in relation to a failure to comply with the regulations.
- (4) The regulations must provide for any offence to be triable either way and punishable – 40
- (a) on summary conviction –

- (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court, or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both; 5
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both. 10
- (5) Regulations under this section are subject to the affirmative resolution procedure.

Supplementary

64 Power to include provision about enforcement 15

- (1) Regulations under this Part may include provision about enforcement including—
- (a) provision conferring functions on the relevant enforcement authorities;
 - (b) provision for the relevant national authority to direct, in relation to cases of a particular description or a particular case, that any duty imposed on a relevant enforcement authority by virtue of provision under paragraph (a) is to be discharged by the relevant national authority and not by the relevant enforcement authority. 20
- (2) Regulations under this Part may, in particular, include—
- (a) provision applying, with or without modifications, any of the enforcement provisions of the Consumer Protection Act 1987; 25
 - (b) provision corresponding or similar to any of those provisions.
- (3) The reference in subsection (2) to the “enforcement provisions” of the Consumer Protection Act 1987 is to the following provisions of that Act—
- (a) in Part 2 (consumer safety)— 30
 - sections 14 and 15 (suspension notices);
 - sections 16 and 17 (forfeiture);
 - section 18 (power to obtain information);
 - (b) Part 4 (enforcement);
 - (c) Part 5 (miscellaneous and supplemental) so far as relating to the provisions mentioned in paragraphs (a) and (b) above. 35
- (4) In this section—
- “relevant enforcement authorities” means—
- (a) in relation to England and Wales, local weights and measures authorities, 40

- (b) in relation to Scotland, local weights and measures authorities, and
 - (c) in relation to Northern Ireland, district councils;
- “relevant national authority” means –
- (a) in relation to England, the Secretary of State, 5
 - (b) in relation to Wales, the Welsh Ministers,
 - (c) in relation to Scotland, the Scottish Ministers, and
 - (d) in relation to Northern Ireland, the Department of Health.

65 Power to make provision binding the Crown

- (1) Regulations under this Part may include provision binding the Crown. 10
- (2) Regulations under this Part which include provision binding the Crown –
 - (a) must provide that the Crown is not criminally liable as a result of any such provision, and
 - (b) may confer power on the High Court in England and Wales or Northern Ireland, or the Court of Session in Scotland, to declare unlawful any act or omission for which the Crown would be criminally liable if it were not for provision made by virtue of paragraph (a). 15
- (3) Provision made by virtue of subsection (2)(b) which confer power on the Court of Session to make a declaration must provide that such a declaration may only be made on an application by a local weights and measures authority in Scotland. 20
- (4) Provision made by virtue of this section does not affect the application of regulations under this Part in relation to persons in the public service of the Crown.

66 Power to amend other legislation

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The consequential provision that may be made by regulations under this Part by virtue of section 76(1)(a) includes provision amending, repealing or revoking any legislation (whenever passed or made).

67 Consent to regulations under Part 4

- Before making regulations under this Part the Secretary of State must obtain the consent of – 30
- (a) the Welsh Ministers, if the regulations contain provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd;
 - (b) the Scottish Ministers, if the regulations contain provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of the Scottish Parliament; 35
 - (c) the Executive Office in Northern Ireland, if the regulations contain provision which –

- (i) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of the Assembly, and
- (ii) would not, if it were contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

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68 Consequential repeal

In the Children and Families Act 2014, omit section 94.

Interpretation

69 Interpretation of Part 4

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In this Part—

“herbal smoking product” means a product consisting wholly or partly of vegetable matter and intended to be smoked but not containing tobacco;

“medical device” has the meaning given by the Medical Devices Regulations 2002 (S.I. 2002/618);

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“medicinal product” has the meaning given by the Human Medicines Regulations 2012 (S.I. 2012/1916);

“nicotine product” has the meaning given by section 70;

“packaging”, in relation to a product, means—

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- (a) the external packaging of the product (including any wrapper),
- (b) the internal packaging of that product, or
- (c) any other material attached to or included with the product or anything within paragraph (a) or (b);

“production”, in relation to a product, means—

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- (a) the manufacture of the product, or
- (b) the putting of a name, trademark or other distinguishing mark on the product by a person, the effect of which is to hold the person out as being the manufacturer of the product;

“retail packaging”, in relation to a product, means the packaging in which it is, or is intended to be, presented for sale by retail;

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“supply”, in relation to a product, includes—

- (a) offering or agreeing to supply it, or
- (b) exposing or possessing it for supply;

“tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way;

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“travel retail sector”, in relation to tobacco, vaping or nicotine products, means retail outlets in the United Kingdom at which those products may be purchased only by people travelling on journeys to destinations outside the United Kingdom.

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“vape” means—

- (a) a device which—
 - (i) vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it also vaporises tobacco), and
 - (ii) is not a medical device or a medicinal product;
- (b) an item which is intended to form part of a device within paragraph (a) (including anything intended to be attached to it with a view to imparting flavour);

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“vaping product” means—

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- (a) a vape, or
- (b) a vaping substance;

“vaping substance” means a substance, other than tobacco, that is intended to be vaporised by a vape;

“vaporises” includes aerosolises (and “vaporised” is to be construed accordingly).

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70 Meaning of “nicotine product”

- (1) For the purposes of this Part “nicotine product” means—
 - (a) a device which is intended to enable nicotine to be delivered into the human body,
 - (b) an item which is intended to form part of a device within paragraph (a),
 - (c) nicotine, or any substance containing nicotine, which is intended to be delivered into the human body, or
 - (d) an item containing anything within paragraph (c).
- (2) But the following are not “nicotine products” for the purpose of this section—
 - (a) a tobacco product;
 - (b) a herbal smoking product;
 - (c) cigarette papers;
 - (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products;
 - (e) a vaping product.

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PART 5

NOTIFICATION REQUIREMENTS ETC FOR VAPING AND NICOTINE PRODUCTS

71 Extension of notification requirements etc

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- (1) The Secretary of State may by regulations make provision for the purposes of applying any relevant provision of the Tobacco and Related Products Regulations 2016 (S.I. 2016/507) with or without modifications, in relation to—

- (a) vaping products, in so far as that provision does not already apply in relation to such products;
- (b) some or all nicotine products.
- (2) In subsection (1) “relevant provision”, in relation to the Tobacco and Related Products Regulations 2016, means any provision made by the following provisions of those Regulations –
- regulation 31 (notification about electronic cigarettes and refill containers);
 - regulation 33 (submission of information);
 - regulation 34 (Secretary of State duty to publish notifications etc);
 - regulation 35 (no supply of product where notification not complied with);
 - regulation 39 (vigilance requirements);
 - regulation 40 (action to protect human health).
- (3) The consequential provision that may be made by regulations under this section by virtue of section 76(1)(a) includes provision amending the Electronic Cigarettes etc. (Fees) Regulations 2016 (S.I. 2016/521) or any regulations replacing them.
- (4) Regulations under this section are subject to the affirmative resolution procedure.
- (5) In this section the following have the meaning given by section 69 –
- “nicotine product”;
 - “vaping product”.

72 Power to amend information to be notified

- (1) The Secretary of State may by regulations amend regulation 31 of the Tobacco and Related Products Regulations 2016 (S.I. 2016/507) for the purpose of amending the information that must be notified or submitted under that regulation.
- (2) The information that a person may be required to notify or submit includes images (for example, an image of a product or its label or packaging).
- (3) Regulations under this section are subject to the affirmative resolution procedure.

73 Exceptions to publication

- (1) The Secretary of State may by regulations create exceptions to the duty to publish information under regulation 34(a) of the Tobacco and Related Products Regulations 2016 (S.I. 2016/507).
- (2) The exceptions for which the regulations may provide include exceptions framed by reference to whether there are any unpaid fees under the Electronic

Cigarettes etc. (Fees) Regulations 2016 (S.I. 2016/521) or any regulations replacing them.

- (3) Regulations under this section may include provision—
- (a) requiring the Secretary of State to notify a person before, or after, ceasing to publish information; 5
 - (b) amending the reference in regulation 35(c) of the Tobacco and Related Products Regulations 2016 to information that has been published so as to refer to information that is for the time being published.
- (4) Regulations under this section are subject to the affirmative resolution procedure. 10

74 Consent to regulations under Part 5

Before making regulations under this Part the Secretary of State must obtain the consent of the Executive Office in Northern Ireland if the regulations contain provision which—

- (a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of the Assembly, and 15
- (b) would not, if it were contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

PART 6 20

GENERAL

75 Application to Parliament

To the extent that this Act or regulations made under it would not (but for this section) apply in relation to the Parliamentary Estate, they do so apply.

76 Regulations: general 25

- (1) A power to make regulations under any provision of this Act includes power to make—
- (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) different provision for different purposes; 30
 - (c) different provision for different parts of the United Kingdom.
- (2) This section does not apply to regulations under section 79 or 80.

77 Regulations: procedure

- (1) Regulations made by the Secretary of State or the Welsh Ministers under this Act are to be made by statutory instrument. 35

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- (2) For regulations made under this Act by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).
- (3) The power of the Department of Health in Northern Ireland to make regulations under section 57 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)). 5
- (4) Where regulations under this Act are subject to “the affirmative resolution procedure”, the regulations –
- (a) if made by the Secretary of State, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament; 10
 - (b) if made by the Welsh Ministers, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru; 15
 - (c) if made by the Scottish Ministers, are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10));
 - (d) if made by the Department of Health in Northern Ireland, may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly. 20
- (5) Where regulations under this Act are subject to the negative resolution procedure –
- (a) if made by the Secretary of State, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament; 25
 - (b) if made by the Welsh Ministers, the statutory instrument containing them is subject to annulment in pursuance of a resolution of Senedd Cymru;
 - (c) if made by the Scottish Ministers, the regulations are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)); 30
 - (d) if made by the Department of Health in Northern Ireland, the regulations are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) as if they were a statutory instrument within the meaning of that Act. 35
- (6) Any provision that may be made in regulations under this Act subject to the negative resolution procedure may be made in regulations subject to the affirmative resolution procedure. 40
- (7) This section does not apply to regulations under section 79 or 80.

78 Extent

- (1) An amendment or repeal made by Part 1 has the same extent as the provision amended or repealed.
- (2) Subject to that, Part 1 extends to England and Wales only.
- (3) Part 2 extends to Scotland only. 5
- (4) Part 3 extends to Northern Ireland only.
- (5) Parts 4 and 5 and this Part extend to England and Wales, Scotland and Northern Ireland.

79 Commencement

- (1) This Act comes into force at the end of the period of 2 months beginning with the day on which it is passed, except to the extent that the following provisions of this section provide otherwise. 10
- (2) The following (which relate to the age of sale of vaping products etc in England and Wales) come into force at the end of the period of 6 months beginning with the day on which this Act is passed – 15
 - (a) sections 7 and 8;
 - (b) section 28(2) and Schedule 3.
- (3) The following (which relate to the age of sale of tobacco etc) come into force on 1 January 2027 to the extent that they are not already in force (see subsection (4)) – 20
 - (a) sections 1 to 6 and 28(3) and Schedule 4;
 - (b) sections 37, 38 and 41;
 - (c) section 48.
- (4) Sections 5(4) and (5) and 6(4) and (5) come into force for the purposes of making regulations at the end of the period of 2 months beginning with the day on which this Act is passed. 25
- (5) Section 27 and Schedule 1 come into force on such day as the Welsh Ministers may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (6) Subject to subsection (5), any amendment made by this Act of a provision that is not yet in force comes into force at the same time as the provision amended. 30
- (7) This Part comes into force on the day on which this Act is passed.

80 Transitional provision

- (1) The Welsh Ministers may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of section 27 or Schedule 1. 35

- (2) The Scottish Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 2.
- (3) The Department of Health in Northern Ireland may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 3; and the power to make regulations is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)). 5
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act not mentioned in subsections (1) to (3). 10
- (5) A power conferred by subsections (1) to (4) includes power to make different provision for different purposes.

81 Citation

This Act may be cited as the Tobacco and Vapes Act 2024. 15

SCHEDULES

SCHEDULE 1

Section 27

HANDING OVER TOBACCO ETC TO UNDERAGE PEOPLE IN WALES

- 1 The Public Health (Wales) Act 2017 (anaw 2) is amended as follows.
- 2 In the heading of Part 3— 5
- (a) in the Welsh language text, after “tybaco” insert “, cynhyrchion fepio”;
- (b) in the English language text, after “tobacco” insert “, vaping products”.
- 3 In the heading of Chapter 4 of Part 3— 10
- (a) in the Welsh language text, omit “i bersonau o dan 18 oed”;
- (b) in the English language text, omit “to persons under 18”.
- 4 In the Welsh language text, before section 52 insert—
- “51A Y drosedd o roi tybaco etc. i bobl a anwyd ar neu ar ôl 1 Ionawr 2009** 15
- (1) Mae person (“A”) yn cyflawni trosedd—
- (a) os yw A, mewn cysylltiad â threfniadau o dan adran 53, yn rhoi yng Nghymru gynhyrchion tybaco, cynhyrchion smygu llysieuol neu bapurau sigarêts i berson a anwyd ar neu ar ôl 1 Ionawr 2009 (“B”), 20
- (b) os nad yw’r rhoi yn digwydd naill ai—
- (i) yng nghwrs crefft, proffesiwn, busnes neu gyflogaeth B, neu
- (ii) yng ngŵydd person arall a anwyd cyn 1 Ionawr 2009, 25
- (c) os yw A, ar adeg y rhoi, yn gwybod bod cynhyrchion tybaco, cynhyrchion smygu llysieuol neu bapurau sigarêts (pa un bynnag sy’n gymwys) yn cael eu rhoi, a
- (d) pan roddir y cynhyrchion tybaco, y cynhyrchion smygu llysieuol neu’r papurau sigarêts, os nad ydynt mewn pecyn— 30
- (i) sydd wedi ei selio, a
- (ii) sydd â chyfeiriad arno, at ddiben ei ddanfon i’r cyfeiriad hwnnw yn unol â threfniadau o fewn adran 53.
- (2) Ystyr “pecyn” yn isadran (1)(d) yw pecyn yn ychwanegol at y pecyn gwreiddiol y mae’r cynhyrchion tybaco, y cynhyrchion smygu llysieuol neu’r papurau sigarêts wedi eu cyflenwi ynddo at ddiben eu gwerthu drwy fanwerthu gan eu gwneuthurwr neu eu mewnforiwr. 35

- (3) Mae person sy'n euog o drosedd o dan yr adran hon yn agored ar euogfarn ddiannod i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol.
- (4) Pan fo person ("y cyhuddedig") wedi ei gyhuddo o drosedd o dan yr adran hon oherwydd ymddygiad y cyhuddedig ei hun (ac eithrio yn rhinwedd adran 44 o Ddeddf Llysoedd Ynadon 1980 (p.43) (helpwyr ac anogwyr)) mae'n amddiffyniad i'r cyhuddedig ddangos—
- (a) bod y cyhuddedig yn credu, pan ddigwyddodd y rhoi, fod y person y rhoddwyd y cynhyrchion tybaco, y cynhyrchion smygu llysieuol neu'r papurau sigarêts iddo, neu berson arall a oedd yn bresennol ar adeg y rhoi, wedi cael ei eni cyn 1 Ionawr 2009, a
- (b) naill ai—
- (i) bod y cyhuddedig wedi cymryd camau rhesymol i gadarnhau oedran y person hwnnw, neu
- (ii) na allai neb fod wedi amau'n rhesymol o olwg y person hwnnw fod y person wedi cael ei eni ar neu ar ôl 1 Ionawr 2009.
- (5) At ddibenion is-adran (4)(b), mae'r cyhuddedig i gael ei drin fel pe bai wedi cymryd camau rhesymol i gadarnhau oedran person—
- (a) os gofynnodd y cyhuddedig i'r person hwnnw am dystiolaeth o oedran y person hwnnw, a
- (b) pe bai'r dystiolaeth wedi argyhoeddi person rhesymol.
- (6) Pan fo person wedi ei gyhuddo o drosedd o dan yr adran hon oherwydd gweithred neu ddiffyg person arall, neu yn rhinwedd cymhwyso adran 44 o Ddeddf Llysoedd Ynadon 1980 (p.43) (helpwyr ac anogwyr), mae'n amddiffyniad dangos i'r person gymryd rhagofalon rhesymol ac arfer diwydrwydd dyladwy i osgoi cyflawni'r drosedd."
- 5 In the English language text, before section 52 insert—
- “51A Offence of handing over tobacco etc to people born on or after 1 January 2009**
- (1) A person (“A”) commits an offence if—
- (a) in connection with arrangements under section 53, A hands over in Wales tobacco products, herbal smoking products or cigarette papers to a person born on or after 1 January 2009 (“B”),
- (b) the handing over does not take place either—
- (i) in the course of B’s trade, profession, business or employment, or
- (ii) in the presence of another person who was born before 1 January 2009,

-
- (c) at the time of the handing over, A knows that tobacco products, herbal smoking products or cigarette papers (whichever is the case) are being handed over, and
- (d) when handed over, the tobacco products, herbal smoking products or cigarette papers are not contained in a package that—
- (i) is sealed, and
 - (ii) has an address on it, for the purpose of its delivery to that address in accordance with arrangements within section 53.
- (2) “Package” in subsection (1)(d) means a package in addition to the original package in which the tobacco products, herbal smoking products or cigarette papers were supplied for the purpose of retail sale by their manufacturer or importer.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) Where a person (“the accused”) is charged with an offence under this section by reason of the accused’s own conduct (and otherwise than by virtue of section 44 of the Magistrates’ Courts Act 1980 (c.43) (aiders and abettors)) it is a defence for the accused to show—
- (a) that the accused believed, when the handing over took place, that the person to whom the tobacco products, herbal smoking products or cigarette papers were handed over, or another person present at the time of the handing over, was born before 1 January 2009, and
 - (b) either—
 - (i) that the accused had taken reasonable steps to establish the age of that person, or
 - (ii) that nobody could reasonably have suspected from that person’s appearance that the person was born on or after 1 January 2009.
- (5) For the purposes of subsection (4)(b), the accused is to be treated as having taken reasonable steps to establish the age of a person if—
- (a) the accused asked that person for evidence of that person’s age, and
 - (b) the evidence would have convinced a reasonable person.
- (6) Where a person is charged with an offence under this section by reason of the act or default of another person, or by virtue of the application of section 44 of the Magistrates’ Courts Act 1980 (c.43) (aiders and abettors), it is a defence to show that the person took reasonable precautions and exercised due diligence to avoid committing the offence.”
- 6 (1) The Welsh language text of section 52 is amended as follows.

- (2) In the heading, for “tybaco etc.” substitute “cynhyrchion fepio a chynhyrchion nicotin”.
- (3) In subsection (1)–
 - (a) in paragraph (a), for “dybaco, papurau sigaréts neu gynhyrchion nicotin” substitute “gynhyrchion fepio neu gynhyrchion nicotin gwaharddedig”; 5
 - (b) in paragraph (c), for “tybaco neu bapurau sigaréts neu gynhyrchion nicotin” substitute “cynhyrchion fepio neu gynhyrchion nicotin gwaharddedig”;
 - (c) in paragraph (d), for “tybaco, y papurau sigaréts neu’r cynhyrchion nicotin” substitute “cynhyrchion fepio neu’r cynhyrchion nicotin gwaharddedig”. 10
- (4) In subsection (2), for “tybaco, y papurau sigaréts neu’r cynhyrchion nicotin” substitute “cynhyrchion fepio neu’r cynhyrchion nicotin gwaharddedig”.
- (5) In subsection (4)(a), for “tybaco, y papurau sigaréts neu’r cynhyrchion nicotin” substitute “cynhyrchion fepio neu’r cynhyrchion nicotin gwaharddedig”. 15
- (6) Omit subsection (7).
- 7 (1) The English language text of section 52 is amended as follows.
 - (2) In the heading, for “tobacco etc.” substitute “vaping and nicotine products”. 20
 - (3) In subsection (1)–
 - (a) in paragraph (a), for “tobacco, cigarette papers or” substitute “vaping products or prohibited”;
 - (b) in paragraph (c), for “tobacco or cigarette papers or” substitute “vaping products or prohibited”; 25
 - (c) in paragraph (d), for “tobacco, cigarette papers or” substitute “vaping products or prohibited”.
 - (4) In subsection (2), for “tobacco, cigarette papers or” substitute “vaping products or prohibited”.
 - (5) In subsection (4)(a), for “tobacco, cigarette papers or” substitute “vaping products or prohibited”. 30
 - (6) Omit subsection (7).
- 8 (1) The Welsh language text of section 53 is amended as follows.
 - (2) In subsection (1)–
 - (a) in the words before paragraph (a), for “tybaco, papurau sigaréts neu gynhyrchion nicotin” substitute “cynnyrch perthnasol”; 35
 - (b) in paragraph (a), for “tybaco, y papurau sigaréts neu’r cynhyrchion nicotin gael eu danfon” substitute “cynnyrch perthnasol gael ei ddanfon”;
 - (c) in paragraph (b), for “tybaco, y papurau sigaréts neu’r cynhyrchion nicotin o dan sylw” substitute “cynnyrch perthnasol”. 40
 - (3) In subsection (2)–

- (a) in the words before paragraph (a), for “tybaco, papurau sigarêts neu gynhyrchion nicotin” substitute “cynnyrch perthnasol”;
- (b) in paragraph (a), for “tybaco, y papurau sigarêts neu’r cynhyrchion nicotin gael eu casglu” substitute “cynnyrch perthnasol gael ei gasglu”;
- (c) in paragraph (b), for “tybaco, y papurau sigarêts neu’r cynhyrchion nicotin o dan sylw” substitute “cynnyrch perthnasol”.
- (4) After subsection (3) insert –
- “(4) Yn yr adran hon ystyr “cynnyrch perthnasol” yw –
- (a) cynnyrch tybaco,
- (b) cynnyrch smygu llysieuol,
- (c) papurau sigarêts,
- (d) cynnyrch fepio, neu
- (e) cynnyrch nicotin gwaharddedig.”
- 9 (1) The English language text of section 53 is amended as follows.
- (2) In subsection (1) –
- (a) in the words before paragraph (a), for “tobacco, cigarette papers or nicotine products” substitute “a relevant product”;
- (b) in paragraph (a), for “tobacco, cigarette papers or nicotine products” substitute “relevant product”;
- (c) in paragraph (b), for “tobacco, cigarette papers or nicotine products concerned” substitute “relevant product”.
- (3) In subsection (2) –
- (a) in the words before paragraph (a), for “tobacco, cigarette papers or nicotine products” substitute “a relevant product”;
- (b) in paragraph (a), for “tobacco, cigarette papers or nicotine products” substitute “relevant product”;
- (c) in paragraph (b), for “tobacco, cigarette papers or nicotine products concerned” substitute “relevant product”.
- (4) After subsection (3) insert –
- “(4) In this section “relevant product” means –
- (a) a tobacco product,
- (b) a herbal smoking product,
- (c) cigarette papers,
- (d) a vaping product, or
- (e) a prohibited nicotine product.”
- 10 For the Welsh language text of section 55 substitute –
- “55 Dehongli’r Bennod hon**
- Yn y Bennod hon – d
- ystyr “cyflogaeth” (“*employment*”) yw unrhyw gyflogaeth, pa un ai â thâl neu’n ddi-dâl, ac mae’n cynnwys –

- (a) gwaith o dan gcontract am wasanaethau neu fel deiliad swydd, a
- (b) profiad gwaith a ddarperir yn unol â chwrs neu raglen hyfforddi neu yng nghwrs hyfforddiant ar gyfer cyflogaeth; 5
- mae i “cynnyrch fepio” yr ystyr a roddir i “vaping product” gan adran 34 o Ddeddf Tybaco a Fêps 2024;
- mae i “cynnyrch nicotin” yr ystyr a roddir i “nicotine product” gan adran 34 o Ddeddf Tybaco a Fêps 2024;
- ystyr “cynnyrch nicotin gwaharddedig” (“*prohibited nicotine product*”) yw unrhyw gynnyrch nicotin y gwaherddir ei werthu am y tro i bobl o dan 18 oed gan adran 7 o Ddeddf Tybaco a Fêps 2024 o ran Cymru o ganlyniad i reoliadau a wneir gan Weinidogion Cymru o dan adran 10 o’r Ddeddf honno; 10 15
- mae i “cynnyrch smygu llysieuol” yr ystyr a roddir i “herbal smoking product” gan adran 34 o Ddeddf Tybaco a Fêps 2024;
- mae i “cynnyrch tybaco” yr ystyr a roddir i “tobacco product” gan adran 34 o Ddeddf Tybaco a Fêps 2024; 20
- mae “papurau sigarêts” (“*cigarette papers*”) yn cynnwys unrhyw beth y bwriedir iddo gael ei ddefnyddio ar gyfer cau am gynhyrchion tybaco neu gynhyrchion smygu llysieuol at y diben o alluogi iddynt gael eu smygu.”
- 11 For the English language text of section 55 substitute – 25
- “55 Interpretation of this Chapter**
- In this Chapter –
- “cigarette papers” (“*papurau sigarêts*”) includes anything intended to be used for encasing tobacco products or herbal smoking products for the purpose of enabling them to be smoked; 30
- “employment” (“*cyflogaeth*”) means any employment, whether paid or unpaid, and includes –
- (a) work under a contract for services or as an office holder, and 35
- (b) work experience provided pursuant to a training course or programme or in the course of training for employment;
- “herbal smoking product” (“*cynnyrch smygu llysieuol*”) has the meaning given by section 34 of the Tobacco and Vapes Act 2024; 40
- “nicotine product” (“*cynnyrch nicotin*”) has the meaning given by section 34 of the Tobacco and Vapes Act 2024;
- “prohibited nicotine product” (“*cynnyrch nicotin gwaharddedig*”) means any nicotine product the sale of which to people aged under 18 is for the time being prohibited by section 7 of the 45

Tobacco and Vapes Act 2024 in relation to Wales as a result of regulations made by the Welsh Ministers under section 10 of that Act;

“tobacco product” (“*cynnyrch tybaco*”) has the meaning given by section 34 of the Tobacco and Vapes Act 2024;

“vaping product” (“*cynnyrch fepio*”) has the meaning given by section 34 of the Tobacco and Vapes Act 2024.”

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SCHEDULE 2

Section 28

PART 1 CONSEQUENTIAL AMENDMENTS COMMENCING AFTER 2 MONTHS

- Children and Young Persons Act 1933* 10
- 1 The Children and Young Persons Act 1933 is amended as follows.
 - 2 Omit sections 12A to 12D and the italic heading before those sections.
 - 3 Omit section 102.
- Children and Young Persons (Protection from Tobacco) Act 1991*
- 4 In the Children and Young Persons (Protection from Tobacco) Act 1991 omit section 5. 15
- Health Act 2006*
- 5 The Health Act 2006 is amended as follows.
 - 6 Omit Chapter 2 of Part 1.
 - 7 (1) Section 79 is amended as follows. 20
 - (2) In subsection (4), omit paragraph (b).
 - (3) In subsection (4A), omit paragraph (b) (but not the “or” at the end).
- Criminal Justice and Immigration Act 2008*
- 8 In the Criminal Justice and Immigration Act 2008, omit section 143 and the italic heading before that section. 25
- Regulatory Enforcement and Sanctions Act 2008*
- 9 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, at the appropriate place insert—

“Tobacco and Vapes Act 2024, Parts 1 and 4”.
- Children and Families Act 2014* 30
- 10 In section 91 of the Children and Families Act 2014, omit subsection (5).

Public Health (Wales) Act 2017 (anaw 2)

- 11 The Public Health (Wales) Act 2017 is amended as follows.
- 12 (1) Section 32 is amended as follows.
- (2) In subsection (2)–
- (a) in the Welsh language text, for “adran 12A o Ddeddf Plant a Phobl Ifanc 1933 (p.12)” substitute “adran 12 o Ddeddf Tybaco a Fêps 2024”; 5
- (b) in the English language text, for “section 12A of the Children and Young Persons Act 1933 (c. 12)” substitute “section 12 of the Tobacco and Vapes Act 2024”. 10
- (3) In subsection (3)–
- (a) in the Welsh language text, for “adran 12B o Ddeddf Plant a Phobl Ifanc 1933 (p.12)” substitute “adran 16 o Ddeddf Tybaco a Fêps 2024”; 15
- (b) the English language text, for “section 12B of the Children and Young Persons Act 1933 (c. 12)” substitute “section 16 of the Tobacco and Vapes Act 2024”. 15
- 13 Omit Chapter 3 of Part 3.
- 14 Omit section 54.
- 15 In Schedule 2, omit paragraph 17. 20

SCHEDULE 3

Section 28

PART 1 CONSEQUENTIAL AMENDMENTS COMMENCING AFTER 6 MONTHS

Regulatory Enforcement and Sanctions Act 2008

- 1 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, omit the reference to section 92 of the Children and Families Act 2014. 25

Children and Families Act 2014

- 2 The Children and Families Act 2014 is amended as follows.
- 3 (1) Section 91 is amended as follows.
- (2) In the heading omit “, nicotine products”.
- (3) In subsection (1), for “, cigarette papers or a relevant nicotine product” substitute “or cigarette papers”. 30
- (4) Omit subsection (8).
- 4 Omit sections 92 and 93.
- 5 In section 135, in subsection (6), omit paragraph (d).

SCHEDULE 4

Section 28

PART 1 CONSEQUENTIAL AMENDMENTS COMMENCING ON 1 JANUARY 2027

Children and Young Persons Act 1933

- 1 In the Children and Young Persons Act 1933, omit section 7.

Protection of Children (Tobacco) Act 1986

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- 2 The Protection of Children (Tobacco) Act 1986 is repealed.

Children and Young Persons (Protection from Tobacco) Act 1991

- 3 The Children and Young Persons (Protection from Tobacco) Act 1991 is repealed.

Local Government etc (Scotland) Act 1994

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- 4 In Schedule 13 to the Local Government etc (Scotland) Act 1994, omit paragraph 169 and the italic heading before that paragraph.

Police Reform Act 2002

- 5 In Schedule 5 to the Police Reform Act 2002, omit paragraph 6 and the italic heading before that paragraph.

15

Courts Act 2003

- 6 In Schedule 8 to the Courts Act 2003, omit paragraph 72.

Regulatory Enforcement and Sanctions Act 2008

- 7 The Regulatory Enforcement and Sanctions Act 2008 is amended as follows.

- 8 In Schedule 3, omit the reference to the Children and Young Persons (Protection from Tobacco) Act 1991.

20

- 9 (1) Schedule 6 is amended as follows.

- (2) Omit the reference to section 7(1) of the Children and Young Persons Act 1933.

- (3) Omit the reference to the Children and Young Persons (Protection from Tobacco) Act 1991.

25

Health Act 2009

- 10 The Health Act 2009 is amended as follows.

- 11 Omit section 22.

- 12 In section 40(7)(b), omit “1,”.

30

- 13 In Schedule 4, omit paragraph 1 and the italic heading before that paragraph.

Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3)

- 14 In Schedule 2 to the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), omit paragraph 2 and the italic heading before that paragraph. 5

Police Reform and Social Responsibility Act 2011

- 15 In Schedule 16 to the Police Reform and Social Responsibility Act 2011, omit paragraph 67.

Children and Families Act 2014

- 16 In the Children and Families Act 2014, omit section 91. 10

SCHEDULE 5

Section 55

CONSEQUENTIAL AMENDMENTS TO DO WITH SECTIONS 51 TO 54

Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (S.I. 1991/2872 (N.I. 25))

- 1 (1) Article 6 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 (S.I. 1991/2872 (N.I. 25)) is amended as follows. 15
- (2) In paragraph (1)(a), for “sections 1 and 2” substitute “sections 1 to 2B”.
- (3) In paragraph (1A), for “section 1” substitute “sections 1 to 2B”.
- (4) Omit paragraph (1B). 20

Tobacco Retailers Act (Northern Ireland) 2014 (c. 4 (N.I.))

- 2 The Tobacco Retailers Act (Northern Ireland) 2014 (c. 4 (N.I.)) is amended as follows.
- 3 In the italic heading before section 5, for “or nicotine” substitute “, nicotine or non-nicotine vape”. 25
- 4 (1) Section 5 (restricted premises orders) is amended as follows.
- (2) In subsection (1)(a) and (b), for “or nicotine” substitute “, nicotine or non-nicotine vape”.
- (3) In subsection (4), for “or nicotine products” substitute “, nicotine products or non-nicotine vaping products”. 30
- (4) In subsection (5), omit “of tobacco, cigarette papers or nicotine products”.
- (5) In subsection (8)(b)(i) and (ii), for “or nicotine” substitute “, nicotine or non-nicotine vape”.

-
- (6) In subsection (13)(a), for “or nicotine” substitute “, nicotine or non-nicotine vape”.
- (7) In subsection (14), for “or nicotine” substitute “, nicotine or non-nicotine vape”.
- 5 (1) Section 6 (restricted sale orders) is amended as follows. 5
- (2) In subsection (1)(a) and (b), for “or nicotine” substitute “, nicotine or non-nicotine vape”.
- (3) In subsection (4)(a), (b), (c) and (d), for “or nicotine products” substitute “, nicotine products or non-nicotine vaping products”.
- (4) In subsection (6)(a) and (b), for “or nicotine” substitute “, nicotine or non-nicotine vape”. 10
- (5) In subsection (7), for “or nicotine” substitute “, nicotine or non-nicotine vape”.
- (6) In subsection (8), for “or nicotine products” substitute “, nicotine products or non-nicotine vaping products”. 15
- 6 In section 8 (restricted premises orders: display of notices), in subsection (4), for “or nicotine products” substitute “, nicotine products or non-nicotine vaping products”.
- 7 (1) Section 9 (restricted premises orders: no tobacco in retail area) is amended as follows. 20
- (2) In the heading, after “nicotine” insert “or non-nicotine vaping”.
- (3) In subsection (2), for “or nicotine products” substitute “nicotine products or non-nicotine vaping products”.
- (4) In subsection (3), for “and nicotine products” substitute “nicotine products and non-nicotine vaping products”. 25
- 8 In section 10 (offences), in subsection (4)(a), for “or nicotine products” substitute “, nicotine products or non-nicotine vaping products”.
- 9 In section 11 (powers of entry), in subsection (1)(a) – 30
- (a) in sub-paragraph (iv), after “section 1” insert “, 2, 2A or 2B”;
- (b) omit sub-paragraph (v).
- 10 In section 12 (fixed penalties for certain offences), in subsection (1)(e), after “section 2” insert “or 2A”.
- 11 In section 16 (council's duty to share information about enforcement), in subsections (1)(a) and (b) and (3), for “or nicotine” substitute “, nicotine or non-nicotine vape”. 35
- 12 In section 22 (interpretation), in subsection (1), at the appropriate place insert –
- ““non-nicotine vaping product” means a non-nicotine vaping product within the meaning of section 7 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 the sale of which to persons 40

aged under 18 is for the time being prohibited by regulations under section 1(1) of that Act;”.

Tobacco and Vapes Bill

[AS AMENDED IN COMMITTEE]

A

B I L L

TO

Make provision about the supply of tobacco, vapes and other products, including provision prohibiting the sale of tobacco to people born on or after 1 January 2009; and to enable product requirements to be imposed in connection with tobacco, vapes and other products.

*Presented by Secretary Victoria Atkins
supported by the Prime Minister,
Secretary Oliver Dowden,
the Chancellor of the Exchequer,
Secretary James Cleverly, Secretary Gillian Keegan,
Secretary Chris Heaton-Harris,
Secretary Alister Jack, Secretary David T C Davies,
Michael Tomlinson, Andrea Leadsom and
Gareth Davies.*

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