

TOBACCO AND VAPES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Tobacco and Vapes Bill as introduced in the House of Commons on the 5th of November 2024 (HC Bill 121).

- These Explanatory Notes have been prepared by the Department of Health and Social Care in order to assist the reader of the Tobacco and Vapes Bill and to help inform debate on it. They do not form part of the Tobacco and Vapes Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Tobacco and Vapes Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Tobacco and Vapes Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Tobacco and Vapes Bill will be a landmark step in creating a smoke-free UK. It will:
 - A. create a smoke-free generation, gradually ending the sale of tobacco products across the country and breaking the cycle of addiction and disadvantage.
 - B. strengthen the existing powers to ban smoking in public places to reduce harms of passive smoking, particularly around children and vulnerable people.
 - C. ban vapes and nicotine products from being deliberately branded, promoted, and advertised to children to stop the next generation from becoming hooked on nicotine.
 - D. provide powers to introduce a licensing scheme for the retail sale of tobacco, vapes and nicotine products, extend the retail registration scheme in Scotland, and strengthen enforcement activity to support the implementation of the above measures.
 - E. the Bill sits alongside wider support across the health service to support smokers to quit.
- 2 The Bill modifies, amends, extends, and re-enacts several existing tobacco and vaping control measures to create a consistent legislative framework. These changes will help to ensure a consistent application of the law, close loopholes, improve readability and subsequent enforcement.
- 3 The Bill broadly seeks to align provisions across the UK, building on the existing legislative frameworks that apply.

Policy background

Tobacco

- 4 Tobacco is a uniquely harmful product. It is accepted now that tobacco drives negative health outcomes. It remains the single most important entirely preventable cause of ill health, disability and death in the UK¹, causing 80,000 deaths in the UK per year². In the UK, 11.9% of the population smoke which equates to around 6 million people³.
- 5 Smoking causes harm throughout people's lives, from a 47% increase in the chances of stillbirth⁴ to greater risk of dementia in older people⁵. Almost every minute someone is admitted to hospital because of smoking. Up to 75,000 GP appointments could be attributed to smoking each month – over 100 appointments every hour in England. 2 in 3 smokers will die of tobacco use.

¹ OHID. Health Profile for England. 2021. [Health Profile for England 2021 \(phe.org.uk\)](https://phe.org.uk).

² Sum of the separate figures published for England, Scotland, Wales and Northern Ireland:

OHID. Local Tobacco Control Profiles – Smoking attributable mortality (new method). Directly standardised rate - per 100,000. 2021

³ ONS. 2024. [Adult smoking habits in the UK - Office for National Statistics](https://www.ons.gov.uk)

⁴ Action on Smoking and Health. 2021. [Smoking, Pregnancy and Fertility - ASH](https://ash.org.uk)

⁵ Action on Smoking and Health. 2021. [Smoking and Dementia - ASH](https://ash.org.uk)

- 6 Non-smokers are exposed to second-hand smoke (passive smoking) which means that through no choice of their own many come to harm. Passive smoking is particularly dangerous for vulnerable people like children, pregnant women and those with pre-existing but usually invisible conditions such as heart disease, lung disease or asthma which may not be visible to the smoker. The measures introduced in 2007 to restrict smoking indoors had a significant public health impact. Evidence on the harm of exposure to second-hand smoke is well established and because of its carcinogenic content there is no safe level of exposure.
- 7 Smoking drives socioeconomic and geographic disparities in health outcomes. Those living with mental health problems, the unemployed, and those on minimal incomes or living in deprivation are far more likely to smoke than the general population and 25.1% of adults with a long-term mental health condition smoke⁶.
- 8 230,000 households live in smoking-induced poverty⁷ and children of smokers are 3 times as likely to start to smoke, perpetuating the cycle of disadvantage⁸. In 2023 smoking prevalence was 14.6% in the most deprived decile, compared to 9.3% in the least deprived decile⁹. 24.9% of people in accommodation rented through the local authority or housing association smoke, compared to 6.7% for people who own their house outright¹⁰.
- 9 The harms created by tobacco financially burden the state and the NHS. In total, smoking costs the country £21.8 billion a year in England¹¹. This includes an annual £18.3 billion loss to productivity, through smoking related lost earnings, unemployment, and early death, as well as costs to the NHS and social care of £3.1 billion. This is equivalent to the annual salaries of almost 700,000 nurses, half a million GPs, half a million police officers, or over 500 million GP appointments. Analysis has also found that long-term smokers are 7.5% less likely to be employed than non-smokers and receive about £1,424 lower earnings a year.¹² Comparatively, only £8.8 billion in tobacco duty was paid in 2023 to 2024¹³.
- 10 Cigarettes addict the most vulnerable. More than 4 in 5 smokers start before the age of 20¹⁴. Those who start smoking as a young adult and cannot quit die on average 10 years younger¹⁵ and live 12 more years in ill health. Most smokers know the risks of smoking and want to quit but are unable to due to the addictive nature of nicotine. Just 16.7% of smokers in England state they are not intending to quit smoking¹⁶.

⁶ Smoking Profile - Data - OHID (phe.org.uk). [Smoking Profile - Data - OHID \(phe.org.uk\)](https://fingertips.phe.org.uk/profile/tobacco-control/data)

⁷ Blessing Nyakutsikwa et al. [The effect of tobacco and alcohol consumption on poverty in the UK](#)

⁸ ASH. 2024. Department of Health and Social Care. 2021. [Children whose parents smoke are 4 times as likely to take up smoking themselves - GOV.UK \(www.gov.uk\)](#) [Young people and smoking - ASH](#)

⁹ Smoking Profile – Data – OHID (phe.org.uk). <https://fingertips.phe.org.uk/profile/tobacco-control/data>
[Smoking Profile - Data | Fingertips | Department of Health and Social Care](#)

¹⁰ Smoking Profile – Data – OHID (phe.org.uk). [Smoking Profile - Data | Fingertips | Department of Health and Social Care](#)

¹¹ ASH. 2024. [Latest figures show cost of smoking in England up 25% to at least £21.8 billion - ASH](#)

¹² Landman Economics. 2024. [CBPF-model-May-2024.pdf](#)

¹³ HMRC. 2024. [Tobacco Bulletin - GOV.UK \(www.gov.uk\)](#)

¹⁴ Public Health England. 2015. [Health matters: smoking and quitting in England - GOV.UK \(www.gov.uk\)](#)

¹⁵ Royal College of Physicians. 2018. [Tobacco Dependency Prelims. Layout 1 \(rcp.ac.uk\)](#)

¹⁶ [Adult smoking habits in the UK - Office for National Statistics \(ons.gov.uk\)](#)

- 11 Alongside measures to reduce the appeal, affordability and promotion of tobacco products, increasing the minimum age of sale can reduce youth smoking. When England and Wales raised the smoking age from 16 to 18, smoking prevalence in 16–17-year-olds fell by 30 per cent¹⁷. When US states raised the smoking age to 21, the chance of someone in that age group smoking fell by 39 per cent¹⁸.
- 12 In England and Wales, the [Children and Young Persons Act 1933](#) introduced age of sale legislation for tobacco products and cigarette papers and [The Children and Young Persons \(Sale of Tobacco etc\) Order 2007](#) amended the legal age of sale from 16 to 18 years old in England and Wales. Currently, anyone who is under the age of 18 cannot be sold tobacco products in England and Wales. Existing legislation also prohibits proxy purchases, meaning it is illegal for adults to buy tobacco products on behalf of someone who is under 18.
- 13 The [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) made it an offence in Scotland to sell tobacco products and cigarette papers to someone under the age of 18 and introduced requirements around age verification. An amendment to the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) provided for restrictions on sales of tobacco and cigarette papers to anyone under 18 in Northern Ireland.
- 14 In addition to the age of sale requirements, a number of legislative tobacco control measures have been enacted by Parliament to protect children and the public from the harms of tobacco, including second-hand smoke, and to help smokers quit. The [Health Act 2006](#) made provision for enclosed and substantially enclosed public places and shared workplaces to be smoke-free in England and Wales and set out the offence of smoking in a smoke-free place. The [Health Act 2009](#) includes amendments to The Children and Young Persons (Protection from Tobacco) Act 1991 and the Tobacco Advertising and Promotion Act 2002 which make provision in relation to sales from vending machines, as well as prohibiting the display of tobacco products in the course of a business (subject to exclusions) and gives powers to regulate (not prohibit) the display of prices of tobacco products for England, Wales and Northern Ireland. The [Smoking, Health and Social Care \(Scotland\) Act 2005](#) and the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) made equivalent provision for Scotland. The [Tobacco Advertising and Promotion Act 2002](#) (TAPA) introduced advertising and sponsorship restrictions in England, Scotland, Wales and Northern Ireland. The [Children and Families Act 2014](#) made it an offence to purchase tobacco products or cigarette papers on behalf of a child under the age of 18, as well as amending smoke-free legislation to provide the Secretary of State, or the Welsh Ministers in relation to Wales, with the power to make regulations to provide for a private vehicle to be smoke-free when a person under the age of 18 is present. The Act also gives the Secretary of State the power to regulate tobacco packaging (to reduce the risk of harm to or promoting the health or welfare of children).
- 15 In Scotland, the smoking provisions of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(the 2005 Act\)](#) and the [Prohibition of Smoking in Certain Premises \(Scotland\) Regulations 2006](#) came into effect in 2006 to prohibit smoking in wholly enclosed or substantially enclosed public places, including public transport and most workplaces. Under this legislation, it is an

¹⁷ ASH. [Youth smoking - ASH](#)

¹⁸ Abigail, F. et al. 2019. [Tobacco-21 laws and young adult smoking: quasi-experimental evidence - PMC \(nih.gov\)](#)

offence to smoke in no-smoking premises or to knowingly permit smoking in no-smoking premises. Similar provisions were enacted in Northern Ireland through the Smoking (Northern Ireland) Order 2006.

- 16 Recommendations to make smoking obsolete were considered in the 2022 independent [Khan Review](#). The headline recommendation of the review was to progressively raise the smoking age of sale. The review also recommended a package of other measures to make England smoke-free. This included increasing smoke-free places to protect young people from second-hand smoke and de-normalise smoking, and the introduction of a tobacco licence for retailers to limit where tobacco is sold.
- 17 On 12 October 2023, a UK-wide consultation was published on [Creating a smokefree generation and tackling youth vaping](#). The consultation was undertaken across all four parts of the UK and all devolved governments contributed to its development. The response was published on 29 January 2024.
- 18 In the consultation, over 63% of respondents agreed with the policy of introducing a new age of sale to ban the sale of tobacco to those born on or after 2009. There were also high levels of support to prohibit proxy purchases for anyone born on or after 1 January 2009, to include all tobacco products, herbal smoking products and cigarette papers within the scope of the policy and reflect the new age of sale in updated retail warning notices. Polling data also shows support for the policy. In a YouGov/ASH poll in April 2024, 71% of adults supported the goal of Britain being a country where no one smokes¹⁹.
- 19 To create a smoke-free UK and to minimise the harms of smoking the Bill will:
 - o create a smoke-free generation by gradually ending the sale of tobacco products across the country, (including herbal smoking products and cigarette papers) so children born on or after 1 January 2009 will never be legally sold these products.
 - o strengthen the existing powers to ban on smoking in public places to reduce the harms of passive smoking, particularly around children and vulnerable people and
 - o restate existing powers and requirements surrounding the packaging, displays and advertising of tobacco products and on the ban of snus.

Vaping and nicotine products

- 20 Vapes (also known as electronic cigarettes, e-cigarettes, electronic nicotine delivery system (ENDS), or vaporisers) work by heating a solution of water, flavouring, propylene glycol (or vegetable glycerine) and, typically, nicotine to create a vapour that the user inhales. The act of using a vape is often referred to as 'vaping'. Devices tend to consist of a mouthpiece, a battery-powered heating element, a cartridge or refillable tank containing the liquid solution and an atomiser that vaporises the solution when heated. A vaping product includes a vaping device as well as a vaping substance.
- 21 Vaping products are less harmful than smoking. The latest evidence found that in the short and medium term, vaping poses a small fraction of the risks of smoking²⁰. Vapes can be an effective

¹⁹ ASH. 2024. [71% of adults support the PM's ambition to stamp out smoking](#)

²⁰ OHID. 2022. [Nicotine vaping in England: 2022 evidence update - GOV.UK \(www.gov.uk\)](#)

tool in supporting addicted smokers to stop²¹ - they contribute an extra 50,000 to 70,000 smoking quits per year in England²². However, the health advice is clear that they should only be used as a smoking quit aid.

- 22 Selling nicotine vapes to under 18s is illegal. Yet due to the branding and advertising of vapes to children, youth vaping has more than doubled in the past 5 years, with 25% of 11-15-year-olds having ever tried vaping as of 2023²³. Disposable vapes are playing a significant role – youth use has increased from 7.7% in 2021 to 54% in 2024²⁴.
- 23 There are health risks associated with the ingredients in vapes. The active ingredient in most vapes (apart from nicotine-free vapes) is nicotine which, when inhaled, is a highly addictive drug. The addictive nature of nicotine means that a user can become dependent on vapes, especially if they use them regularly. Giving up nicotine can be very difficult because the body has to get used to functioning without it. Withdrawal symptoms can include cravings, irritability, anxiety, trouble concentrating, headaches and other mental and physical symptoms. Evidence suggests that in adolescence, the brain is more sensitive to the effects of nicotine, so there could be additional risks for young people than for adults²⁵. Furthermore, propylene glycol and glycerine (components of e-liquids) can produce toxic compounds if they are overheated. Overheating also creates an unpleasant taste, which results in users being less likely to inhale these toxic compounds²⁶. The long-term health harms of colours and flavours when inhaled are unknown. There are also some health risks associated with the other ingredients in vapes. For example, propylene glycol and glycerine (components of e-liquids) can produce toxic compounds if they are overheated. The long-term health harms of colours and flavours when inhaled are unknown, but they are certainly very unlikely to be beneficial.
- 24 Vaping is associated with over 400 hospital admissions per year (this also includes harms from unregulated and faulty products), and this is rising in England²⁷, this remains substantially lower than smoking hospital admissions which rose to 408,700 in 2023²⁸. The evidence on second-hand vaping is still developing and is less strong than smoking. The harm will be lower than smoking, but the degree of harm is unlikely to be 0%. A 2022 comprehensive review identified six studies assessing second-hand exposure to vaping. Overall, only prolonged exposures to heavy vaping resulted in increases in nicotine or potential toxicants in those exposed to second-hand aerosols²⁹. It is plausible that risks may be greater in more vulnerable groups.

²¹ Jamie Hartmann-Boyce. 2022. [Electronic cigarettes for smoking cessation](#)

²² Beard, E. et al. 2019. [Association of prevalence of electronic cigarette use with smoking cessation and cigarette consumption in England: a time-series analysis between 2006 and 2017 - Beard - 2020 - Addiction - Wiley Online Library](#)

²³ NHS England. 2024 [Smoking, Drinking and Drug Use among Young People in England, 2023 - NHS England Digital](#)

²⁴ Action on Smoking and Health. 2024. [Use-of-vapes-among-young-people-in-Great-Britain-2024.pdf \(ash.org.uk\)](#)

²⁵ OHID. 2022. [Nicotine vaping in England: 2022 evidence update - GOV.UK \(www.gov.uk\)](#)

²⁶ ASH. 2021. [Electronic cigarettes](#)

²⁷ NHS UK. 2023. [Hospital admissions for vaping related disorders](#)

²⁸ [NHS England » Hospital admissions due to smoking up nearly 5% last year, NHS data shows](#)

²⁹ OHID. 2022. [Nicotine vaping in England: 2022 evidence update main findings - GOV.UK \(www.gov.uk\)](#)

- 25 In England and Wales [The Nicotine and Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#) and in Northern Ireland [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations \(Northern Ireland\) 2021](#) made it an offence to sell a nicotine vape to someone under the age of 18 and for someone to buy a vape on behalf of someone who is under the age of 18 - proxy purchasing. In Scotland the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#) similarly made selling a Nicotine Vapour Product to under 18s and proxy purchasing an offence.
- 26 [The Tobacco and Related Products Regulations 2016](#) that came into force in May 2016 brought in product requirements for nicotine containing vaping products (described as electronic cigarettes in the regulations) including a requirement for health warnings on the packaging, limits on nicotine strength and restrictions on permitted ingredients in vape substances (a substance other than tobacco that is intended to be vaporised by a vape) across the UK.
- 27 The majority of vapes sold in the UK contain nicotine. However, many children are using non-nicotine vapes. In 2024 [ASH reported](#) that 5.3% of 11-17 year olds who currently vape said that they use non-nicotine vapes. In England, non-nicotine vapes are currently covered by [The General Products Safety Regulations 2005](#) (GPSR). The GPSR requires providers to ensure only safe products are placed on the market, together with any necessary warnings for safe use of the product. In Scotland non-nicotine vapes are currently regulated in the same way as nicotine vapes.
- 28 The Bill refers to nicotine products in order not only to capture nicotine pouches, but to ensure that future consumer nicotine products are also regulated without the need for further primary legislation. The consumer nicotine industry is highly adaptive and other non-medicinal nicotine products have entered the UK market in the form of pouches and soluble strips. There are currently no corresponding regulations setting a minimum legal age of sale, mandating health warnings, maximum nicotine levels or restricting advertising and promotion. Nicotine pouches come in varying degrees of nicotine strength, they are placed between the gum and the lip and the nicotine is absorbed directly into the bloodstream through the membranes in the mouth. Consumer nicotine pouches can deliver levels of nicotine much higher than regulated vapes.
- 29 There are other potentially plausible delivery routes industry may explore (including absorption through tissues in the cheek, absorption through gels or creams, nasal inhalers, and more). These products are likely to be popular with young people and may be marketed towards them. Dry powder and nasal inhalers have the potential for very swift and strong nicotine delivery that greatly increases the potential for initiating dependence, especially in users under the age of 25. Some such potential products may fall under other existing legislation, but by regulating all consumer nicotine products, the Bill aims to protect children and young people from the harmful effects of nicotine addiction no matter the form in which it is delivered.
- 30 In 2022, the independent [Khan review](#) recommended that the government ban cartoons or imagery on the packaging of vapes, review vape flavours and descriptions and prohibit vape companies distributing free vape samples.
- 31 In April 2023, the [Youth Vaping: call for evidence](#) explored where the government could go further to protect children from the harms from vaping. It explored a range of issues, including regulatory compliance, the marketing, advertising and promotion of vapes, the role of social media, and the environmental impact of vaping. The [call for evidence](#) found that the advertising,

display, variety and packaging of vapes is enticing children and young people to start using these products. Some respondents even [cited evidence](#) on the susceptibility of young people to vape advertising, including from adverts that were not designed to appeal to young people. However, the findings from the [call for evidence](#) reiterated that vapes can be an effective way to help adult smokers quit smoking.

- 32 The 12 October [UK-wide consultation](#) also asked questions about vape flavours, displays and packaging and received support for the introduction of regulations to achieve this and a YouGov/ASH survey in November 2023 found 75% of respondents supported banning names of sweets, cartoons and bright colours on vape packaging and 74% support restricting point of sale of vapes³⁰.
- 33 To stop vapes and consumer nicotine products (such as nicotine pouches) from being deliberately branded and advertised to children, and to ensure they are only available as a tool to help adult smokers quit, the Bill will:
- o ban vaping products and nicotine products from being sold to under 18s and ban the free distribution of these products;
 - o ban advertising, promotion and sponsorship agreements for vapes and nicotine products mirroring impactful restrictions on tobacco;
 - o provide regulation making powers to regulate the flavours, packaging, and other product standards of vapes and nicotine products;
 - o provide powers to regulate the display of vapes and nicotine products;
 - o ban vape and nicotine product vending machines;
 - o introduce powers to introduce a new registration scheme for all vapes and nicotine products. This scheme would also cover tobacco products.
 - o introduce powers to extend smoke-free laws so that they could also prohibit the use of vapes and heated tobacco products in specified areas where smoking is prohibited.

Enforcement

- 34 Underage sale of tobacco, and more recently vapes, impacts upon public health. In 2019 to 2020, of the councils in England who undertook test purchasing, 50% reported that cigarettes or tobacco products were sold to people who were underage in at least one premise. Similarly, in 2022 to 2023, National Trading Standards identified that 27.3% of the 1,199 vape test purchases carried out with retailers in England resulted in an illegal sale³¹.
- 35 Local enforcement authorities in England, on conviction in a magistrate's court, are able to impose a fine of up to £2,500 for the offence of underage sale of a tobacco product or cigarette papers under the [Children and Young Persons Act 1933](#) and nicotine products under the [Children and Families Act 2014](#). Pursuant to section 12A and 12B of the [Children and Young Persons Act 1933](#)³², where a business or individual has persistently breached tobacco or nicotine

³⁰ ASH. 2023. [Public support for Government action on tobacco in Great Britain - ASH](#)

³¹ National Trading Standards. 2023. Operation Joseph statistics.

³² Added by the Criminal Justice and Immigration Act 2008 c. 4

product restrictions local enforcement authorities can apply to a court for a restricted premises order or restricted sale order, to prohibit the business or individual from selling these products for up to 12 months.

- 36 A fixed penalty notice (FPN) is a notice giving an individual the opportunity to avoid prosecution for an alleged criminal offence in exchange for a payment of a fine. Individuals can, if they wish, choose not to pay the FPN and instead challenge the prosecution in court. FPNs are a well-established approach to enforce a range of regulatory offences, for instance penalty notices for disorder (PND, a type of FPN) are already used as part of a suite of measures to enforce age of sale restrictions for alcohol.
- 37 [The Proxy Purchasing of Tobacco, Nicotine Products etc. \(Fixed Penalty Notice\) \(England\) Regulations 2015](#) permit enforcement officers to issue FPNs for breaches of legislation prohibiting proxy purchasing of tobacco products and vapes. The [Health Act 2006](#) introduced FPNs for breaches of the smoke-free premises legislation and the requirement to display no-smoking signs in smoke-free premises in England and Wales.
- 38 The [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) introduced a registration scheme and FPN regimes for the age of sale and proxy purchasing offences relating to the sale of tobacco products, cigarette papers and vapes, and FPNs are regularly utilised to enforce age of sale legislation. These regimes will continue in Scotland irrespective of the measures in the Bill.
- 39 The [Tobacco Retailers Act \(Northern Ireland\) 2014](#) introduced a registration scheme and FPN regime for the age of sale and proxy purchasing offences relating to the sale of tobacco products and cigarette papers, and FPNs are regularly utilised to enforce age of sale legislation. The Bill provides for the registration scheme in Northern Ireland to be extended to include vapes and other nicotine products and for the introduction of a retail licensing scheme that will be commenced in the longer term.
- 40 Under the current regime in England and Wales, when enforcement authorities wish to issue a fine for selling tobacco products or vapes to someone who is under 18, they are required to prosecute the individual or business and the individual or business must be convicted in a magistrates' court. This can involve a time-consuming court procedure and can be expensive. FPNs allow enforcement authorities to act without involving the courts.
- 41 The October 2023 [consultation](#) considered how to enforce the future restrictions on tobacco, vapes and other consumer nicotine products. The consultation asked respondents if they think FPNs should be issued for breaches of age of sale restrictions for tobacco products and vapes and 88.3% of respondents said yes. Of the respondents who answered the question on the level of FPN for underage tobacco sale, 44% were in support of a £200 FPN, 17.8% were in support of a £100 FPN and 38.3% were in support of another value. Similar levels of support were shown for the value of FPNs for underage vape sales.
- 42 In June 2022, the independent [Khan Review](#) recommended the government introduce a retailer licensing scheme for the sale of tobacco to strengthen enforcement (prevent illicit and underage sales) and limit the availability of tobacco across the country.
- 43 A [2022 ASH survey](#), for example, found that 81% of retailers in England support the introduction of a tobacco licence, 9% opposed, 7% neither supported or opposed and 3% didn't know. In addition, a [2023 ASH survey](#) of the public found that in Great Britain, 83% of the public support tobacco retail licensing, making it the most popular intervention surveyed amongst adults.

- 44 The Bill will strengthen enforcement activity to prevent underage sales of tobacco and vapes by:
- o providing enforcement authorities in England and Wales with the power to issue Fixed Penalty Notices of £200 for the underage sale, proxy sale, and free distribution of tobacco, vaping and nicotine products, breaches of tobacco age of sale notice restrictions and display restrictions, and FPNs of £2,500 for offences in connection with licensing;
 - o giving the Secretary of State and the Welsh Ministers regulation-making powers to change the amount of fixed penalties to ensure they remain proportionate;
 - o updating the existing FPN regime in Scotland to extend it to capture all tobacco, vaping and nicotine products, and include free distribution of tobacco, vaping and nicotine product offences;
 - o updating Northern Ireland legislation such that the existing FPN regime is extended to capture all tobacco, vaping and nicotine products, and include free distribution of tobacco, vaping and nicotine products and display offences;
 - o setting out that it is a defence for retailers committing an age of sale offence that they checked the ID of the prospective customer and that the ID proved the customer was of legal age, thereby supporting retailers to check ID;
 - o providing powers to introduce a licensing scheme for the retail sale of tobacco products, herbal smoking products, cigarette papers, vaping and nicotine products in England, Wales and Northern Ireland, and expand the retailer registration scheme in Scotland;
 - o retaining elements of the current enforcement approach for tobacco and vape regulations, including criminal fines in addition to restricted premises orders and restricted sale orders for persistent offenders.

Legal background

- 45 The relevant legal background is explained in the policy background section of these Notes.

Territorial extent and application

- 46 Clause 167 sets out the territorial extent of the Bill, that is the jurisdictions which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect.
- 47 Part 1 of the Bill extends to England and Wales, Part 2 extends to Scotland and Part 3 extends to Northern Ireland.
- 48 Part 4 of the Bill extends to the whole of the UK and concerns oral tobacco products such as snus.
- 49 Part 5 of the Bill extends to the whole of the UK as this concerns product requirements and standards that will apply to products placed on the UK market.
- 50 Part 6 of the Bill extends to the whole of the UK as this concerns advertising and sponsorship requirements.
- 51 Part 7 of the Bill extends to the whole of the UK and includes provisions on smoke-free, vape-free and heated tobacco-free places in England, Wales, Scotland and Northern Ireland.
- 52 Part 8 of the Bill extends to the whole of the UK and includes standard provisions that help the legislation to function effectively.

- 53 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. To the extent that the provisions of the Bill fall within the legislative competence of devolved legislatures, a Legislative Consent Motion will be sought.
- 54 See the table in Annex A for a summary of the position regarding territorial extent and application in the UK.

Commentary on provisions of the Bill

Part 1: Sale and distribution: England and Wales

Sale of Tobacco etc

- 55 Annex B illustrates examples of the tobacco products that are in the government's view in scope of each clause in Part 1. This is not intended to be an exhaustive list of products.
- 56 Part 1 extends to England and Wales.

Clause 1: Sale of tobacco etc

- 57 Clause 1 introduces a new age of sale restriction for tobacco products, herbal smoking products and cigarette papers. This clause makes it an offence for retailers to sell, defined as sell by retail as outlined in clause 48 (Interpretation of Part 1), tobacco products, herbal smoking products or cigarette papers to anyone who is born on or after 1 January 2009. This replaces the current age of sale restriction set out in the [Children and Young Persons Act 1933](#) (the 1933 Act), as amended by [The Children and Young Persons \(Sale of Tobacco etc\) Order 2007](#) which made it an offence to sell tobacco, herbal smoking products or cigarette papers to someone who is under the age of 18 in England and Wales. Tobacco products, herbal smoking products and cigarette papers were in scope of the 1933 Act and are also in scope of the new age of sale restrictions in this Bill.
- 58 Clause 48 (Interpretation of Part 1) sets out the scope of the age of sale restrictions by setting out the definition of tobacco products: "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. The intention is to include any type of tobacco product that might be produced for consumer use, regardless of how that product is consumed. Products that are currently available on the UK market are all considered to be captured by this definition. The additional wording 'consumed in any other way' is intended to cover emerging products with novel forms of usage.
- 59 Cigarette papers include anything intended to be used to encase tobacco products or herbal smoking products to enable them to be smoked. These therefore include products such as cigarette tubes.
- 60 In the 1933 Act, herbal smoking products are understood to be a type of tobacco product as it is set out that the expression "tobacco" includes smoking mixtures intended as a substitute for tobacco (section 7(5)). This Bill provides an altered definition of tobacco products which does not include herbal smoking. Herbal smoking products are understood as a product consisting wholly or partly of vegetable matter and intended to be smoked but not containing tobacco. Herbal smoking products are captured by this Bill, but they are defined and listed separately in this legislation.

- 61 The intention is to capture any products that contain tobacco and are used as consumer products as well as other herbal products that are smoked, due to the harmful nature of smoking. Whilst herbal smoking products do not contain nicotine or tobacco, they do contain cancer causing chemicals, tar and carbon monoxide, similar to a tobacco cigarette. Cigarette papers have also been included in the new age of sale restrictions as they are burnt with the tobacco.
- 62 The age of sale restriction does not apply to sales in the course of a business so would not prevent someone born on or after 1 January 2009 from being employed in a tobacco retail business or wholesaler. See the definition in clause 48 (Interpretation of Part 1) of ‘sell’ as sell by retail.
- 63 The age of sale restriction does not make it an offence for someone born on or after 1 January 2009 to possess or use tobacco products, herbal smoking products or cigarette papers.
- 64 An individual who is convicted of an offence under this provision may receive a fine of up to £2,500 (level 4 on the standard scale).
- 65 The clause provides that it is a defence for someone who is charged with the age of sale offence to prove they were shown what appeared to be an identity document belonging to the purchaser and that the date of birth shown on that document was before 1 January 2009, or that they otherwise took all reasonable steps to avoid committing the offence. The clause defines “identity document” as a passport, a UK driving licence, a driving licence issued by any of the Channel Islands or the Isle of man, a European Union photocard driving licence, or an identity card issued by the Proof of Age Standard Scheme and bearing its hologram.

Clause 2: Purchase of tobacco etc on behalf of others

- 66 Clause 2 makes it an offence for any adult aged 18 or over to buy, or attempt to buy, tobacco products, cigarette papers or herbal smoking products on behalf of anyone who is born on or after 1 January 2009, commonly referred to as ‘proxy purchasing’. This is to ensure alignment with the new age of sale restriction in clause 1 (Sale of tobacco etc.). This clause replaces the current offence under section 91 of the [Children and Families Act 2014](#) for someone aged 18 or over to buy, or attempt to buy, tobacco products or cigarette papers on behalf of someone who is under 18 in England and Wales.
- 67 The clause avoids the criminalisation of children by specifying that the offence is committed by an individual aged 18 or over.
- 68 An individual who is convicted of an offence under this provision may receive a fine of up to £2,500 (level 4 on the standard scale).
- 69 It is a defence if a person charged with this offence can prove they had no reason to suspect that the other person was born on or after 1 January 2009 or they can prove that they had no reason to believe that the other person intended to use the cigarette papers for smoking.

Clause 3: Tobacco vending machines

- 70 Clause 3 sets out that it is an offence if a person manages or controls a premises where a tobacco vending machine (“an automatic machine from which tobacco products, herbal smoking products or cigarette papers may be bought”) is available for use on the premises. This clause re-enacts and consolidates the existing provisions in the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#), which introduced a regulation making power to prohibit the sale of tobacco from an automatic machine in England and Wales. This has been updated to also include cigarette papers to align with the products in scope of the age of sale provision.
- 71 An individual who is convicted of an offence under this provision may receive a fine of up to £2,500 (level 4 on the standard scale).

Clause 4: Sale of unpackaged cigarettes

- 72 Clause 4 sets out the prohibition against selling cigarettes when they are not in their original packaging. Tobacco retailers must sell cigarettes in the packaging that they are supplied to the retailer in (defined as original packaging) and not doing so is an offence. This re-enacts the offence under section 3 of the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#).
- 73 Anyone who is convicted of an offence under this provision may receive a fine up to £1,000 (level 3 on the standard scale).

Clause 5: Age of sale notice at point of sale: England

- 74 The clause requires a tobacco retailer (a person who carries on a business involving the sale of tobacco by retail) to display an age of sale notice in a prominent position that says, "It is illegal to sell tobacco products to anyone born on or after 1 January 2009". A premises means any place including a vehicle or moveable structure, for instance, this would include stalls at car boot sales.
- 75 The penalty for failure to display a notice is a fine of up to £1,000 (level 3 on the standard scale).
- 76 Clause 5(4) provides a regulation making power for the Secretary of State to stipulate requirements for the size or appearance of the statement to be displayed on the notice or any other aspect of the notice, such as the colour of the notice. Requirements for the notice will be set in regulations before 1 January 2027. This is a re-enactment with modifications of the regulation making power under section 4 of the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#) (the 1991 Act). Under section 4 of the 1991 Act it is a requirement for any retailer selling tobacco products to display a notice that says, "It is illegal to sell tobacco products to anyone under the age of 18". This clause only applies to England. [The Protection from Tobacco \(Display of Warning Statements\) Regulations 1992](#) were made using the powers in section 4.

Clause 6: Age of sale notice at point of sale: Wales

- 77 Clause 6 makes the same provision for retailers in Wales selling tobacco products as clause 5 (Age of sale notice at point of sale: England) does for England. The clause requires a tobacco retailer in Wales to display notices stating the new age of sale requirements. This clause applies to Wales only.
- 78 The clause requires a tobacco retailer in Wales to display an age of sale notice in a prominent position with the text in both English and Welsh. "It is illegal to sell tobacco products to anyone born on or after 1 January 2009" and "Mae'n anghyfreithlon gwerthu cynhyrchion tybaco i unrhyw un a anwyd ar neu ar ôl 1 Ionawr 2009". The new sign must be displayed from 1 January 2027.
- 79 The penalty for failure to display a notice is a fine of up to £1,000 (level 3 on the standard scale).
- 80 Clause 6(4) provides a regulation making power for the Welsh Ministers to stipulate requirements for the size or appearance of the statement to be displayed on the notice or any other aspect of the notice, one example could be the colour of the notice. Requirements for the notice will be set in regulations before 1 January 2027. This is a re-enactment with modifications of the regulation making power under Section 4 of the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#) (the 1991 Act). Under section 4 of the 1991 Act it is a requirement for any retailer in Wales selling tobacco products to display a notice that says, "It is illegal to sell tobacco products to anyone under the age of 18". [The Protection from Tobacco \(Display of Warning Statements\) Regulations 1992](#) were made using the powers in section 4.

Snus etc

Clause 7: Ban on manufacture of snus etc

- 81 Clause 7 makes it an offence to manufacture a tobacco product that is intended for oral use, is not intended to be inhaled or chewed and consists wholly or partly of tobacco in powder or particulate form.
- 82 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in Regulation 17 of [The Tobacco and Related Products Regulations 2016](#). The Bill extends these restrictions to include a ban on snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.
- 83 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 8: Ban of sales of snus etc

- 84 Clause 8 makes it an offence to sell a tobacco product that is intended for oral use, is not intended to be inhaled or chewed and consists wholly or partly of tobacco in powder or particulate form.
- 85 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in Regulation 17 of [The Tobacco and Related Products Regulations 2016](#). The Bill extends these restrictions to include a ban on snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.
- 86 It is a defence for a person charged with an offence under this provision to prove that they took all reasonable steps to avoid committing the offence.
- 87 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 9: Possession of snus etc with intent to supply

- 88 Clause 9 makes it an offence for a person to have a tobacco product that is intended for oral use, is not intended to be inhaled or chewed and consists wholly or partly of tobacco in powder or particulate form in their possession with intent to supply it in a course of business.
- 89 It will not be an offence to possess relevant oral tobacco products for personal use or to give as a personal gift.
- 90 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Sale of vaping and nicotine products etc

- 91 Annex B illustrates examples of the vaping and nicotine products that in the government's view are in scope of each clause in Part 1. This is not intended to be an exhaustive list of products.
- 92 Clause 48 (Interpretation of Part 1) outlines definitions for Part 1. Definitions include a "vape" which means a device which vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it also vaporises tobacco) and is not a medical device or a medicinal product and "vaporises" includes aerosolises. It also means an item which is intended to form part of a device including anything intended to be attached to it with a view to imparting flavour. A "vaping product" means a vape, or a vaping substance and a "vaping

substance” means a substance, other than tobacco, that is intended to be vaporised by a vape. The definitions include both nicotine and non-nicotine vaping products.

- 93 Clause 48 (Interpretation of Part 1) provides the definition of a “nicotine product” for this Part. The clause defines a “nicotine product” as a device that is intended to deliver nicotine into the human body, or part of a device that does that or anything that contains nicotine. The definition excludes a range of products, including tobacco products, herbal smoking products, cigarette papers, devices that are intended to be used for tobacco consumption, vaping products, medical devices and medicinal products – these products are captured elsewhere in the bill, and in the case of medical devices and medicinal products fall under a separate regulatory framework as they are not consumer products.

Clause 10: Sale of vaping or nicotine products to under 18s

- 94 Clause 10 makes it an offence to sell a vaping or nicotine product to someone under the age of 18. This replaces the existing age of sale restriction for nicotine inhaling products (nicotine vapes) as set out in [The Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#) which made it an offence to sell a nicotine vape to children under the age of 18. Currently there are no age of sale restrictions for other consumer nicotine products.
- 95 A vaping product is defined in clause 48 (Interpretation of Part 1) as a vape or vaping substance. This is a change from the existing age of sale provision which currently only includes nicotine vapes. This has been changed to ensure a consistent approach across all types of vape, and to ensure that the bill gives us the powers to regulate e-liquids and refills along with the vape device itself. This change will come into force six months after the Bill is passed.
- 96 A nicotine product is defined in clause 49 (Meaning of “nicotine product”) and is self-explanatory.
- 97 An individual who is convicted of an offence under this provision may receive a fine of up to £2,500 (level 4 on the standard scale).
- 98 Clause 10 provides that it is a defence for someone who is charged with the offence to prove they were shown what appeared to be an identity document belonging to the purchaser and it confirmed that the customer was 18 or over, or that they otherwise took all reasonable steps to avoid the commission of the offence. This clause defines “identity document” as a passport, a UK driving licence, a driving licence issued by any of the Channel Islands or the Isle of Man, a European Union photocard driving licence or an identity card issued by the Proof of Age Standard Scheme and bearing its hologram (a PASS card).

Clause 11: Purchase of vaping or nicotine products on behalf of under 18s

- 99 Clause 11 makes it an offence for a person aged 18 or over to buy, or attempt to buy, a vaping product or a nicotine product on behalf of someone who is under the age of 18, also known as proxy purchasing. This clause replaces section 91 of the [Children and Families Act 2014](#) (the 2014 act), which made it an offence for someone over 18 to buy, or attempt to buy, a nicotine inhaling product (nicotine vape) on behalf of someone who is under the age of 18.
- 100 The 2014 Act currently only applies to nicotine vapes, and the new restriction will apply to all vapes. This clause also extends the restriction to include nicotine products as currently there are no restrictions on the proxy purchasing of nicotine products. This change will come into force six months after the Bill is passed.
- 101 Anyone convicted of an offence under this provision may receive a fine of up to £2,500 (level 4 on the standard scale). It is a defence for a person charged with an offence to prove that they had

no reason to suspect that the other person was under the age of 18.

Clause 12: Vaping and nicotine product vending machines

- 102 Clause 12 makes it an offence for a person who manages or controls a premises to have a vape or nicotine product vending machine (“an automatic machine from which vaping/nicotine products may be bought”) available for use on the premises. The offence will come into force six months after the Bill achieves Royal Assent, this is so that premises that currently contain a vape or nicotine product vending machine will have time to remove or stock the machine with alternative products.
- 103 This clause introduces a new offence as there are currently no restrictions on the use of vape vending machines or nicotine product vending machines, unlike tobacco vending machines, which were banned by regulations made under the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#).
- 104 A person convicted of the offence may receive a fine of up to £2,500 (level 4 on the standard scale).

Displays of products or prices

Clause 13: Displays of products or prices in England

- 105 Clause 13 provides the Secretary of State with powers to regulate the display of tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products and their prices, as well as the display of empty retail packaging or anything that represents the products, in retailers in England.
- 106 Under the [Tobacco Advertising and Promotion Act 2002](#) and regulations made under that Act there are already restrictions on the display in the course of business of tobacco products and prices. However, there are no restrictions under current legislation on where vaping products and nicotine products, as well as their prices, can be displayed in retail premises. This Bill provides for new regulations for the display of tobacco products to be developed. These will replace the existing regulations and the scope of these regulations may extend to other products.
- 107 Subsection (6) confirms that before making regulations under this clause the Secretary of State must consult.
- 108 Clause 13 also facilitates the creation of offences for the failure to comply with the regulations and anyone convicted of an offence under this clause could be subject to imprisonment for a term not exceeding 2 years, a fine, or both.

Clause 14: Displays of products or prices in Wales

- 109 Clause 14 provides the Welsh Ministers with powers to regulate the display of tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products and their prices, as well as the display of empty retail packaging, in retailers in Wales. Similarly, to England, there are already restrictions on displays in the course of business of tobacco products in Wales under the [Tobacco Advertising and Promotion Act 2002](#) and regulations made under it. The existing regulations will be replaced at the same time as the [Tobacco Advertising and Promotion Act 2002](#) is repealed.
- 110 Subsection (6) of this clause confirms that before making regulations under this clause Welsh Ministers must consult.

- 111 The power under clause 14 sets out that the regulations may provide for the creation of offences for the failure to comply with the regulations and anyone convicted of an offence could be subject to imprisonment for a term not exceeding 2 years, a fine, or both.

Free distribution and discounts

Clause 15: Free distribution and discount of products

- 112 Clause 15 makes it an offence to give away, any product or a coupon (defined as anything (whether in physical or electronic form), which can be redeemed for a product or service or for cash or any other benefit) to a member of the public where the purpose or effect is to promote a relevant product.
- 113 It is currently prohibited under section 9 of the [Tobacco Advertising and Promotion Act 2002](#) (TAPA) to give away (in the course of a business) any product or coupon where the purpose or effect of which is to promote a tobacco product. This clause replaces section 9 of TAPA and extends the scope as there are currently no restrictions on businesses freely distributing nicotine and non-nicotine vaping products, cigarette papers, and herbal smoking products.
- 114 This clause also makes it an offence to sell a relevant product or coupon at a substantial discount. There is a regulation making power in TAPA to extend the ban on free distribution of tobacco products to cover selling a product at a substantial discount. This has been re-enacted as a ban on the face of the Bill rather than a regulation making powers there is no intention to permit selling a product or coupon at a substantial discount to circumvent the restriction on free distribution.
- 115 This clause provides that there is a defence available where a person is charged with giving away a vaping product or nicotine product or coupon for such if they can prove it was done in accordance with arrangements made by a public authority. If this defence is satisfied, then they are not guilty of the offence. An example of this could be where a government body funds a smoking cessation programme that utilises vapes as a cessation tool and provides them for free.
- 116 Anyone convicted of an offence under this clause may be subject to imprisonment, a fine, or both.

Licensing of retail sales of tobacco products etc in England

Clause 16: Prohibition of retail sales of tobacco products etc in England without a licence

- 117 Clause 16 provides the Secretary of State with the power to make regulations regarding the granting of personal and premises licences.
- 118 This clause prohibits the sale, exposure for sale, or possession for the purpose of sale (by the individual or another person) of tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products by an individual in England, except under the authority of and in accordance with a personal licence. The Secretary of State may, by regulations, create exceptions to this prohibition. This provision will come into force when regulations for the licensing scheme are laid.
- 119 This clause also prohibits a person from using or permitting the use of premises in England, to store for the purpose of their sale (by the person or another person), expose for sale, or supply tobacco products, herbal smoking products, cigarette papers, vaping, or nicotine products to

retail customers except under the authority of and in accordance with a premises licence. The Secretary of State may, by regulations, create exceptions to this prohibition. This provision will come into force when regulations for the licensing scheme are laid.

- 120 Before exercising the power to make regulations under this clause, the Secretary of State must consult. Further detail on what the licensing scheme regulations in England may include are set out in schedule 1. Any regulations made under clause 16 are subject to the affirmative resolution procedure.

Schedule 1: Retail licensing scheme: England

- 121 This schedule details the regulations for a retail licensing scheme that may be made under the powers provided to the Secretary of State in clause 16 (Prohibition of retail sales of tobacco products etc in England without a licence). These provisions give further detail about what provisions made through regulations may include to provide clarity about the intended purpose of the regulation making powers. This schedule is for England only.
- 122 The regulations must describe the local authority that will be the licensing authority and thus hold the responsibility for granting licences.
- 123 The regulations may make provisions regarding the granting of a licence in England, including provisions which mean a licensing authority could not grant a licence to a premises in a particular area (for example, proximity to a school), or limiting the number of licences within a particular area. Provisions may also require a licensing authority to inspect a premises to ensure it meets regulations before the granting of a licence.
- 124 The regulations may allow a licensing authority to charge a fee on application for a licence. This would include fees required at the point of any renewal of a licence. The amount of any fee is to be set in regulations and will be able to account for the cost of exercising functions in connection with the licensing scheme including administrative and enforcement costs of the scheme. The regulations may require the licensing authority to pay a proportion of the fees collected to any other person with functions under or in connection with the licensing scheme (clauses 16-18 or the regulations), to ensure fees collected can be used for enforcement of the scheme in a situation where the licensing authority is different from the enforcement authority.
- 125 The regulations may also make provisions regarding the conditions of the licence, namely the requirements that licence holders will need to meet to maintain a licence for the sale or supply of relevant products. This could include, for example requiring that retailers adhere to specific tobacco and vape regulations (such as age of sale regulations) or displaying a licence within a retail premise.
- 126 The regulations may also make provisions regarding the duration of the licence, which is -self-explanatory.
- 127 The regulations may make provisions for the publication of licence information by the licensing authority. Publishing a list of licensed retailers may support enforcement of the licensing scheme.
- 128 The regulations will establish the reviews and appeals process for decisions made on granting a licence. They must specify when a person may request a review of a decision taken under the regulations and give a person the right of appeal to a magistrates' court against a decision taken on a review. This will enable an independent decision. There may be a time limit for requesting reviews or initiating appeals.

- 129 The regulations may require a licensing authority to adhere to guidance published by the Secretary of State when carrying out its functions under the licensing regulations. Guidance will support the implementation of the regulations by licensing authorities.

Clause 17: Offences in connection with licences: England

- 130 Clause 17 sets out that anyone who breaches the prohibitions set out in clause 16(1) and 16(2) commits an offence.
- 131 This clause also makes it an offence if a person provides false or misleading information to a licensing authority in, or in connection with, an application for the grant of a personal or premises licence; or in carrying out of any other obligation imposed by or under licensing regulations. It is only an offence if the information is false or misleading in a material respect, and the person knows, or ought to reasonably know this about the information.
- 132 A person convicted of an offence under clause 17(1) or 17(2) may receive a fine where there is no maximum amount. As an alternative to a criminal prosecution, local weights and measures authorities may issue a fixed penalty notice for these offences under the provisions in clause 37 (Fixed penalty notices).
- 133 Upon conviction of the offence under clause 17(1) (prohibition of retail sales of tobacco products etc in England without a licence as set out in clause 16(1) and (2)) a court may make an order as to what happens to the relevant products to which the offence(s) relate. This may include forfeiture and destruction of the relevant products.

Clause 18: Financial penalties for breach of licence conditions: England

- 134 Clause 18 introduces financial penalties which may be imposed for the breach of conditions attached to a personal or premises licence in England, provided the breach is not a criminal offence under clause 17 (Offences in connection with licences: England). These financial penalties are civil penalties and can be issued by a local weights and measures authority.
- 135 This clause sets the maximum amount of the financial penalty at £2,500 and provides the Secretary of State with the power to change this maximum amount to account for inflation and so that the financial penalty amount remains proportionate. Any regulations made under clause 18 are subject to the negative resolution procedure as the scope of the power is narrow.
- 136 Further details on financial penalties for breach of licence conditions are set out in Schedule 2.

Schedule 2: Financial penalties for breach of retail licence conditions: England

- 137 This schedule sets out the procedure for local weights and measures authorities when imposing financial penalties for breach of licence conditions, introduced in clause 18 (Financial penalties for breach of licence conditions). This schedule is for England only.
- 138 Before imposing a financial penalty, a local weights and measures authority must issue a written notice of intent and allow for a period of representation, to give the person the opportunity to challenge the proposed financial penalty. If, after the period for representation, the local authority decides to impose the financial penalty, they must give a final written notice.
- 139 Both the notice of intent, the final notice can be withdrawn or amended to reduce the penalty amount at any time by written notice.
- 140 A person has the right to appeal to the magistrates' court against the decision to impose a financial penalty or the amount of the penalty. This will enable an independent decision. This schedule establishes the appeals procedure to be followed.
- 141 If a person fails to pay the whole or part of the financial penalty within the given period, the

unpaid amount may be recovered as if it were payable under a county court order.

- 142 Any proceeds received from financial penalties must be returned to the Consolidated Fund once enforcement costs to investigate and issue the penalty have been deducted by the local weights and measures authority.

Retail licensing: Wales

Clause 19: Prohibition of retail sales of tobacco products etc in Wales without a licence

- 143 Clause 19 provides Welsh Ministers with the power to make regulations regarding the granting of personal and premises licences.
- 144 This clause prohibits the sale, exposure for sale, or possession for the purpose of sale (by the individual or another person) of tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products by an individual in Wales, except under the authority of and in accordance with a personal licence. Welsh Ministers may, by regulations, create exceptions to this prohibition. This provision will come into force when regulations for the licensing scheme are laid.
- 145 This clause also prohibits a person from using or permitting the use of premises in Wales, to store for the purpose of their sale (by the person or another person), expose for sale, or supply tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products to retail customers except under the authority of and in accordance with a premises licence. Welsh Ministers may, by regulations, create exceptions to this prohibition. This provision will come into force when regulations for the licensing scheme are laid.
- 146 The licensing authority responsible for granting of personal and premises licences in Wales will be the relevant county or county borough council.
- 147 Before exercising the power to make regulations under this clause, Welsh Ministers must consult. Further detail on what the licensing scheme regulations in Wales may include are set out in Schedule 3. Any regulations made under clause 19 are subject to the affirmative resolution procedure.

Schedule 3: Retail Licensing Scheme: Wales

- 148 This schedule details the regulations for a retail licensing scheme that may be made under the powers provided to Welsh Ministers in clause 19 (Prohibition of retail sales of tobacco products etc in Wales without a licence). These provisions give further detail about what provisions made through regulations may include to provide clarity about the intended purpose of the regulation making powers. This schedule is for Wales only.
- 149 The regulations may make provisions regarding the granting of a licence in Wales, including provisions which mean a licensing authority could not grant a licence to a premises in a particular area (for example, proximity to a school), or limiting the number of licences within a particular area. Provisions may also require a licensing authority to inspect a premises to ensure it meets regulations before the granting of a licence.
- 150 The regulations may allow a licensing authority to charge a fee on application for a licence. This would include fees required at the point of any renewal of a licence. The amount of any fee is to be set in regulations and will be able to account for the cost of exercising functions in connection with the licensing scheme including administrative and enforcement costs of the scheme. The regulations may require the licensing authority to pay a proportion of the fees collected to any

other person with functions under the licensing scheme (clauses 19-21 or the regulations), to ensure fees collected can be used for enforcement of the scheme in a situation where the licensing authority is different from the enforcement authority.

- 151 The regulations may also make provisions regarding the conditions of the licence, namely the requirements that licence holders will need to meet to maintain a licence for the sale or supply of the relevant products. This could include, for example requiring that retailers adhere to specific tobacco and vape regulations (such as age of sale regulations) or displaying a licence within a retail premise.
- 152 The regulations may also make provisions regarding the duration of the licence, which is self-explanatory.
- 153 The regulations may make provisions for the publication of licence information by the licensing authority. Publishing a list of licensed retailers may support enforcement of the licensing scheme.
- 154 The regulations will establish the reviews and appeals process for decisions made on granting a licence. They must specify when a person may request a review of a decision taken under the regulations and give a person the right of appeal to a magistrates' court against a decision taken on a review. This will enable an independent decision. There may be a time limit for requesting reviews or initiating appeals.
- 155 The regulations may require a licensing authority to adhere to guidance published by Welsh Ministers when carrying out its functions under the licensing regulations. Guidance will support the implementation of the regulations by licensing authorities.

Clause 20: Offences in connection with licences: Wales

- 156 Clause 20 sets out that anyone who breaches the prohibitions set out in clause 19(1) and 19(2) commits an offence.
- 157 This clause also makes it an offence if a person provides false or misleading information to a licensing authority in, or in connection with, an application for the grant of a personal or premises licence; or in carrying out of any other obligation imposed by or under licensing regulations. It is only an offence if the information is false or misleading in a material respect, and the person knows, or ought to reasonably know this about the information.
- 158 A person convicted of an offence under clause 20(1) or 20(2) may receive a fine where there is no maximum amount. As an alternative to a criminal prosecution, Local Authority Trading Standards in Wales may issue a fixed penalty notice for these offences under the provisions in clause 37 (Fixed penalty notices).
- 159 Upon conviction of the offence under clause 20(1) (prohibition of retail sales of tobacco products etc in Wales without a licence as set out in clause 19(1) and (2)) a court may make an order as to what happens to the relevant products to which the offence(s) relate. This may include forfeiture and destruction of the relevant products.

Clause 21: Financial penalties for breach of licence conditions: Wales

- 160 Clause 21 introduces financial penalties which may be imposed for the breach of conditions attached to a personal or premises licence in Wales, provided the breach is not a criminal offence under clause 19 (Offences in connection with licences: Wales). These financial penalties are civil penalties and can be issued by a local weights and measures authority.
- 161 This clause sets the maximum amount of the financial penalty at £2,500 and provides Welsh Ministers with the power to change this maximum amount to account for inflation and so that

the financial penalty amount remains proportionate. Any regulations made under clause 21 are subject to the negative resolution procedure as the scope of the power is narrow.

162 Further details on financial penalties for breach of licence conditions in Wales are set out in Schedule 4.

Schedule 4: Financial Penalties for Breach of Retail Licence Conditions: Wales

163 This schedule sets out the procedure for local weights and measures authorities (e.g. Local Authority Trading Standards in Wales) when imposing financial penalties for breach of licence conditions, introduced in clause 21 (Financial penalties for breach of licence conditions: Wales). This schedule is for Wales only.

164 Before imposing a financial penalty, a local weights and measures authority (e.g. Local Authority Trading Standards in Wales) must issue a written notice of intent and allow for a period of representation, to give the person the opportunity to challenge the proposed financial penalty. If, after the period for representation, the local authority decides to impose the financial penalty, they must give a final written notice.

165 Both the notice of intent, the final notice can be withdrawn or amended to reduce the penalty amount at any time by written notice.

166 A person has the right to appeal to the magistrates' court against the decision to impose a financial penalty or the amount of the penalty. This will enable an independent decision. This schedule establishes the appeals procedure to be followed.

167 If a person fails to pay the whole or part of the financial penalty within the given period, the unpaid amount may be recovered as if it were payable under a county court order.

168 Any proceeds received from financial penalties must be returned to the Welsh Consolidated Fund once enforcement costs to investigate and issue the penalty have been deducted by the local weights and measures authority (e.g. Local Authority Trading Standards in Wales).

Clause 22: Repeal of register of retailers of tobacco and nicotine products in Wales etc

169 Clause 22 amends the [Public Health \(Wales\) Act 2017](#) and is self-explanatory. The effect is to repeal existing provisions for a retailer register in Wales once licensing scheme provisions in this Bill come into force by order of the Welsh Ministers.

Restricted premises orders

Clause 23: Restricted premises orders

170 Clause 23 provides that a "persistent offender" who commits a relevant offence in relation to the premises on at least two other occasions within a two-year period can be punished by being prevented from selling one or more of the products altogether.

171 Relevant offences include those under clauses 1 (Sale of tobacco etc), 3 (Tobacco vending machines), 10 (Sale of vaping or nicotine products to under 18s) and 12 (Vaping and nicotine product vending machines) of this Bill, as well as the existing offences shown at subsection 8(b) of this clause up until the point they are repealed. This clause replaces, and is based on, section 12A of the [Children and Young Persons Act 1933](#) where restricted premises orders were introduced for persistent breaches of the age of sale restrictions for tobacco and nicotine products.

172 A restricted premises order means that the retail business at the location where the offences took

place is prohibited from selling one or more of the relevant products (tobacco products, herbal smoking products, cigarette papers, vaping products and nicotine products). The length of the order is determined by the court and may last up to a period of 12 months. This means that no sales of any of these products may take place from that business premises, but it does not affect other businesses within the same group or chain.

173 A restricted premises order is a local land charge, which means it would bind a buyer of the premises.

Clause 24: Restricted premises orders: interested persons

174 Clause 24 sets out the criteria for which individuals ('interested persons' who occupy or have an interest in the premises, for instance the manager or owner) may make representations to the court to try to prevent a restricted premises order being issued against a retailer.

175 This clause is based on the approach outlined in section 12A of the [Children and Young Persons Act 1933](#) for restricted premises orders for breaches of the tobacco legislation.

176 This clause provides when an enforcement authority has applied for a restricted premises order, they must make reasonable enquires and give notice to anyone appearing to them to be an interested person.

177 An interested person can make their case as to why they should not be issued with a restricted premises order, and they may apply to the court to alter or discharge the order.

Clause 25: Restricted premises orders: appeals

178 Clause 25 provides the right to appeal to the Crown Court against an order made by a magistrates' court under clauses 23 (Restricted premises order) or 24 (Restricted premises orders: interested persons).

Clause 26: Breach of restricted premises orders

179 Clause 26 makes it an offence to breach a restricted premises order as defined in clause 23 (Restricted premises order). This clause is based on section 12C of the [Children and Young Persons Act 1933](#) which introduced fines for a breach of a restricted premises order. A breach of a restricted premises order includes the sale of any product that is prohibited, and applies if someone knowingly, or should reasonably know, that the sale is prohibited. Someone who is charged with the offence may have a defence if they can prove they took all reasonable steps to avoid committing the offence. Anyone convicted of an offence under this provision may receive a fine where there is no maximum amount.

Clause 27: Power to extend restricted premises orders in Wales

180 Clause 27 provides the Welsh Ministers with the power to add to the list of "relevant offences" (relating to the restrictions around relevant products) for which a restricted premises order can be issued, replacing an existing power for the Welsh Ministers power in section 51 of the [Public Health \(Wales\) Act 2017](#) to specify a "tobacco or nicotine offence".

181 Before making regulations under this clause the Welsh Ministers must consider who is likely to have an interest in the regulations and Ministers should consult those who they deem are necessary.

Restricted sale orders

Clause 28: Restricted sale orders

- 182 Clause 28 provides that a persistent offender (who has committed a relevant offence on at least two other occasions within two years) can be prohibited from selling certain products (e.g. tobacco, herbal smoking, vaping or nicotine products as well as cigarette papers). Restricted sales orders can be imposed for persistent breaches of clauses 1 (Sale of tobacco), 3 (Tobacco vending machines), 10 (Sale of vaping products to under 18s) and 12 (Vaping and nicotine product vending machines) of this Bill, as well as the existing offences shown at subsection 5(b) of this clause up until the point they are repealed. This clause replaces and is based on section 12B of the [Children and Young Persons Act 1933](#) where restricted sale orders were introduced for repeated breaches of the age of sale legislation for tobacco and nicotine products.
- 183 If a person convicted with a relevant offence is a persistent offender, the person who brought the proceedings for the offence can apply to the magistrates' court for a restricted sale order.
- 184 A restricted sale order prohibits a named person within a business from selling any tobacco products, herbal smoking products, cigarette papers, vaping products, or any relevant nicotine product or from having any management role in a premises relating to sales of those products including the keeping of any machine for relevant products. The order will apply to the named individual regardless of where they are employed. The length of the order is determined by the court and may last for a period of up to 12 months.

Clause 29: Restricted sale orders: appeals

- 185 Clause 29 provides the right to appeal to the Crown Court against an order made by a magistrates' court under clause 28 (Restricted sale orders).

Clause 30: Breach of restricted sale orders

- 186 Clause 30 makes it an offence to fail to comply with a restricted sale order. It is a defence for someone who is charged with the offence to prove they took all reasonable steps to avoid committing the offence and anyone convicted of an offence under this provision may receive a fine where there is no maximum amount.

Offences by bodies

Clause 31: Liability of others for certain offences committed by bodies

- 187 Clause 31 makes a "relevant person" (a director or manager of a company or someone with partner status in a partnership or a person exercising function of management in an unincorporated association) liable for an offence committed by a body where the offence has been committed with their consent, connivance, or neglect. In such cases the relevant person would be liable in addition to the body (such as the company or partnership) they are working for to have proceedings brought against them. This applies to offences under clause 26 (Breach of restricted premises order) or any other offence under Part 1 of the Bill or any regulations made under clauses 13 (Displays of products or prices in England) and 14 (Displays of products of prices in Wales).

Enforcement functions

Clause 32: Enforcement by local weights and measures authorities

188 Clause 32 places a duty on local authorities to enforce the provisions in Part 1 of the Bill and any regulations made under clauses 13 (Displays of products or prices in England) and 14 (Displays of products of prices in Wales). It provides that the investigatory powers available to an enforcement authority are those in Schedule 5 (Investigatory powers) of the [Consumer Rights Act 2015](#) (the 2015 Act). Investigatory powers provided by Schedule 5 of the 2015 Act include the powers to purchase products, observe the activities of a business, enter premises with or without warrant, inspect products, test any weighing or measuring equipment, require the production of documents, seize and detain goods, seize documents required as evidence, break open a container and to require assistance from persons on the premises.

Clause 33: Programme of enforcement action: England

189 Clause 33 sets out a requirement for enforcement authorities in England to consider a so-called 'programme of enforcement' and the potential design of the programme on a yearly basis. This is a means of ensuring that a local authority in England considers whether they are enforcing offences effectively. The programme of enforcement itself is as described in the clause and is self-explanatory.

Clause 34: Programme of enforcement action: Wales

190 Clause 34 sets out a requirement for enforcement authorities in Wales to consider a so-called 'programme of enforcement' and the potential design of the programme on a yearly basis. This is a means of ensuring that local authorities in Wales consider whether they are enforcing offences effectively. The programme of enforcement itself is as described in the clause and is self-explanatory.

Powers of ministers to take over enforcement

Clause 35: Power of ministers to take over enforcement functions

191 Clause 35 provides a power for the Secretary of State or the Welsh Ministers to carry out the enforcement as prescribed in clause 32 (Enforcement by local weights and measures authorities) instead of the local enforcement authority. The effect of this is that a national enforcement authority will undertake the investigation and enforcement, rather than the local enforcement authority. This could arise if a local enforcement authority is unable or unwilling to undertake enforcement of a certain case.

Clause 36: Power of ministers to take over proceedings

192 Clause 36 provides a power for the Secretary of State to take over the legal proceedings relating to offences committed under Part 1 of the Bill or regulations made under clause 13 (Displays of products or prices in England). It also provides a power for the Welsh Ministers to take over the legal proceedings relating to any offence that has been committed under Part 1 of the Bill or regulations made under clause 14 (Displays of products or prices in Wales). This will allow a national authority to undertake the legal proceedings instead of a local enforcement authority. This could arise if a local enforcement authority is unable or unwilling to undertake the legal proceedings of a certain case.

Fixed penalties

Clause 37: Fixed penalty notices

- 193 Clause 37 introduces fixed penalty notices (FPNs) for the enforcement of the age of sale restrictions for tobacco products, herbal smoking products and cigarette papers (clause 1) and vaping and nicotine products (clause 10), proxy purchasing of tobacco etc. (clause 2) and vaping or nicotine products (clause 11), tobacco age of sale notice at point of sale regulations in England (clause 5) and Wales (clause 6), regulations relating to the display of products or prices in England (clause 13) and Wales (clause 14), the free distribution and discount of tobacco, vaping and nicotine products (clause 15), and any offences in connection with licensing in England (clause 17) and Wales (clause 20). Section 91 of the [Children and Families Act 2014](#) introduced FPNs for the proxy purchasing of tobacco and vaping products; and this will be replaced by the FPN regime in the Bill.
- 194 An FPN offers the person the opportunity to avoid prosecution for the offence if they make a payment of the fine within a specified period. The amount of the fine will be level 4 on the standard scale (currently set at £2,500) for offences in connection with licensing in England (clause 17) and Wales (clause 20). For all other offences the fine will be £200. The amount specified is that if paid within 28 days and will be reduced by 50% if paid within 14 days.
- 195 No legal proceedings can be initiated before the end of the 28-day period. If the person who has received the FPN fails to make the payment and the local enforcement authority decide to initiate proceedings against them for the offence, the time that is calculated for the magistrates' court will begin after the payment window of 28 days. However, an FPN can be withdrawn by the local enforcement authority at any point. This is mentioned in section 127(1) of the [Magistrates' Court Act 1980](#).

Clause 38: Fixed penalties: use of proceeds

- 196 Clause 38 provides that proceeds received from FPNs for offences in connection with licensing in England (clause 17) and Wales (clause 20) must be paid to the relevant Consolidated Fund once enforcement costs of investigating the offence and issuing the FPN have been deducted by the local weights and measures authority.
- 197 Clause 38 provides that any proceeds from FPNs for all other offences must be used by the local weights and measures authority (e.g. Local Authority Trading Standards in England and Wales) in connection enforcing any measures in this Bill, or any regulations made under this Bill, as well as measures in Part 1 of the [Health Act 2006](#) (smoke-free premises) in England, Part 3 of the [Public Health \(Wales\) Act 2017](#) in Wales, and [The Tobacco and Related Products Regulations 2016](#).

Clause 39: Power to change amount of fixed penalties

- 198 Clause 39 provides the Secretary of State and the Welsh Ministers with a power to change the amount of the FPN and the percentage discount for early payment. This power excludes the ability to change the amount of the FPN for offences in connection with licensing in England (clause 17) and Wales (clause 20). For all other offences, the maximum amount the FPN amount can be changed to is equivalent to level 3 on the standard scale of fines for summary offences (currently £1,000). This is included in the Bill to ensure there is flexibility for new regimes to adapt the penalty amount and the discounted amount to align with changing economic and social circumstances, such as changes in inflation, and to ensure fine amounts are proportionate.

Handing over tobacco etc to underage people in Wales

Clause 40: Handing over tobacco etc to underage people in Wales

199 Clause 40 is self-explanatory and introduces Schedule 5 (Handing over tobacco etc to underage people in Wales).

Schedule 5: Handing over tobacco etc to underage people in Wales

200 This schedule amends the [Public Health \(Wales\) Act 2017](#) to update the provision about handing over of tobacco etc to persons under 18 to align with the new age of sale restrictions, to include vaping products, herbal smoking products, cigarette papers, and nicotine products in this restriction and to provide a power to extend the products to which that Chapter applies to include devices which enable a tobacco product to be consumed. The amendments outlined in the Bill are provided in both English and Welsh.

Consequential, transitional and transitory provision

Clause 41: Consequential amendments to do with Part 1

201 Clause 41 states the consequential amendments to do with Part 1 and where these may be found in the Schedules 6 and 7 according to when they come into force and is self-explanatory.

Schedule 6: Part 1 consequential amendments commencing after 6 months

202 This schedule details consequential amendments that will be made to existing pieces of legislation that will come into force six months after the Bill is passed. Consequential amendments in the schedule will ensure other legislation relating to restrictions and regulations of tobacco are in line with the provisions of the Bill. This amends the [Children and Young Persons Act 1933](#), the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#), the [Tobacco Advertising and Promotion Act 2002](#), the [Health Act 2006](#), the [Criminal Justice and Immigration Act 2008](#), the [Regulatory Enforcement and Sanctions Act 2008](#), the [Health Act 2009](#), the [Children and Families Act 2014](#), the [Tobacco and Related Products Regulations 2016](#) (S.I. 2016/507), the [Public Health \(Wales\) Act 2017](#), and the [Digital Markets, Competition and Consumers Act 2024](#)

Schedule 7: Part 1 consequential amendments commencing on 1 January 2027

203 This schedule details any consequential amendments that will be made to existing pieces of legislation that will come into force on 1 January 2027. Consequential amendments in the schedule will ensure that measures in the Bill coming into force on 1 January 2027 can operate as intended. This amends the [Children and Young Persons Act 1933](#), the [Local Government etc \(Scotland\) Act 1994](#), the [Police Reform Act 2002](#), the [Courts Act 2003](#), the [Regulatory Enforcement and Sanctions Act 2008](#), the [Health Act 2009](#), the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#), the [Police Reform and Social Responsibility Act 2011](#), the [Digital Markets, Competition and Consumers Act 2024](#) and the [Children and Families Act 2014](#). The [Protection of Children \(Tobacco\) Act 1986](#) and the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#) are repealed.

Clause 42: Application of programmes of enforcement to old age of sale offences

204 Clause 42 ensures that the programme of enforcement for England and Wales (clauses 33 and

34) in the Bill will apply to existing tobacco control measures (age of sale restrictions of tobacco in section 7 of the [Children and Young Persons Act 1933](#) and age of sale notice requirements in section 4 of the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#)) up until the new measures in the Bill come into force on 1 January 2027.

Clause 43: Application of fixed penalty regime to old age of sale offences

205 Clause 43 provides for the FPN regime (clause 37, fixed penalty notices) in this Bill to apply to existing offences to sell tobacco products to, or purchase these products on behalf of, someone underage (under 18) from six months after Royal Assent. From 1 January 2027, when the new age of sale restrictions for tobacco products, herbal smoking products and cigarette papers come into force, FPNs will apply to enforce these new restrictions.

206 Up until the 1 January 2027, clause 38 (Fixed penalties: use of proceeds) applies as if it includes reference to section 91 of the [Children and Families Act 2014](#) (Purchase of tobacco etc. on behalf of under 18s).

Clause 44: Transitional provision: general

207 Clause 44 provides transitional provisions, and the effect of this provision is self-explanatory.

Powers to adjust scope

Clause 45: Power to extend Part 1 to other products

208 Clause 45 provides the Secretary of State with powers by regulations to amend any provision of Part 1 which applies to tobacco products by extending the scope to include any device that enables a tobacco product to be consumed (such as a heated tobacco device or pipe), or an item which is intended to form part of such a device. Before making regulations under this section the Secretary of State must consult and obtain consent from the Welsh Ministers if the regulations contain provisions that fall within the legislative competence of the Senedd Cymru.

Clause 46: Power to amend lists of identity documents

209 Clause 46 provides the Secretary of State and the Welsh Ministers as appropriate with a power to make regulations to amend the definition of “identity document” in clause 1 (Sale of tobacco etc) and clause 10 (Sale of vaping or nicotine products to under 18s). This enables the list of identity documents that can be used by retailers to verify a customer’s age to be updated if new forms of identification are developed or others cease to be used.

Crown application

Clause 47: Crown application

210 Clause 47 provides that Part 1 of the Bill and any regulations made under Part 1 bind the Crown. This means that the new age of sale restrictions applies in relation to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty’s prison service, and to members of the armed forces. The Crown itself may not be criminally liable under this Part but persons in the service of the Crown such as civil servants or prison employees may be prosecuted for an offence and are criminally liable.

Interpretation etc

Clause 48: Interpretation of Part 1

211 Clause 48 provides the definitions for Part 1 of the Bill and the effect of this provision is self-explanatory.

Clause 49: Meaning of “nicotine product”

212 Clause 49 sets out the meaning of a “nicotine product” and is self-explanatory.

Part 2: Sale and distribution: Scotland

213 The clauses in Part 2 extend to Scotland.

214 The Bill replaces the definition of "nicotine vapour product" in the Scottish legislation with the definition of "vaping product" in this Bill.

Tobacco etc

215 Annex B illustrates examples of tobacco products that are in the government’s view in scope of each clause in Part 2. This is not intended to be an exhaustive list of products.

Clause 50: Age of sale for tobacco products etc

216 Clause 50 amends existing Scottish tobacco legislation to align with the new age of sale for tobacco products, herbal smoking products and cigarette papers as brought forward by the Bill, ensuring alignment across the UK.

217 The [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) currently makes it an offence to sell tobacco products and cigarette papers to anyone who is under the age of 18 and makes related provisions for this. Clause 50 amends this legislation, for example by replacing references to anyone “under the age of 18” to anyone “born on or after 1 January 2009”. The effect is that it will be an offence for a person to sell a tobacco product, herbal smoking product (given amendments in clause 54 (Extension of tobacco legislation to herbal smoking products)), or cigarette papers to a person who is born on or after 1 January 2009. Amendments are also made to update references in the defence to the offence.

218 The clause also updates the proxy purchasing offence. The effect of this is that it will be an offence for a person aged 18 or over to knowingly buy or attempt to buy a tobacco product, herbal smoking product or cigarette papers on behalf of a person born on or after 1 January 2009.

219 The clause amends the provision about display of warning statements to align with the new age of sale restrictions. The effect is that the notice which must be displayed under section 8 of the 2010 Act must contain the following statement: “It is illegal to sell tobacco products to anyone born on or after 1 January 2009”.

220 This clause also updates the ‘age verification policy’ provisions in the 2010 Act to ensure that age verification is consistently and appropriately applied in line with the new age of sale restrictions for tobacco products, herbal smoking products, cigarette papers, and nicotine products. The 2010 Act requires tobacco and vaping businesses to operate an “age verification policy” in relation to customers who appear under 25. This is a policy that requires steps to be taken by someone in a relevant retail setting to verify the age of a customer purchasing tobacco products, cigarette papers or vaping products (vapes).

221 The Bill makes amendments to reflect the new age of sale restrictions. If the retailer thinks a

customer buying tobacco products, herbal smoking products or cigarette papers was born on or after the 1 January 2009 they are required to establish their age. Until the end of 2033 this requirement applies whenever the retailer thinks the customer is under 25.

- 222 If the retailer thinks a customer buying a vaping product or nicotine product is under the age of 25, they are required to operate a policy of taking steps to establish their age. This is an update to the existing provision in the 2010 Act for vaping product businesses to ensure businesses that sell nicotine products are also captured. The clause retains an existing power for the Scottish Ministers to make regulations to amend the age in respect of vaping and nicotine products that is specified in the age verification policy. The power to amend the specified age for the age verification policy for tobacco products is no longer required as the Bill updates the provision in the 2010 Act such that it refers to retailers needing to consider if the customer purchasing tobacco products appears to have been born on or after 1 January 2009 rather than referring to a specific age.

Clause 51: Sale of unpackaged cigarettes

- 223 Clause 51 amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) and makes it an offence to sell cigarettes that are not in their original packaging. This re-enacts the offence under section 3 of the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#). Tobacco retailers must sell cigarettes in the packaging that they are supplied to the retailer in and not doing so is an offence.
- 224 Anyone who is convicted of an offence under these provisions may receive a fine up to £1,000 (level 3 on the standard scale).

Clause 52: Repeal of offence of purchasing tobacco products by under 18s

- 225 Clause 52 omits section 5 (Purchase of tobacco products by people under 18) of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act). Section 5 of the 2010 Act made it an offence for someone under the age of 18 to buy or attempt to buy a tobacco product or cigarette papers. Omitting this section of the 2010 Act means it is no longer an offence for someone under the age of 18 to buy or attempt to buy tobacco products or cigarette papers. This is intended to achieve consistency with the current position in England and Wales where the age of sale restrictions applies to the sale and not the purchase of tobacco products.

Clause 53: Repeal of power to confiscate tobacco products from person under 18

- 226 Clause 53 omits section 7 (Confiscation of tobacco products from people under 18) of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act). Section 7 of the 2010 Act allowed a constable with reasonable grounds for suspecting that a person in a public place is under the age of 18 and is in possession of a tobacco product or cigarette papers, to require the person to surrender the tobacco product or cigarette papers. Omitting this section of the 2010 Act means constables can no longer confiscate tobacco products or cigarette papers from someone who they suspect to be under 18 and in possession of a tobacco product or cigarette papers. This is intended to achieve consistency with the position in England and Wales.

Clause 54: Extension of tobacco legislation to herbal smoking products

- 227 Clause 54 amends existing Scottish legislation to extend the scope of various provisions in the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) that apply to tobacco products to include herbal smoking products. Herbal smoking products are not currently in scope of the age of sale restrictions in the 2010 Act. This Bill includes herbal smoking products

for the age of sale restrictions in England and Wales and this clause aims to enable alignment between Scotland and the rest of the UK.

228 Herbal smoking products are introduced into provisions regulating the sale of tobacco products to persons under 18 (section 4), age verification policy (section 4B), sale of tobacco or vaping product by persons under 18 (section 4C) and purchase of tobacco products on behalf of persons under 18 (section 6) of the 2010 Act.

229 The clause inserts a definition of “herbal smoking product” into the 2010 Act.

Clause 55: Power to make provision about warning statements

230 Clause 55 amends section 8 of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) to re-enact, with some modification, the existing power for the Scottish Ministers to make provision about warning statements. It gives the Scottish Ministers powers to make regulations to make provision about the size or appearance of the statement on the notice and any other aspect of the notice. This aligns with the approach for England, Wales and Northern Ireland in clauses 5 (Age of sale notice at point of sale: England), 6 (Age of sale notice at point of sale: Wales) and 70 (Age of sale notice at point of sale). [The Sale of Tobacco \(Display of Warning Statements\) \(Scotland\) Regulations 2011](#) were made using the old powers in section 8 of the 2010 Act, but because this Bill is re-enacting those powers, sections 17(2)(b) (repeal and re-enactment) and 23A (Acts of the Scottish Parliament etc) of the Interpretation Act 1978 mean that the regulations will remain in force.

Clause 56: Ban on manufacture of snus etc

231 Clause 56 adds a new section 9A to the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) to include provision banning the manufacture of relevant oral tobacco products, such as snus. This aligns with the approach for England and Wales (clause 7 (Ban on manufacture of snus etc)) and Northern Ireland (clause 73 (Ban on manufacture of snus etc)).

232 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in regulation 17 of [The Tobacco and Related Products Regulation 2016](#). The Bill extends these restrictions to include snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.

233 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 57: Ban on sales of snus etc

234 Clause 57 adds a new section 9B to the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) to include provision banning the sale of relevant oral tobacco products, such as snus. This aligns with the approach for England and Wales (clause 8 (Ban of sale of snus etc)) and Northern Ireland (clause 74 (Ban of sale of snus etc)).

235 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in regulation 17 of [The Tobacco and Related Products Regulation 2016](#). The Bill extends these restrictions to include snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.

236 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 58: Possession of snus etc with intent to supply

237 Clause 58 adds a new section 9C to the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) to include provision banning the possession of relevant oral tobacco products, such as snus, with intent to supply in the course of business. This aligns with the approach for England and Wales (clause 9 (Possession of snus etc with intent to supply)) and Northern Ireland (clause 73 (Possession of snus etc with intent to supply)).

238 It will not be an offence to possess relevant oral tobacco products for personal use.

239 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Vaping and nicotine products

240 Annex B illustrates examples of vaping and nicotine products that in the government's view are in scope of each clause in Part 2. This is not intended to be an exhaustive list of products.

Clause 59: Extension of offences to vaping and nicotine products

241 Clause 59 makes it an offence to sell a vaping or nicotine product to someone under the age of 18 in Scotland. This amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) which introduced various restrictions and requirements for vaping products, including both nicotine and non-nicotine vapes). This clause extends the existing offences (in sections 4A, 4B, 4C, and 6A of the 2010 Act) to include nicotine products and makes provision to align definitions across the UK. This aligns with the approach for England and Wales.

242 The clause also omits section 7 (power to extend vending machine prohibition) from the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#) and replaces section 9 (Prohibited vending machines) of the 2010 Act. The new clause makes it an offence for the person with management or control of premises to have a vending machine from which tobacco products, herbal smoking products, vaping products, nicotine products and cigarette papers may be bought on the premises.

Clause 60: Meaning of “nicotine product”

243 Clause 60 sets out the meaning of a “nicotine product” for this Part and is self-explanatory.

Displays of products or prices

Clause 61: Displays of vaping and nicotine products

244 Clause 61 amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) by inserting a new section 3A (Display of products or prices). The new clause provides the Scottish Ministers with powers to regulate the display of herbal smoking products, vaping products and nicotine products and their prices, as well as the display of empty retail packaging or anything that represents the products, in retailers in Scotland. Unlike the equivalent clauses for England, Wales, and Northern Ireland this power does not cover tobacco products, this is because provisions about displays of tobacco products in Scotland is made under the 2010 Act, rather than under the Tobacco Advertising and Promotion Act 2002, and the bill is not repealing the 2010 Act.

245 This clause confirms that a website does not fall within the meaning of place and so the Scottish

Ministers cannot use this provision to regulate the display of these products on websites. This is included to maintain consistency with section 3 of the 2010 Act. However, this is not intended to produce a different result to clauses 13 and 14 for England and Wales and clause 74 for Northern Ireland which do not explicitly state that a website is not a place.

246 Clause 61 also facilitates the creation of offences for the failure to comply with the regulations and anyone convicted of an offence under this clause could be subject to a fine of up to £2,500 (level 4 on the standard scale).

247 This clause also outlines that the Scottish Ministers must consult before making regulations under this power.

Free distribution

Clause 62: Free distribution and discount of products

248 Clause 62 amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) by inserting a new section 8A (free distribution of products). The new section 8A makes it an offence to give away any product, or a coupon (anything (whether in physical or electronic form) which can be redeemed for a product or service or for cash or any other benefit) to a member of the public where the purpose or effect is to promote a relevant product. There are currently no restrictions on businesses distributing nicotine and non-nicotine vaping products, nor for herbal smoking products and cigarette papers in Scotland. This clause will repeal section 18 of the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#).

249 This clause also makes it an offence to sell by retail a product or coupon at a substantial discount. This is to avoid a loophole in the legislation where, for example, a person could offer a relevant product for sale at a substantial discount to circumvent the restriction on free distribution.

250 This clause provides that there is a defence available where a person is charged with giving away a vaping product or nicotine product or coupon for such if they can prove it was done in accordance with arrangements made by a public authority. If this defence is satisfied, then they are not guilty of the offence. An example of this could be where a government body funds a smoking cessation programme that utilises vapes as a cessation tool and provides them for free. This clause grants the Scottish Ministers a power to create further defences if needed.

251 Anyone convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both. This is the same approach as outlined in clause 15 (Free distribution and discount of products) for England and Wales.

Clause 63: Alignment of definition of “tobacco product”

252 Clause 63 amends the definition of “tobacco product” in the [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), section 35 (Interpretation of Part 1), to align with the definition within this Bill.

Clause 64: Alignment of definition of “vaping product”

253 Clause 64 introduces Schedule 8, which amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#) to align the definition of “vaping product” within this Bill.

Schedule 8: Alignment of definition of “vaping product” in Scottish legislation

254 Schedule 8 amends, the [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), to change references from “nicotine vapour product” to “vaping product” and align the definition of “vaping product” with the one in this Bill.

Extension of retailer register etc

Clause 65: Extension of retailer register etc

255 Clause 65 introduces Schedule 9 which amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) and is self-explanatory.

Schedule 9: Expansion of retailer register etc: Scotland

256 Schedule 9 amends the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) by extending Chapter 2 of Part 1 of the 2010 Act so that retailers selling herbal smoking products and nicotine products are subject to the same registration requirements as retailers who sell tobacco and vaping products.

Miscellaneous and consequential provision

Clause 66: Crown application of 2010 Act

257 Clause 66 amends section 36 of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) by adding a reference to the Scottish Ministers.

Clause 67: Power to extend 2010 Act to other products

258 Clause 67 provides the Scottish Ministers with powers to amend Part 1 of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#) (the 2010 Act) to extend the scope of any provision which applies in relation to a tobacco product to any device that enables a tobacco product to be consumed other than by being smoked (such as a heated tobacco device).

259 It also provides the Scottish Ministers with a power to amend Part 1 of the 2010 Act and extend the scope of any provision which applies in relation to a tobacco product to some or all smoking related products, as listed in section 35(2) of the 2010 Act.

260 The Scottish Ministers must consult before exercising these powers.

Part 3: Sale and distribution: Northern Ireland

261 The clauses in Part 3 extend to Northern Ireland.

Tobacco etc

262 Annex B illustrates examples of tobacco products that are in the government's view in scope of each clause in this Part. This is not intended to be an exhaustive list of products.

Clause 68: Age of sale for tobacco products etc

263 Clause 68 amends existing tobacco legislation in Northern Ireland to align with the new age of sale restrictions for tobacco products and cigarette papers. The existing Article 3 in the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (the 1978 Order) makes it an offence to sell tobacco or cigarette papers to anyone who is under the age of 18 and makes the purchase of tobacco, cigarette papers or relevant nicotine products (nicotine vapes) on behalf of a person under the age of 18 an offence. Clause 68 substitutes a new Article 3 which makes it an offence to sell tobacco products, herbal smoking products, and cigarettes papers to anyone born on or after 1 January 2009. (Herbal smoking products are captured in the definition of tobacco in the 1978 Order (as a substitute for tobacco) and so are also included in the new age of sale restrictions

for tobacco and cigarette papers).

264 The clause provides that it is a defence for someone who is charged with the offence to prove they were shown what appeared to be an identity document belonging to the purchaser and that the date of birth shown on that document was before 1 January 2009, or that they otherwise took all reasonable steps to avoid committing the offence. The clause defines “identity document” as a passport, a UK driving licence, a driving licence issued by any of the Channel Islands or the Isle of Man, a European Union photocard driving licence or an identity card issued by the Proof of Age Standard Scheme and bearing its hologram (a PASS card).

265 An individual who is convicted of an offence may receive a fine of up to £5,000 (level 5 on the standard scale).

Clause 69: Purchase of tobacco on behalf of others

266 Clause 69 amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (1978 Order) to align the proxy purchasing offence with the new age of sale restrictions. The clause substitutes a new Article 4A (Purchase of tobacco etc on behalf of persons born on or after 1 January 2009) which sets out the offence for any adult aged 18 or over to buy, or attempt to buy, tobacco products, cigarette papers or herbal smoking products on behalf of anyone who is born on or after 1 January 2009, commonly referred to as ‘proxy purchasing’. This is to ensure alignment with the new age of sale restriction in clause 68 (Age of sale for tobacco products etc) and the approach for England and Wales in clause 2 (Purchase of tobacco etc on behalf of others).

267 The offence only applies to any adult aged 18 or over, to avoid the criminalisation of children.

268 The clause provides that it is a defence if a person charged with this offence can prove they had no reason to suspect that the other person was born on or after 1 January 2009 or they can prove that they had no reason to believe that the other person intended to use the cigarette papers for smoking.

269 An individual who is convicted of an offence may receive a fine of up to £5,000 (level 5 on the standard scale).

Clause 70: Tobacco vending machines

270 Clause 70 amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) by inserting a new Article 4B (Tobacco vending machines) that makes it an offence where a person has the management or control of premises where a tobacco vending machine (an automatic machine for the sale of tobacco products, herbal smoking products or cigarette papers) is available for use.

271 A person who is convicted of an offence under this provision may receive a fine of up to £5,000 (level 5 on the standard scale).

272 This clause is similar to clause 3 (tobacco vending machines) for England and Wales. However, there is a level 5 fine in this clause whereas clause 3 provides for a level 4 fine for the same offence. This reflects the existing provision for tobacco vending machine offences in Northern Ireland.

Clause 71: Sale of unpackaged cigarettes

273 Clause 71 amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) by inserting a new Article 4C (Sale of unpackaged cigarettes) that makes it an offence to sell cigarettes that are not in their original packaging (the retail packaging in which the cigarettes were supplied to the tobacco retailer for the purpose of sale).

274 Anyone who is convicted of an offence under this provision may receive a fine of up to £1,000 (level 3 on the standard scale).

Clause 72: Age of sale notice at point of sale

275 Clause 72 amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) by inserting a new clause (Article 4D, Age of sale notice at point of sale).

276 The clause requires a tobacco retailer (a person who carries on a business involving the sale of tobacco by retail) to display an age of sale notice in a prominent position that says, "It is illegal to sell tobacco products to anyone born on or after 1 January 2009". A premises means any place including a vehicle or moveable structure, for instance this would include stalls at car boot sales. It is a defence for a person charged with this offence if they can demonstrate they took all reasonable steps to avoid committing the offence.

277 The clause provides the Department of Health in Northern Ireland with powers to make regulations about the size or appearance of the statement of the notice and any other aspect of the notice, for example the colour of the notice.

278 Anyone convicted of an offence under Article 4D may receive a fine of up to £1,000 (level 3 on the standard scale).

Snus etc

Clause 73: Ban on manufacture of snus etc

279 Clause 73 adds Article 4E to the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) to include a provision banning the manufacture of relevant oral tobacco products, such as snus. This aligns with the approach for England and Wales (clause 7 (Ban on manufacture of snus etc)) and Scotland (clause 56 (Ban on manufacture of snus etc)).

280 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in Regulation 17 of [The Tobacco and Related Products Regulations 2016](#). The Bill extends these restrictions to include a ban on snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.

281 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 74: Ban of sales of snus etc

282 Clause 74 adds Article 4F to the [Health and Personal Social Services \(Northern Ireland\) Order 1978 \(S.I. 1978/1907 \(N.I. 26\)\)](#) to include a provision banning the sale of relevant oral tobacco products, such as snus. This aligns with the approach for England and Wales (clause 8 (Ban of sale of snus etc)) and Scotland (clause 57 (Ban of sale of snus etc)).

283 This is a re-enactment of the prohibition on the production and supply of oral tobacco intended for consumption within the UK or through the travel retail sector in Regulation 17 of [The Tobacco and Related Products Regulations 2016](#). The Bill extends these restrictions to include a ban on snus intended for export which simplifies enforcement and reduces the possibility of such harmful products being available within the UK.

284 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Clause 75: Possession of snus etc with intent to supply

285 Clause 75 adds Article 4G to the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) to include a provision banning the possession of relevant oral tobacco products, such as snus, with intent to supply. This aligns with the approach for England and Wales (clause 9 (Possession of snus etc with intent to supply)) and Scotland (clause 58 (Possession of snus etc with intent to supply)).

286 It will not be an offence to possess relevant oral tobacco products for personal use.

287 An individual who is convicted of an offence under this provision may receive a fine or may be imprisoned for a term not exceeding 2 years, or both.

Vaping and nicotine products

288 Annex B illustrates examples of vaping and nicotine products that are in the government's view in scope of each clause in this Part. This is not intended to be an exhaustive list of products.

Clause 76: Sale of vaping or nicotine products to under 18s

289 Clause 76 inserts a new Article 4E (Sale of vaping or nicotine products to under 18s) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (1978 Order). The clause makes it an offence to sell a vaping or nicotine product to a person who is under the age of 18. Currently there are no age of sale restrictions for nicotine products other than vapes in Northern Ireland.

290 It is a defence for someone who is charged with the offence to prove they were shown what appeared to be an identity document belonging to the purchaser and it confirmed that the customer was 18 or over, or that they otherwise took all reasonable steps to avoid committing the offence. This clause defines "identity document" as a passport, a UK driving licence, a driving licence issued by any of the Channel Islands or the Isle of Man, a European Union photocard driving licence or an identity card issued by the Proof of Age Standard Scheme and bearing its hologram (a PASS card).

291 An individual who is convicted of an offence under this provision may receive a fine of up to £5,000 (level 5 on the standard scale).

Clause 77: Purchase of vaping or nicotine products on behalf of under 18s

292 Clause 77 inserts a new Article 4I (Purchase of vaping or nicotine products on behalf of under 18s) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (1978 Order) and introduces an offence for individuals aged 18 or over to buy, or attempt to buy, vaping or nicotine products on behalf of a person who is under the age of 18.

293 The clause extends the existing restriction which applies only to nicotine vaping products to all vaping products as well as nicotine products, as currently there are no restrictions on the proxy purchasing of nicotine products.

294 It is a defence for a person charged with an offence to prove that they had no reason to suspect that the person was under the age of 18. Anyone convicted with this offence may receive a fine of up to £5,000 (level 5 on the standard scale).

Clause 78: Vaping and nicotine product vending machines

295 Clause 78 inserts a new Article 4J (Vaping and nicotine product vending machines) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (the 1978 order) that makes it an offence for a person who manages or controls a premise to have a vape or nicotine product vending machine available for use. The clause defines a vape or nicotine product vending

machine as “an automatic machine from which vaping products/ nicotine products may be bought”.

296 Anyone convicted of an offence under these provisions may receive a fine of up to £5,000 (level 5 on the standard scale).

Displays of products or prices

Clause 79: Displays of products and prices in Northern Ireland

297 Clause 79 inserts a new Article 4K (Displays of products or prices) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (1978 Order). The clause provides the Department of Health in Northern Ireland with powers to regulate the display of relevant products (tobacco products, herbal smoking products, cigarette papers, vaping and nicotine products) and their prices, the display of empty retail packaging and anything that represents the product, in retailers in Northern Ireland. Under current legislation, there are no restrictions on where, vaping products, herbal smoking products, nicotine products, and cigarette papers, as well as their prices, can be displayed in retail premises.

298 The clause also facilitates the creation of offences for the failure to comply with the regulations and anyone convicted of this offence could be subject to imprisonment for a term not exceeding 2 years, or a fine, or both.

Free distribution and discounts

Clause 80: Free distribution and discount of products

299 Clause 80 inserts a new Article 4L (Free distribution and discounts of products) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (1978 Order). The clause makes it an offence to give away any product, or a coupon (anything (whether in physical or electronic form) which, by itself, can be redeemed for a product, service, for cash or any other benefit) to a member of the public where the purpose or effect is to promote a relevant product (tobacco product, herbal smoking product, cigarette paper, vaping or nicotine product). It is currently prohibited, under section 9 of the [Tobacco Advertising and Promotion Act 2002](#), to give away in the course of business any product or coupon where the purpose or effect is to promote a tobacco product (and this clause will replace section 9), however there are no current restrictions on businesses freely distributing nicotine and non-nicotine vaping products, nor for herbal smoking products and cigarette papers. This clause also makes it an offence to sell a product or coupon at a substantial discount.

300 This clause provides that there is a defence available where a person is charged with giving away a vaping product or nicotine product or coupon for such if they can prove it was done in accordance with arrangements made by a public authority. If this defence is satisfied, then they are not guilty of the offence. An example of this could be where a government body funds a smoking cessation programme that utilises vapes as a cessation tool and provides them for free.

301 Anyone convicted of an offence may be subject to imprisonment (for a term not exceeding 2 years), or a fine where there is no maximum amount, or both.

Enforcement

Clause 81: Programme of enforcement action by district councils

302 Clause 81 inserts a new Article 6A (Programme of enforcement action by district councils) into the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) to provide requirements for district councils in Northern Ireland to consider a so-called ‘programme of enforcement’ and the potential design of the programme on a yearly basis. This is a means of ensuring that a district council in Northern Ireland considers whether they are enforcing offences effectively. The programme of enforcement itself is as described in the clause and is self-explanatory. This clause has a similar effect as clauses 33 (Programme of enforcement action: England) and 34 (Programme of enforcement action: Wales) for England and Wales respectively.

Power to amend lists of identity documents

Clause 82: Power to amend lists of identity documents

303 Clause 82 amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) (the 1978 Order) to provide the Department of Health in Northern Ireland with the power to make regulations to amend the definition of “identity document” in Articles 3 (Sale of tobacco etc) and 4H (Sale of vaping or nicotine products to under 18s) of the 1978 Order. This enables the list of identity documents that can be used by retailers to verify a customer’s age to be updated if new forms of identification are developed or others are ceased to be used.

Interpretation of 1978 Order

Clause 83: Interpretation of 1978 Order

304 Clause 83 substitutes Article 7 of the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) for a new Article 7 (Interpretation of Part 2) and new Article 7A (Meaning of nicotine product) to insert definitions of cigarette papers, herbal smoking product, medical device, medicinal product, nicotine product, premises, retail packaging, sell, tobacco product, tobacco retailer, UK driving licence, vape, vaping product, vaping substance, vaporises, and vehicle.

Retailer register and licensing

Clause 84: Extension of retailer register

305 Clause 84 introduces Schedule 10 and is self-explanatory.

Schedule 10: Extension of retailer register: Northern Ireland

306 This schedule amends the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) such that the existing registration scheme in Northern Ireland for tobacco product businesses is extended to include retailers of vaping and nicotine products. Retailers selling tobacco products, herbal smoking products and cigarette papers are already covered by this scheme.

307 These amendments will commence by order made by the Department of Health in Northern Ireland, provided for under clause 168 (Commencement: Parts 1 to 4) subsection 7.

Clause 85: Prohibition of retail sales of tobacco products etc without a licence

308 Clause 85 inserts new Articles 4A (Prohibition of retail sales of tobacco products etc without a licence), 4B (Offences in connection with licences) and 4C (Financial penalties for breach of licence conditions) into the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) to enable the

- introduction of a retail licensing scheme for the sale of tobacco products, herbal smoking products, cigarette papers, vaping and nicotine products in Northern Ireland.
- 309 Article 4A provides the Department of Health in Northern Ireland with the power to make regulations regarding the granting of personal and premises licences.
- 310 Article 4A prohibits the sale, exposure for sale, or possession for the purpose of sale (by the individual or another person) of tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products by an individual in Northern Ireland, except under the authority of and in accordance with a personal licence. This provision will come into force when regulations for the licensing scheme are laid.
- 311 Article 4A also prohibits a person from using or permitting the use of premises in Northern Ireland, to store for the purpose of their sale (by the person or another person), expose for sale, or supply tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products to retail customers except under the authority of and in accordance with a premises licence. This provision will come into force when regulations for the licensing scheme are laid.
- 312 Article 4A also provides the Department of Health in Northern Ireland with the power to create, by regulations, exceptions to the prohibitions in Article 4A(1) or (2).
- 313 Before excising the power to make regulations under the new Article 4A, the Department of Health in Northern Ireland must consult. Further detail on what the licensing scheme regulations in Northern Ireland may include are set out in Schedule 11.
- 314 Article 4B sets out that anyone who breaches the prohibitions set out in Article 4A(1) or (2) commits an offence. It also makes it an offence if a person provides false or misleading information to a licensing authority in, or in connection with, an application for the grant of a personal or premises licence; or in carrying out of any other obligation imposed by or under licensing regulations. It is only an offence if the information is false or misleading in a material respect, and the person knows, or ought to reasonably know this about the information.
- 315 A person convicted of a licensing offence in Northern Ireland may receive a fine of up to level 5 on the standard scale in Northern Ireland (currently set at £5,000). As an alternative to a criminal prosecution, district councils may instead issue a fixed penalty notice for these offences provided for under the [Tobacco Retailers Act \(Northern Ireland\) 2014](#). The value of the fixed penalty notice will be established in regulations under section 12(8) of the [Tobacco Retailers Act \(Northern Ireland\) 2014](#), as is consistent with the current approach to setting fixed penalty notice values in Northern Ireland.
- 316 Upon conviction of the offence under Article 4B(1) a court may make an order as to what happens to the relevant products to which the offence(s) relate. This may include forfeiture and destruction of the relevant products.
- 317 Article 4C introduces financial penalties which may be imposed for the breach of conditions attached to a personal or premises licence in Northern Ireland, provided the breach is not a criminal offence under Article 4B. These financial penalties are civil penalties and can be issued by district councils. The maximum amount of the financial penalty is set at £2,500 and provides the Department of Health in Northern Ireland with the power to change this maximum amount to account for inflation and so that the financial penalty amount remains proportionate.
- 318 Further details on financial penalties for breach of licence conditions are set out in Schedule 12.
- 319 This clause also introduces Schedule 13 and is self-explanatory.

Schedule 11: Retail licensing scheme in Northern Ireland

- 320 This schedule inserts new schedule 1 to the [Tobacco Retailers Act \(Northern Ireland\) 2014](#).
- 321 This new schedule 1 details the regulations for a retail licensing scheme that may be made under the powers provided to the Department of Health in Northern Ireland new Article 4A (Prohibition of retail sales of tobacco products etc without a licence) of the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) inserted by clause 85 (Prohibition of retail sales of tobacco products etc without a licence) of this Bill. These provisions give further detail about what provisions made through regulations may include to provide clarity about the intended purpose of the regulation making powers. This schedule is for Northern Ireland only.
- 322 The regulations must specify a council that will be the licensing authority and thus hold the responsibility for granting licences.
- 323 The regulations may make provisions regarding the granting of a licence, including provisions which mean a licensing authority could not grant a licence to a premises in a particular area (for example, proximity to a school), or limiting the number of licences within a particular area. Provisions may also require a licensing authority to inspect a premises to ensure it meets regulations before the granting of a licence.
- 324 The regulations may allow a licensing authority to charge a fee on application for a licence. This would include fees required at the point of any renewal of a licence. The amount of any fee is to be set in regulations and will be able to account for the costs of exercising functions in connection with the licensing scheme including administrative and enforcement costs of the scheme. The regulations may require the licensing authority to pay a proportion of fees collected to any other persons with function under the licensing scheme, to ensure fees collected can be used for enforcement of the scheme in a situation where the licensing authority is different from the enforcement authority.
- 325 The regulations may also make provisions regarding the conditions of the licence, namely the requirements that licence holders will need to meet to maintain a licence for the sale of the relevant products. This could include, for example requiring that retailers adhere to specific tobacco and vape regulations (such as age of sale regulations) or displaying a licence within a retail premise.
- 326 The regulations may also make provisions regarding the duration of the licence, which is self-explanatory.
- 327 The regulations may make provisions for the publication of licence information by the licensing authority. Publishing a list of licensed retailers may support enforcement of the licensing scheme.
- 328 The regulations will establish the reviews and appeals process for decisions made on granting a licence. They must specify when a person may request a review of a decision taken under the regulations and give a person the right of appeal to a magistrates' court against a decision taken on a review. This will enable an independent decision. There may be a time limit for requesting reviews or initiating appeals.
- 329 The regulations may require a licensing authority to adhere to guidance published by the Department of Health in Northern Ireland when carrying out its functions under the licensing regulations. Guidance will support the implementation of the regulations by licensing authorities.

Schedule 12: Financial Penalties for breach of retail licence conditions in Northern Ireland

- 330 This Schedule inserts new Schedule 12 into the [Tobacco Retailers Act \(Northern Ireland\) 2014](#).
- 331 Schedule 12 sets out the procedure for district councils in Northern Ireland when imposing financial penalties for breach of licence conditions, introduced in new Article 4C (Financial penalties for breach of licence conditions) of the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) inserted by clause 85 (Prohibition of retail sales of tobacco products etc without a licence) of this Bill.
- 332 Before imposing a financial penalty, a council must issue a written notice of intent and allow for a period of representation, to give the person the opportunity to challenge the proposed financial penalty. If, after the period for representation, the local authority decides to impose the financial penalty, they must give a final written notice.
- 333 Both the notice of intent, the final notice can be withdrawn or amended to reduce the penalty amount at any time by written notice.
- 334 A person has the right to appeal to the magistrates' court against the decision to impose a financial penalty or the amount of the penalty. This will enable an independent decision. This schedule establishes the appeals procedure to be followed.
- 335 If a person fails to pay the whole or part of the financial penalty within the given period, the unpaid amount may be recovered as if it were payable under a county court order.
- 336 Any proceeds received from financial penalties must be used by the council for the purpose of its functions under the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) or for such other functions the Department of Health in Northern Ireland may specify by regulations. It also places a duty on councils to provide the Department of Health in Northern Ireland with information on the use of financial penalty receipts, if required. This approach aligns with the existing approach for use of proceeds from fixed penalty notices under the same Act.

Schedule 13: Licensing of retail sales of tobacco products etc: consequential amendments

- 337 Schedule 13 details any consequential amendments that will be made to existing pieces of legislation relating to the licensing of retail sales of tobacco products, herbal smoking products, cigarette papers, vaping and nicotine products in Northern Ireland. This schedule amends the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) and this Bill so that the existing tobacco retailer register in Northern Ireland is removed, once the licensing regulations commence. This Schedule adds licensing offences to the list of offences for which a fixed penalty notice can be issued in Northern Ireland; the value of the fixed penalty notice for licensing offences is not established in the Bill for Northern Ireland as it is for England and Wales, as it will instead be set by regulations as per the existing statutory framework for setting fixed penalty notice values in Northern Ireland.

Power to extend legislation

Clause 86: Power to extend legislation to other products

- 338 Clause 86 provides the Department of Health in Northern Ireland with a power to by regulations amend any of the provisions that apply to tobacco products in Part 2 of the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) by extending them to cover any device that enables a tobacco product to be consumed (such as a heated tobacco device) or an item intended to form part of such a device. Before exercising this power, the Department must consult.

Consequential etc. transitional and transitory provision

Clause 87: Consequential and other amendments

339 Clause 87 introduces Schedule 14 and Schedule 15 and is self-explanatory.

Schedule 14: Part 3: consequential and other amendments commencing after 6 months

340 This schedule sets out any consequential amendments that will be made to existing pieces of legislation that are to do with Part 3 and will commence six months after the Bill has passed. This schedule amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#), [The Children and Young Persons \(Protection from Tobacco\) \(Northern Ireland\) Order 1991](#), the [Health Act 2009](#), the [Digital Markets, Competition and Consumers Act 2024](#), and the [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#).

341 This schedule also amends the [Tobacco Retailers Act \(Northern Ireland\) 2014 \(the 2014 Act\)](#). The amendments update the list of offences that are classified as a tobacco, vape or nicotine offence. The amendments also update the list of offences for which a person can be issued with a Fixed Penalty Notice (FPN). This ensures the existing FPN regime in Northern Ireland continues and is expanded to all nicotine products and new offences in this Bill, including free distribution of products and breaches of regulations related to the display of products or prices. The definition of “tobacco business” is updated to mean tobacco product and herbal smoking product businesses to ensure that the registration scheme in Northern Ireland continues to capture herbal smoking product businesses.

Schedule 15: Part 3: consequential amendments commencing on 1 January 2027

342 This schedule details any consequential amendments that will be made to existing pieces of legislation that are to do with Part 3 and will commence on 1 January 2027. The schedule amends the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#), [The Children and Young Persons \(Protection from Tobacco\) \(Northern Ireland\) Order 1991](#), the [Police \(Northern Ireland\) Act 2003](#), [The Smoking \(Northern Ireland\) Order 2006](#), the [Digital Markets, Competition and Consumers Act 2024](#), and the [Tobacco Retailers Act \(Northern Ireland\) 2014](#).

Clause 88: Transitional provision

343 Clause 88 provides transitional provisions, and the effect of this provision is self-explanatory.

Part 4: Snus etc: Seizure and detention powers

Clause 89: Power of officer of Revenue and Customs to seize and detain snus etc

344 Clause 89 enables customs officials to seize and detain imported relevant oral tobacco products in order to enable an enforcement authority (e.g. Local Authority Trading Standards in England and district councils in Northern Ireland) to take over. However, the imported relevant oral tobacco products may not be detained for a period of more than 48 hours (the calculation of 48 hours excludes all UK bank holidays and weekends).

345 The Commissioners for His Majesty’s Revenue and Customs are responsible for dealing with the relevant oral tobacco products during the period of detention.

346 This will not prevent the importation of snus for personal use.

Part 5: Product and information requirements etc

- 347 This Part of the Bill contains a suite of regulation making powers to enable requirements to be set in relation to product standards, including packaging and features of products, to enable establishment of a registration scheme and for information to be provided to support registration and check for compliance with product standards, and for testing of products for quality and safety.
- 348 Directive [2014/40/EU](#) (the 'Directive') set EU wide requirements for tobacco products and e-cigarettes to harmonise the EU market for these products. The UK implemented the Directive primarily by making [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016). The current product standards, labelling requirements etc, for tobacco products and e-cigarettes are therefore in the main set out in the TRPR 2016.
- 349 In relation to packaging of tobacco products, part of the Directive was implemented by [The Standardised Packaging of Tobacco Products \(SPoT\) Regulations 2015](#). These were also made under powers in section 94 of the [Children and Families Act 2014 \(the 2014 Act\)](#).
- 350 Under the Windsor Framework Agreement, the requirements of the EU Tobacco Products Directive continue to apply in relation to Northern Ireland. If regulations are made under the powers in Part 5 of the Bill which cover matters which the Directive applies to, then appropriate provision will be made in respect of Northern Ireland to ensure that the UK government meets its obligations under the Windsor Framework.
- 351 Clauses 90 (Retail packaging), 91 (Features of products) and 92 (Contents and flavour) are re-enacting, with modifications, the regulation making powers to make provision about the retail packaging etc. of tobacco products in section 94 of the [Children and Families Act 2014](#) (the 2014 Act). Therefore, this Bill repeals section 94 of the [Children and Families Act 2014](#) as the provisions are restated in this Bill. [The Standardised Packaging of Tobacco Products \(SPoT\) Regulations 2015](#) were made using the powers in section 94 of the 2014 Act but because this Bill is re-enacting those powers, section 17(2)(b) of the Interpretation Act 1978 means that the SPoT Regulations will remain in force.
- 352 Under TRPR 2016 producers of tobacco products, herbal smoking products and nicotine vapes are required to notify the Secretary of State before these products are introduced to the UK market. Clause 95 (Registration) allows for the establishment of a registration scheme that would replace the current notification system in TRPR 2016. There are also powers to require information to be provided about products for studies to be carried out on products and for testing. Details of the powers can be found in the clause descriptions below. These new regulation-making powers will help to improve the safety of products that are on the market and improve customer confidence, whilst enabling improvement of the enforcement of restrictions surrounding non-compliant products. The requirements to notify tobacco products, herbal smoking products and nicotine vaping products will remain in place until the new registration scheme is established.
- 353 The measures outlined in Part 5 extend to the whole of the UK. Before making regulations under Part 5 the Secretary of State must obtain the consent of the Welsh Ministers, the Scottish Ministers and the Executive Office in Northern Ireland if the regulations contain provision which would be within the legislative competence of the Senedd Cymru, the Scottish Parliament or the Assembly, as outlined in clause 111 (Consent to regulations under Part 5).
- 354 Any regulations made under Part 5 of the Bill are subject to the affirmative resolution procedure.

355 In relation to this part, “Production” which in relation to a product, means the manufacture of the product, or 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. “Supply” which in relation to a product, includes offering or agreeing to supply it, or exposing or possessing it for supply, of products.

356 Before exercising any of the powers in this part there is a duty to consult.

Product requirements etc

357 Annex B illustrates examples of products that in the government’s view are in scope of each clause in Part 5. This is not intended to be an exhaustive list of products.

358 Clause 111 (Interpretation of Part 5) and 113 (Meaning of “nicotine product”) provide definitions for Part 5, including the meaning of “packaging” which in relation to a product means the external packaging of the product (including any wrapper), the internal packaging of that product, or any other material attached to or included with the product or anything within in the internal or external packaging. “Retail packaging” in relation to a product, means the packaging in which it is, or intended to be, presented for sale by retail.

Clause 90: Retail packaging

359 Clause 90 provides powers for the Secretary of State to make regulations about the packaging of tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products. The power could be used to regulate retail packaging, including the appearance of such packaging as well as the information provided on it and its shape and texture. A refill container containing a vaping liquid could be treated as packaging for these purposes.

360 Under the [Children and Families Act 2014](#) there was a power to make regulations about the retail packaging of tobacco products. However, the Bill widens this power to cover tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products.

Clause 91: Features of products

361 Clause 91 provides the Secretary of State with a power to make regulations about the features of tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products. These requirements will relate to the product itself, rather than the packaging, for instance the regulations which may be made under this power may specify the colour of the products or what can be printed on the body of the product (such as images, for example), the appearance of the products and its shape.

362 Under the [Children and Families Act 2014](#) there was a power to make regulations about the features of tobacco products. However, the Bill widens this power to cover tobacco related devices, herbal smoking products, cigarette papers, vaping products and nicotine products.

363 Clause 112 (Interpretation of Part 5) provides the definition of “production” makes it clear that regulations can cover production outside the UK.

Clause 92: Contents and flavour

364 Clause 92 provides the Secretary of State with a power to make regulations about the substances that may be included in (as well as the amount of any given substance) and the flavour of tobacco

products, tobacco related devices, herbal products, cigarette papers, vaping products or nicotine products. Regulations made under this power could be used to restrict the flavour of any accessories intended to be used to give flavour to any of these products.

365 For example, regulations may prohibit certain ingredients (such as vitamins, colourings or prohibited additives) being used in these products, including additives which impart a particular flavour (taste and smell).

366 There is a ban on flavoured cigarettes and hand rolling tobacco across the UK, on heated tobacco products in Northern Ireland and restrictions on vitamins and what additives are allowed in tobacco products and nicotine containing vaping products. These measures are set out in [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016).

367 Regulations made under this power may include provision about how the flavour of a product is to be determined. For example, this power could be used to establish an expert advisory panel to assist and provide advice to the Secretary of State in determining whether a product has a certain flavour.

368 Regulations made under this power may impose prohibitions, requirements or limitations in relation on the production, importation or supply of these products if in the course of a business or for retail by the travel sector.

369 As the regulations relate to the production, importation, and supply of products, any individual or organisation involved in the supply chain would be required to ensure products they deal with adhere to the regulations.

Clause 93: Substances released into human body and emissions

370 Clause 93 provides the Secretary of State with a power to make regulations about the nature and amount of substances and emissions that may be released by tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping or nicotine products. The power includes making provisions about how the nature and amount of substances or emissions are determined.

371 [The Tobacco and Related Product Regulations 2016](#) (TRPR 2016) currently set maximum emission levels for cigarettes (which detail the measurement and verification of these emission levels).

Non-compliant images

Clause 94: Non-compliant images

372 Clause 94 provides the Secretary of State with regulation making powers to prohibit a person from publishing a “non-compliant” image of tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products, nicotine products or of their packaging. This means that if, for example, regulations were made to restrict the packaging of a vape, then it would be an offence to publish an image of a vape in packaging that did not adhere to those packaging restrictions. Clause 94 extends to all products and to images from which it is possible to tell that a product (or its packaging) is in breach of regulations.

373 This means that an online retailer would not be able to have images on their website with non-compliant packaging or products on show, for example, displaying an image of a vape packaging without the mandated warning signage.

374 Under [The Tobacco and Related Product Regulations 2016](#) (TRPR 2016) the publication of non-

compliant images of tobacco products is banned reflecting the current requirements on packaging of tobacco products.

Registration and information requirements

Clause 95: Registration

- 375 Clause 95 provides the Secretary of State with a power to establish a register of tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products or nicotine products. Currently tobacco, herbal smoking products and nicotine vapes are required to be notified before being placed on the UK market. Regulations could specify, for example: who can keep the register, who is eligible to register a product, the content of the register, publication of the register, and fees to maintain the register. Additionally, regulations may state when a products registration expires, renews, may be cancelled or suspended. Powers may also specify requirements for, including for example, images of a product or its packaging.
- 376 Under the Regulations, it could be made an offence to supply a product that has not been registered in the same way as it is currently an offence to supply a product that has not been notified. The power also provides the Secretary of State with the ability to set the level of fees payable for registration. The fees may be set at a level to cover the cost of carrying out any functions under Part 5 or regulations made under Part 5 such as, for example, the cost of monitoring, producing annual reports and running events to aid compliance.

Clause 96: Information

- 377 Clause 96 provides the Secretary of State with a power to require a producer or importer of a tobacco product, tobacco related device, herbal smoking products, cigarette papers, vaping product or nicotine product to provide information that is related to the product or its producer. The information required to be provided might be further to the information required under the registration system or could be sales data or market research data.
- 378 Regulations made under this power may make provision about when and how the information must be provided and about the publication of information provided under the regulations.

Clause 97: Studies

- 379 Clause 97 provides the Secretary of State with a power to require a producer of a tobacco product, tobacco related device, herbal smoking product, cigarette papers, vaping product or nicotine product to carry out a study and submit the results in relation to the product or an ingredient in the product. The regulations may make provisions about how a study is to be carried out, questions to address and content and structure of a report.
- 380 Regulations made under this power may make provision about the detailed requirements of the study.

Clause 98: Responsible person

- 381 Clause 98 provides the Secretary of State with a power to require a producer of a tobacco product, tobacco related device, herbal smoking product, cigarette papers, vaping product or nicotine product to nominate an individual to be responsible for information that has to be provided in accordance with regulations made under clauses 95 (Registration), 96 (Information) and 97 (Studies). The aim of having a dedicated person responsible is to ensure information is provided to strengthen compliance and enforcement of product standards and ultimately help

improve consumer safety and trust.

382 Regulations made under this clause may make provisions about who is eligible to be nominated as the responsible person and require the person to have a connection to the UK.

Quality control and safety

Clause 99: Testing

383 Clause 99 provides the Secretary of State with a power to introduce regulations that require a person to test products to determine whether a product complies with requirements imposed in regulations made under this Part of the Bill.

384 Regulation 14 of [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016) imposes requirements for measurements of tar, nicotine and carbon monoxide emissions from cigarettes and for verification of those measurement by an approved laboratory that is independent from the tobacco industry. A fee is payable by producers as set in [The Tobacco Products and Herbal Products for Smoking \(Fees\) Regulations 2017](#).

385 Regulations made under this power may include provision about the requirements for testing, such as how and when the tests should be carried out and who may carry out the tests. This may include detail on how many tests are required and any associated fees that should be paid in respect of the tests.

Clause 100: Product safety

386 Clause 100 provides the Secretary of State with a power to make regulations that requires producers or importers to have a process in place for collecting information on the effect of their product on human health and safety.

387 The clause also allows for regulations to be made conferring a power on the Secretary of State to require a product to be recalled from the market or to prohibit or limit the supply of a product in circumstances set out in the regulations, for instance, if there is serious risk to public health. This allows the Secretary of State to set out circumstances under which products could be banned or recalled.

388 Regulation 39 of [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016) sets out the current requirements for producers of electronic cigarettes (nicotine vapes) to establish and maintain a system about all the suspected adverse effects on human health of a product. The power in this clause would enable similar requirements to be applied on producers or importers of non-nicotine vapes, nicotine products, heated tobacco devices, as well as tobacco products, herbal smoking products and cigarette papers.

389 It is vital that producers have processes in place to collect information on the effect of their products on human health, so that any issues are spotted. If concerns with a product come to light, the expectation is that information would be sought from the producer or importer in line with requirements imposed under clause 96 (Information), linking with data held under the registration system. A similar requirement is currently imposed in respect of electronic cigarettes and refill containers under regulation 39 of TRPR 2016.

390 In an extreme case, should a product cause harm to health or be unsafe, the Secretary of State may need to be able to require a product to be recalled or stop the supply of the product. The power to make regulations under clause 100 (Product safety) will enable the circumstances under which such a power could be used to be set out. A similar requirement is currently

imposed in respect of electronic cigarettes and refill containers under regulation 40 of TRPR 2016.

Matters dealt with by 2016 Regulations

Clause 101: Matters dealt with by 2016 regulations

391 Clause 101 provides the Secretary of State with powers to make provision in regulations that is similar to any provision in [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016). This will ensure that any gaps are covered which may exist in the powers taken under this Part relative to provision made in the TRPR 2016, which was made under the power in section 2(2) of the European Communities Act 1972 to implement Directive 2014/40/EU. The power also enables TRPR 2016 to be amended so as to apply any provision in those regulations to tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping products or nicotine products to which TRPR 2016 do not currently apply. For example, it would be possible using this power to extend the current notification scheme so that it captures non-nicotine vapes and nicotine products.

Clause 102: Treatment of 2016 regulations

392 Clause 102 allows for regulations to revoke parts of [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016) without replacing them. This clause makes clear that any power to make regulations under Part 5 of this Bill that corresponds with the provisions under TRPR 2016 should be interpreted as being made under this Part in line with section 14 of the [Interpretation Act 1978](#) (Implied power to amend).

Supplementary

Clause 103: Offences

393 Clause 103 provides for the creation of offences for the failure to comply with any regulations made under Part 5, and sets out the maximum penalties that could be imposed for failure to comply.

Clause 104: Enforcement

394 Clause 104 provides for provisions about enforcement to be included in regulations made under Part 5. The regulations may give the function of enforcement of the regulations to relevant enforcement authorities. The relevant enforcement authorities are a local weights and measures authority in England, Scotland and Wales and a district council in Northern Ireland.

395 The regulations may make the same provisions as are made in this Bill under clauses 35 (Power of ministers to take over enforcement functions) and 36 (Power of ministers to take over proceedings), thereby allowing the relevant national authority (the Secretary of State, the Welsh Ministers, the Scottish Ministers or the Department of Health in Northern Ireland) to take over enforcement, or legal proceedings relating to any offence committed under the regulations, from a relevant enforcement authority.

396 Regulations may provide the enforcement authorities with appropriate powers to carry out enforcement activities such as powers to obtain information, seize or forfeit goods suspected of being non-compliant. This may be done by applying provisions in the [Consumer Protection Act 1987](#) or making separate provision corresponding or similar to the provisions of that Act.

Clause 105: Sub-delegation

397 This clause provides for legislative sub-delegation to allow the Secretary of State or persons appointed under the regulations to make provision on matters dealt with by the regulations via a determination or other informal document. This is considered appropriate given the nature of some of the matters dealt with by the regulations. For example, under clause 99 (Testing), regulations may provide for tests to be required to be carried out on certain products. It may be appropriate for detailed technical specifications for tests to be set out in guidance rather than in the legislation.

Clause 106: Power to make provision binding the Crown

398 Clause 106 provides that any regulations made under Part 5 bind the Crown. This means that the new age of sale restrictions apply in relation to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty's prison service, and to members of the armed forces. The Crown itself may not be liable for an offence under this Part but persons in the service of the Crown such as civil servants or prison employees may be.

Clause 107: Power to amend legislation

399 Clause 107 provides that consequential provision made by regulations under Part 5 may amend, repeal or revoke any legislation (whenever passed or made) and is self-explanatory.

Clause 108: Consequential repeal

400 Clause 108 omits section 94 of the [Children and Families Act 2014](#) (the 2014 Act) relating to the retail packaging of tobacco. Section 94 of the 2014 Act gave powers to regulate the retail packaging of tobacco products. These have been replaced and updated by this Bill and are therefore no longer needed. [The Standardised Packaging of Tobacco Products Regulations 2015](#) were made under the powers in Section 94, these will remain in force.

401 Other sections in the 2014 Act relating to nicotine products will also be amended and/or repealed, depending on the commencement date under that Schedule. For instance, as set out in Schedule 4, this Bill will omit section 92 of the 2014 Act, '*Prohibition of sale of nicotine products to persons under 18*', which will commence after 6 months.

Clause 109: Enforcement of 2016 Regulations

402 Clause 109 brings non-compliance with the requirements of [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016) within scope of the enforcement regime set up under Part 3 of the [Digital Markets, Competition and Consumers Act 2024](#) by adding TRPR 2016 to the list of secondary legislation in Schedule 15 of that Act.

Consultation and consent

Clause 110: Consultation

403 Clause 110 sets out the duty to consult and is self-explanatory.

Clause 111: Consent to regulations under Part 5

404 Regulations made under Part 5 of the Bill may relate to matters which are within the legislative competence of the devolved governments. Provision is therefore made in clause 111 requiring the Secretary of State to obtain consent from the Welsh Ministers, the Scottish Ministers and the

Executive Office of Northern Ireland if provisions of the regulations fall within the legislative competence of the devolved legislatures.

Interpretation

Clause 112: Interpretation of Part 5

405 Clause 112 sets out definitions for Part 5 of the Bill and the effect is self-explanatory.

Clause 113: Meaning of “nicotine product”

406 Clause 113 provides the meaning of a “nicotine product” for Part 5 of the Bill and is self-explanatory.

Part 6: Advertising and sponsorship

407 The [Tobacco Advertising and Promotion Act \(2002\)](#) (the 2002 Act) introduced measures to limit the marketing and promotion of tobacco products and to reduce exposure to tobacco advertising and promotional activities. The 2002 Act prohibited the advertising of tobacco products to the public, with an exemption for specialist tobacconists, and prohibited sponsorship agreements which promote tobacco products. This Bill repeals and replaces the 2002 Act. Clauses in Part 6 of the Bill make similar provision relating to advertising, sponsorship and brandsharing as the 2002 Act to include herbal smoking products, cigarette papers, vaping, and nicotine products, for the whole of the UK.

408 Herbal smoking products and cigarette papers have been included within Part 6 due to the harmful nature of smoking itself. Whilst herbal smoking products do not contain nicotine or tobacco, they do contain cancer causing chemicals, tar and carbon monoxide, similar to a tobacco cigarette. Cigarette papers have also been included as they are burnt with the tobacco. This is consistent with other parts of the Bill.

409 The existing restrictions on advertising of nicotine vapes as set out in [The Tobacco and Related Products Regulations 2016](#) (TRPR 2016) will be replaced by the provisions in Part 5 of this Bill. The settings where advertising is banned for nicotine vapes under these regulations will be captured by this Part and extended to include further settings such as public transport, billboards, and posters, and capture nicotine products that are currently not captured in a similar way to tobacco products. Provision made in the Bill will maintain the existing ban on tobacco advertising.

410 The 2002 Act also bans the free distribution and display of tobacco products. Provision for these bans are made in clause 13 (Displays of products or prices in England), 15 (Free distribution and discount of products), 62 (Free distribution and discount of products) and 80 (Free distribution and discount of products) of this Bill.

411 For clauses 13 (Displays of products or prices in England) and 14 (Displays of products or prices in Wales), the inclusion of the phrase ‘in the course of business’ is to make it clear that this does not apply to any individual acting in a private capacity.

412 The prohibitions on advertising, promotion, brandsharing and sponsorship in Part 6 are not intended to prevent the public at large, such as journalists etc from making incidental commentary on tobacco products, herbal smoking products, vaping products, nicotine products

or cigarette papers, nor is it intended that the representation of such products by those engaged in creative or artistic pursuits (actors, painters, producers etc) should be prohibited.

Advertising

Clause 114: Publishing advertisements

413 Clause 114 makes it an offence to publish a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product advertisement in the UK. This means including advertisements in media, for instance, publishing an advert for a vaping product in a newspaper.

Clause 115: Designing advertisements

414 Clause 115 makes it an offence to design and make a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product advertisement which will be published in the UK. For instance, this could include a person at a design agency who is designing a nicotine pouch advertisement.

Clause 116: Printing advertisements

415 Clause 116 makes it an offence to print a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product advertisement knowing that this will be published in the UK.

Clause 117: Distributing advertisements

416 Clause 117 makes it an offence to distribute a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product advertisement in the UK. This could include a company that hands out leaflets which contain vape advertisements.

Clause 118: Causing publication, designing, printing or distribution

417 Clause 118 makes it an offence to cause the publication, designing, printing or distribution of a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product advertisement knowing this will be published or distributed in the UK. For example, this would make it an offence for someone to commission an advertising agency to create a nicotine product advert on their behalf.

Clause 119: Internet services

418 Clause 119 makes it an offence to provide an internet service in the course of a business by which means an advertisement to promote a tobacco product, herbal smoking product, cigarette paper, vaping product, or nicotine product, is published or distributed in the UK. For example, an email marketing service would commit an offence if any of the emails contained an advertisement for any of the relevant products.

Clause 120: Advertising: defences

419 Clause 120 sets out defences for a person charged with an offence under clause 114 to 119 (114 (Publishing advertisements), 115 (Designing advertisements), 116 (Printing advertisements), 117 (Distributing advertisements), 118 (Causing publication, designing, printing or distribution) and 119 (Internet services)). This includes if the advertisement is part of a communication within the tobacco product, herbal smoking product, cigarette paper, vaping product or nicotine trade

between those involved in the trade at a senior level or with decision making responsibility, or if an individual specifically requests information about a product, or in a publication which is printed outside of the UK and whose market is not the UK (except for an in-flight magazine).

Clause 121: Specialist tobacconists

- 420 Clause 121 provides that specialist tobacconists may continue to advertise specialist products. This clause is restating the existing law. A person does not commit an offence under clauses relating to advertisement, publication, printing, or distribution (Clauses 114 to 118 (114 (Publishing advertisements), 115 (Designing advertisements), 116 (Printing advertisements), 117 (Distributing advertisements and, 118 (Causing publication, designing, printing or distribution))), if an advertisement is in a specialist tobacconist, is not visible from outside the specialist tobacconist and is not to advertise cigarettes or hand-rolling tobacco. Regulations may set requirements for advertisements such as that any advertisement must display a health warning.
- 421 A specialist tobacconist shop is defined as a shop which sells tobacco products by retail, and over half of whose sales are from cigars, snuff, pipe tobacco and smoking accessories. The clause defines a shop as a self-contained part of a shop, with premises meaning the self-contained part. To determine if a shop is a specialist tobacconist, sales are measured by sale price, which is calculated using the last 12 months of a shop's accounts or the period the shop has been open for if the shop has been open for less than 12 months.

Clause 122: Exclusion for advertisements that are displays

- 422 Clause 122 provides that no offence is committed under this Part if a product or other material which is displayed is subject to the law relating to displays. The purpose of this provision is to avoid a display which is permitted being prohibited as an advertisement. For example, displaying a vape would not be considered an advertisement if vapes were subject to restrictions set out in legislation on their display.
- 423 For the purposes of this clause, 'the law relating to displays' means for England and Wales regulations made under this Bill, for Scotland provision under the Tobacco and Primary Medical Services (Scotland) Act 2010, and for Northern Ireland regulations made the Health and Personal Social Services (Northern Ireland) Order 1978 in Northern Ireland.

Brandsharing

Clause 123 Brandsharing

- 424 Clause 123 provides the Secretary of State with the power to introduce regulations that prohibit brandsharing of tobacco products, herbal smoking products, cigarette papers, vaping products, or nicotine products. Brandsharing, or brandstretching as it is sometimes known, is a form of indirect advertising which promotes the use of a tobacco product, herbal smoking product, cigarette paper, vaping product or nicotine product by putting its branding on other products or services, or vice versa. Using a tobacco product logo on a T-shirt or a confectionary company using their branding on a vape are examples of brandsharing if the intent is to promote vapes.
- 425 The power also provides for the creation of offences for the failure to comply with the regulations and anyone convicted of an offence may be subject to imprisonment, a fine (where there is no maximum amount) or both.

The Secretary of State must obtain consent from the Scottish Ministers and the Department of Health in Northern Ireland before making regulations which contain provision which would be within the legislative competence of Scotland or Northern Ireland reflecting that regulation of brandsharing is devolved to Scotland and Northern Ireland.

Sponsorship

Clause 124: Sponsorship: tobacco products

- 426 Clause 124 makes it an offence for an individual to be involved with a sponsorship agreement where the purpose is to promote a tobacco product in the course of business. This maintains the current prohibition of tobacco sponsorship in the [Tobacco Advertising and Promotion Act 2002](#) (TAPA)
- 427 Anyone convicted of an offence under this provision may be subject to imprisonment (for a term not exceeding 2 years) or a fine, or both.

Clause 125: Sponsorship: vaping and nicotine and other products

- 428 Clause 125 makes it an offence for an individual to be a party to a sponsorship agreement where the purpose is to promote a herbal smoking product, cigarette paper, vaping product, or nicotine product in the course of business. For example, this clause will prohibit sports teams from being sponsored by a vaping company.
- 429 The legislation will apply to any agreement entered into after this section comes into force two months after Royal Assent. The ban will take effect from a date to be specified in regulations. From that date, it will be an offence if either party makes a contribution under the agreement and does anything whose purpose or effect is to promote one of these products. Agreements entered into before this clause comes into force can continue until regulations specify a date where any further actions under an existing agreement would be an offence.
- 430 Anyone convicted of an offence under this provision may be subject to imprisonment (for a term not exceeding 2 years), a fine where there is no maximum amount, or both.

Audiovisual services and radio broadcasting

Clause 126: Audiovisual services and radio broadcasting

- 431 Clause 126 outlines that Part 6 of this Bill does not apply to independent television or radio services, or to the British Broadcasting Corporation (BBC) or Sianel Pedwar Cymru, on-demand programme services, or non-UK on-demand programme services which are a Tier 1 service as defined in the [Communications Act 2003](#) (the 2003 act). This is because advertising and sponsorship is prohibited on these services under regulations by the Office of Communications as set out in the 2003 act.

Clause 127: Extension of provisions about audiovisual and radio broadcasting

- 432 Clause 127 is self-explanatory and introduces Schedule 16.

Schedule 16: Advertising etc: audiovisual and radio broadcasting

- 433 Schedule 16 amends the [Communications Act 2003](#) (the 2003 act) so that it additionally applies to vaping products, herbal smoking products, cigarette papers, and nicotine products. The effect

of this schedule is to ensure that the ban of advertising vapes on television, radio, and on-demand programme services implemented by the 2003 act is extended so that all those products mentioned are captured and fall under the advertising ban instated by the 2003 act. These bans therefore will continue to be governed by the existing provisions within the 2003 act rather than through the Bill itself, unlike other advertising measures.

Offences by bodies

Clause 128: Liability of others for offences committed by bodies

434 Clause 128 makes a “relevant person” (a director or manager of a company or someone with partner status in a partnership) liable for an offence under Part 6 of the Bill committed by a body, where the offence has been committed with their consent, connivance, or neglect. In such cases the relevant person may be liable in addition to the body (such as the company or partnership) they are working for. This applies to offences in clauses in Part 6 as well as regulations made under that Part.

435 The clause sets out definitions for a body and a relevant person.

Enforcement

Clause 129: Enforcement authorities

436 Clause 129 places a duty on relevant enforcement authorities to enforce the provisions in Part 6 of the Bill and regulations made under powers in Part 6. A relevant enforcement authority is a local weights and measures authority in England, Wales and Scotland (e.g. Local Authority Trading Standards), and a district council in Northern Ireland.

Clause 130: Power of ministers etc to take over enforcement functions

437 Clause 130 provides a power for the relevant national authority (the Secretary of State, the Welsh Ministers, the Scottish Ministers or the Department of Health in Northern Ireland) to carry out the enforcement of a particular case or a particular type of case instead of the relevant local enforcement authority. The effect of this is that a national enforcement authority will undertake the investigation and enforcement, rather than the local enforcement authority as prescribed in clause 129 (Enforcement authorities). This could arise if a local enforcement authority is unable or unwilling to undertake enforcement of a certain case.

Clause 131: Power of ministers etc to take over proceedings

438 Clause 131 provides a power for the Secretary of State, the Welsh Ministers, or the Department of Health in Northern Ireland to take over the legal proceedings relating to any offence that has been committed under Part 6 of the Bill or regulations made under it. This will allow a national authority to undertake the legal proceedings in court instead of a local enforcement authority. This could arise if a local enforcement authority is unable or unwilling to undertake the legal proceedings of a certain case. This provision doesn't extend to Scottish Ministers as ultimately the decision to proceed with a prosecution in Scotland rests solely with the Lord Advocate in their capacity as head of the Crown Office and Procurator Fiscal Service; it would therefore be inappropriate to grant this power to Scottish Ministers.

Alignment of definition in old advertising legislation pending replacement

Clause 132: Alignment of definition of “tobacco product” in old legislation

439 Clause 132 amends the definition of ‘tobacco products’ in the [Tobacco Advertising and Promotion Act 2002](#), section 1 (Interpretation), to align with the definition within this Bill.

Power to extend advertising legislation

Clause 133: Power to extend Part 6 and Communications Act 2003 to other products

440 Clause 133 provides the Secretary of State with powers to amend Part 6 and the [Communications Act 2003](#) by extending the scope to any device that enables a tobacco product to be consumed (such as a heated tobacco device), or an item which is intended to form part of such a device. Before making regulations under this clause the Secretary of State must obtain consent from the Welsh Ministers, the Scottish Ministers and the Executive Office of Northern Ireland if provisions of the regulations fall within the legislative competence of the devolved legislatures. This Power ensures that devices that are used to consume tobacco can be subjected to the same advertisement and promotion prohibitions as tobacco products and ensures that the legislation is future-proof and flexible.

Crown application

Clause 134: Crown application

441 Clause 134 provides that Part 6 of the Bill and any regulations made under Part 6 bind the Crown. This means that the advertising and sponsorship restrictions apply in relation to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty’s prison service, and to members of the armed forces. The Crown itself will not be liable for an offence under this Part (this is not the case for persons in the service of the Crown such as civil servants or prison employees) but a court may make a declaration of unlawfulness in respect of an act (or omission) for which the Crown would otherwise have been criminally liable.

Interpretation

Clause 135: Interpretation of Part 6

442 Clause 135 provides the definitions for Part 6 and is self-explanatory.

Part 7: Smoke-free places, vape-free places and other free-from places

Clause 136: Addition of smoke-free places in England

443 Clause 136 amends the [Health Act 2006](#) (the 2006 Act) to allow the Secretary of State to make regulations designating additional places or vehicles in England to be smoke-free.

- 444 Clause 136 removes the requirement of Section 4 of the 2006 Act for places to be designated smoke-free only where there is a 'significant risk' that people present would be exposed to 'significant quantities of smoke'. This would allow for more spaces to be designated smoke-free.
- 445 The clause specifies that for a place to be designated smoke-free it must be a workplace or open to the public and that the designation must take effect only when it is being used as a workplace or open to the public. It also sets out that exceptions can be specified, and that Secretary of State has a duty to consult.
- 446 Clause 136 also amends section 5 of the 2006 Act, which relates to vehicles, to enable persons to designate areas as not being smoke-free. This will allow the Secretary of State to identify in regulations certain groups of people who will be able to designate certain areas to be not smoke-free.

Clause 137: Smoke-free premises: recasting of power to exempt performers

- 447 Clause 137 recasts an existing regulation making power in section 3(5) of the [Health Act 2006](#), that the Secretary of State may make regulations that would allow performers to smoke during a performance if the artistic integrity of the performance made it appropriate.
- 448 The clause 137 exemption operates as power for the Secretary of State to create a defence to the offence of smoking in a smoke-free place by regulations (section 7 of the Health Act 2006) and failing to prevent smoking in a smoke-free place by regulations (section 8 of the Health Act 2006). This would have the effect of enabling performers to smoke in a place that is otherwise smoke-free when performing, where it is justified to preserve the artistic integrity of the performance. The exemption would apply only to the performer and not other persons, such as crew or stagehands, and would not mean that the wider stage or set is no longer smoke-free.

Clause 138: No-smoking signs in England

- 449 Clause 138 amends section 6 of the [Health Act 2006](#) requirements around no-smoking signs. The clause sets out that whoever occupies or manages a no-smoking premises must ensure the relevant no-smoking signs are displayed in or near the premises.
- 450 The clause provides powers for the Secretary of State to make regulations which specify the display and design requirements of no-smoking signs as well as how and where the signs are to be displayed.

Clause 139: Vape-free places in England

- 451 Clause 139 amends the [Health Act 2006](#) to allow the Secretary of State to make regulations designating places or vehicles in England to be vape-free but only if these places are already smoke-free.
- 452 Clause 139 makes it an offence for a person to vape in a vape-free place or vehicle. It also places a duty on the manager of a vape-free place or driver of a vape-free vehicle to stop a person using a vape on their premises or in their vehicle.
- 453 The clause also requires a person who occupies or manages a vape-free place to put up no-vaping signs and ensure they are adequately displayed. Regulations may set out specific requirements that these signs must comply with, as well as to create exceptions for signage in vehicles.
- 454 The smoke-free places restrictions in the Health Act 2006 did not apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do not apply to bodies and persons acting as servants of the

Crown such as government departments, prisons run by His Majesty's prison service, and the armed forces. However, government bodies have the ability to bring forward similar restrictions other than under the Health Act 2006 and have previously done so in relation to smoking.

Clause 140: Heated tobacco-free places in England

- 455 Clause 140 provides powers for the Secretary of State to prohibit the use of heated tobacco products in England, but only in places that are already smoke-free.
- 456 Clause 140 makes it an offence for a person to use a heated tobacco device in a heated tobacco-free place or vehicle. It also places a duty on the manager of a heated tobacco-free place or driver of a vape-free vehicle to stop a person using a heated tobacco device on their premises or in their vehicle.
- 457 The clause also requires management of a heated tobacco-free place or vehicle to put up no heated tobacco signs, and ensure they are adequately displayed. Regulations may set out specific requirements that these signs must comply with. Only smoke-free places may be designated as heated-tobacco free places.
- 458 The smoke-free places restrictions in the [Health Act 2006](#) did not apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do not apply to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty's prison service, and to the armed forces. However, government bodies have the ability bring forward similar restrictions other than under the Health Act 2006 and have previously done so in relation to smoking.

Clause 141: Amendments consequential on sections 136 to 140

- 459 Clause 141 is self-explanatory and introduces Schedule 17.

Schedule 17: Amendments consequential on sections 136 to 140

- 460 Schedule 17 lists any consequential amendments made to the [Health Act 2006](#) to refine the definition of "workplace", alter the relevant references to enforcement including fixed penalties and provide updated or new definitions for a number of areas such as "heated tobacco devices" and "vape-free place".

Scotland

Clause 142: No-smoking premises in Scotland

- 461 Clause 142 amends the [Smoking, Health and Social Care \(Scotland\) Act 2005](#) (the 2005 Act) to allow the Scottish Ministers to make regulations designating certain premises which are not "wholly or substantially enclosed" as no-smoking premises. The clause specifies that the Scottish Ministers have a duty to consult prior to making such regulations.
- 462 The clause specifies that for places other than vehicles to be prescribed as "no-smoking premises" they must be wholly or substantially enclosed, or a workplace or open to the public. When prescribed, no-smoking premises that are not wholly or substantially enclosed are smoke-free only during the times when they are open to the public or used as a place of work. The clause provides definitions of open to the public, premises, vehicle, work and workplaces.
- 463 The clause permits exceptions to be included in regulations and enables the Scottish Ministers to identify in regulations certain groups of people who will be able to designate certain areas to

be not smoke-free.

- 464 Clause 140(1) substitutes parts of section 4 of the 2005 Act but these amendments do not have the effect of revoking the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (the 2006 Regulations), and the 2006 Regulations remain in place.

Clause 143: No-smoking signs in Scotland

- 465 Clause 143 amends the [Smoking, Health and Social Care \(Scotland\) Act 2005](#) requirements around no-smoking signs. The clause sets out that a person who has management or control of no-smoking premises must ensure the relevant no-smoking signs are displayed in or near a premises.
- 466 The clause provides powers for the Scottish Ministers to make regulations which specify the display and design requirements of no-smoking signs, how and where the signs are to be displayed and to create exceptions.

Clause 144: Vape-free premises in Scotland

- 467 Clause 144 amends the Part 1 of the [Smoking, Health and Social Care \(Scotland\) Act 2005](#) (the 2005 Act) to change the heading to “Smoking, vaping and similar activities”, to then include a new section on vaping.
- 468 Clause 144 provides a power for the Scottish Ministers to prescribe a place as being vape-free, but only as far as they are already smoke-free. The clause also makes it an offence for a person to vape in a vape-free place or vehicle. It places a duty on the person having management or control of a vape-free place to permit a person to use a vape on their premises.
- 469 The clause also requires the person having management or control of a vape-free place to display no-vaping signs. Regulations may set out specific requirements that these signs must comply with, as well as create exception in relation to the signage requirements.
- 470 Whilst vaping is less harmful than smoking there is a risk to people’s health from vape aerosol, for example aerosols have been linked to asthma attacks. To protect public health, and particularly that of children, the Scottish Ministers may want to extend existing smoke-free places to also become vape-free.
- 471 The smoke-free places restrictions in the 2005 Act did apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do apply to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty’s prison service, and to members of the armed forces.

Clause 145: Heated tobacco-free premises in Scotland

- 472 Clause 145 amends the [Smoking, Health and Social Care \(Scotland\) Act 2005](#) (the 2005 Act) to insert a new chapter that relating to the use of heated tobacco devices.
- 473 In particular, clause 145 provides a power for the Scottish Ministers to prescribe a place as being heated tobacco-free, but only where that place is already smoke-free. The clause makes it an offence for a person to use a heated tobacco device in a heated tobacco-free place premises. It also places a duty on a person with management or control of a heated tobacco-free place to stop a person using a heated tobacco device on their premises.
- 474 The clause also requires persons who occupies or is concerned in the management of a heated tobacco-free place to put up signs and ensure they are adequately displayed. Scottish ministers may make regulations setting out specific requirements that these signs must comply with, as

well as exceptions to the duty to display signage.

475 The smoke-free places restrictions in the 2005 Act did apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do apply to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty's prison service, and to members of the armed forces.

Clause 146: Amendments consequential on sections 142 to 145

476 Clause 146 is self-explanatory and introduces Schedule 18.

Schedule 18: Amendments consequential on sections 142 to 145

477 Schedule 18 amends the [Smoking, Health and Social Care \(Scotland\) Act 2005](#) to introduce Schedule 18. It updates the appropriate enforcement provisions and provides definitions for areas not previously covered such as "vapes".

Wales

Clause 147: Smoke-free places and vehicles in Wales: duty to consult

478 Clause 147 in the Bill amends the [Public Health \(Wales\) Act 2017](#), so the Welsh Ministers have a duty to consult before making regulation under section 13 (additional smoke-free places) and section 15 (smoke-free vehicles).

Clause 148: Smoke-free vehicles in Wales

479 Clause 148 amends the [Public Health \(Wales\) Act 2017](#) to enable the Welsh Ministers to identify classes of person who may designate areas of a vehicle as not smoke-free.

Clause 149: No-smoking signs in Wales

480 Clause 149 amends the [Public Health \(Wales\) Act 2017](#) requirements around no-smoking signs. The clause sets out that a person who occupies or manages a no-smoking premises must ensure no-smoking signs are displayed in or near the premises.

481 The clause provides powers for the Welsh Ministers to make regulations which specify the display and design requirements of no-smoking signs, how and where the signs are to be displayed.

Clause 150: Vape-free places in Wales

482 Clause 150 amends the [Public Health \(Wales\) Act 2017](#) (the 2017 Act) to insert a new chapter relating to vaping. This allows the Welsh Ministers to make regulations designating places or vehicles in Wales as vape-free, but only when they are already smoke-free.

483 Clause 150 makes it an offence for a person to vape in a vape-free place or vehicle. It also places a duty on a person who manages or controls of a vape-free place or a driver of a vape-free vehicle to stop a person using a vape on their premises or in their vehicle.

484 The clause also places a duty on a person who occupies or has management responsibilities of a vape-free place or a person who manages a vape-free vehicle to put up no-vaping signs and ensure they are adequately displayed. Regulations may set out specific requirements that these signs must comply with, as well as create exceptions in relation to the signage requirements for vehicles.

485 The smoke-free places restrictions in the 2017 Act did not apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do not apply to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty's prison service, and to the armed forces. However, government bodies have the ability to bring forward similar restrictions other than under the 2017 Act and have previously done so in relation to smoking.

Clause 151: Heated tobacco-free places in Wales

486 Clause 151 amends the [Public Health \(Wales\) Act 2017](#) (the 2017 Act) to insert a new chapter relating to heated tobacco. This allows the Welsh Ministers to make regulations designating places or vehicles in Wales to be made heated tobacco-free, but only where such places that are already smoke-free.

487 Clause 151 makes it an offence for a person to use a heated tobacco in a tobacco free place or vehicle. It also places a duty on a person who controls or is concerned with the management of a heated tobacco-free place, or the driver of a heated tobacco-free vehicle to stop a person using a heated tobacco device on their premise or in their vehicle.

488 The clause also provides that a person who occupies or is involved in the management of a heated tobacco-free place or with management responsibilities of a heated tobacco-free vehicle must put up no heated tobacco signs, and ensure they are adequately displayed. The Welsh Ministers may set out specific requirements that these signs must comply with in regulations, as well as create exceptions in relation to the signage requirements for vehicles.

489 The smoke-free places restrictions in the 2017 Act did not apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do not apply to all bodies and persons acting as servants of the Crown such as government departments, prisons run by His Majesty's prison service, and to the armed forces. However, relevant government bodies may bring forward similar restrictions.

Clause 152: Amendments consequential on sections 147 to 151

490 Clause 152 is self-explanatory and introduces Schedule 19.

Schedule 19: Amendments consequential on sections 147 to 151

491 Schedule 19 amends the_ to include a series of definitions in both Welsh and English.

Northern Ireland

Clause 153: Additional smoke-free places in Northern Ireland

492 Clause 153 amends Articles 5 and 6 of (the 2006 Order).

493 The clause specifies that for additional places to be made smoke-free they must be a workplace or open to the public, this can include outdoor spaces. Such spaces may only be prescribed smoke-free places during the times they are open to the public or used as a place of work. Clause 153 also introduces a duty to consult for the Department of Health before designating any additional smoke-free places.

494 The clause permits exceptions to be included in regulations for both smoke-free places and vehicles and allows the Department of Health in Northern Ireland to identify certain groups of individuals who may designate certain areas to not be smoke-free.

Clause 154: No-smoking signs in Northern Ireland

495 Clause 154 amends [The Smoking \(Northern Ireland\) Order 2006](#) requirements around no-smoking signs. The clause sets out that whoever occupies or manages a no-smoking premises must ensure no-smoking signs are displayed in or near the premises.

496 The clause provides that regulations may specify the display and design requirements of no-smoking signs, as well as how and where the signs are to be displayed.

Clause 155: Vape-free places in Northern Ireland

497 Clause 155 amends [The Smoking \(Northern Ireland\) Order 2006](#) (the 2006 Order) to allow for the Department of Health in Northern Ireland to make regulations designating places or vehicles to be vape-free, but only when they are already smoke-free.

498 Clause 155 makes it an offence for a person to vape in a vape-free place or vehicle. It also places a duty on a person who controls or manages a vape-free place or drivers of a vape-free vehicle to stop a person using a vape on their premises or in their vehicle.

499 The clause also states that the occupier or management of a vape-free place, or person with management responsibility of a vape-free vehicle must put up no-vaping signs and ensure they are adequately displayed. Regulations may set out specific requirements that these signs must comply with as well as create exceptions in relation to the signage requirements for vehicles.

500 The no-smoking places restrictions in the 2006 Order did apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do apply to all bodies and persons acting as servants of the Crown such as government departments and the armed forces.

Clause 156: Heated tobacco-free places in Northern Ireland

501 Clause 156 amends [The Smoking \(Northern Ireland\) Order 2006](#) (the 2006 Order) to allow Department of Health in Northern Ireland to make regulations designating places or vehicles in Northern Ireland to be heated tobacco-free, but only when they are already smoke-free.

502 Clause 156 makes it an offence for a person to use a heated tobacco product in a heated tobacco-free place or vehicle. It also places a duty on the manager or person who controls a heated tobacco-free place or driver of a heated tobacco-free vehicle to stop a person using a heated tobacco device on their premises or in their vehicle.

503 The clause also states that the occupier or management of a heated tobacco-free place, or person with management responsibility for a heated tobacco-free vehicle, must put up no heated tobacco signs, and ensure they are adequately displayed. Regulations may set out specific requirements that these signs must comply with, as well as create exceptions in relation to the signage requirements for vehicles.

504 The no-smoking places restrictions in the 2006 Order did apply to the Crown and the same approach has been adopted for this clause to provide a consistent legislative approach. This means these restrictions do apply to all bodies and persons acting as servants of the Crown such as government departments and the armed forces.

Clause 157: Amendments consequential on sections 153 to 156

505 Clause 157 is self-explanatory and introduces Schedule 20.

Schedule 20: Amendments consequential on sections 153 to 156

506 Schedule 20 amends [The Smoking \(Northern Ireland\) Order 2006](#) to ensure that the definition of “workplaces” is updated accordingly and other relevant definitions are included in the necessary legislation.

Ships

Clause 158: Power to prohibit vaping etc on ships

507 Clause 158 amends section 85 of the [Merchant Shipping Act 1995](#) and makes provision regarding safety regulations that are made under that Act to provide for vape-free and heated tobacco-free provision for ships and hovercraft, which corresponds with provisions in the Health Act 2006.

Part 8: General

508 Clauses in Part 8 of the Bill extend to the whole of the UK.

Clause 159: Application to Parliament

509 Clause 159 provides that this Bill or regulations made under it apply to the Parliamentary Estate.

Clause 160: Further consequential amendments

510 Clause 160 is self-explanatory and introduces Schedule 21.

Schedule 21: Consequential amendments: General

511 This schedule outlines amendments that are consequential on this Bill. It amends the [Health Act 2009](#), [Regulatory Enforcement and Sanctions Act 2008](#), [Consumer Rights Act 2015](#), the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#), the [Digital Markets, Competition and Consumers Act 2024](#), the [Communications Act 2003](#), the [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), [The Tobacco and Related Products Regulations 2016](#) and the [Media Act 2024](#). The [Tobacco Advertising and Promotion Act 2002](#) is repealed.

Clause 161: Power of Secretary of State to make consequential provision

512 Clause 161 gives the Secretary of State a regulation making power to make provision that is consequential on this Bill and may amend, repeal or revoke any legislation passed or made before, or in the same session as this Bill (including provision made by this Bill).

513 Any regulations made to amend, repeal, or revoke primary legislation will be subject to the affirmative resolution procedure. Any other regulations under this section will be subject to the negative resolution procedure.

514 The clause also defines “primary legislation” meaning it to be an Act of Parliament, an Act of the Scottish Parliament, an Act or Measure of Senedd Cymru or Northern Ireland legislation.

Clause 162: Power of Scottish Ministers to make consequential provision

515 Clause 162 gives the Scottish Ministers a regulation making power to make provisions that is consequential on Part 2 (sale and distribution: Scotland) and clauses 142 to 146 and Schedule 18 of this Bill.

516 Any regulations may amend, repeal, or revoke provision made by or under an Act passed before this Bill or in the same session of Parliament as this Bill or an Act of the Scottish Parliament passed before this Bill.

517 Any regulations that amend or repeal provisions made by an Act of the Scottish Parliament, or an Act are subject to the affirmative resolution procedure. Any other regulations under this section will be subject to the negative resolution procedure.

Clause 163: Power of Welsh Ministers to make consequential provision

518 Clause 163 gives the Welsh Ministers a regulation making power to make provision that is consequential on Part 1 (sale and distribution), as well as on clauses 147 to 152 and Schedule 19 of this Bill.

519 The clause provides that the use of the power by the Welsh Ministers can only be made if the provision would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

520 Any regulations may amend, or repeal or revoke provision made by or under an Act passed before this Bill or in the same session of Parliament as this Bill or an Act or Measure of Senedd Cymru passed before this Bill.

521 Any regulations that amend or repeal provisions made by an Act, or an Act or Measure of Senedd Cymru are subject to the affirmative resolution procedure. Any other regulations under this section will be subject to the negative resolution procedure.

Clause 164: Power of Northern Ireland department to make consequential provision

522 Clause 164 gives Northern Ireland departments a regulation making power to make provision that is consequential on Part 3 (sale and distribution: Northern Ireland) and clauses 153 to 157 and Schedule 20 of this Bill.

523 Any regulations may amend, repeal or revoke provision made by or under an Act passed before or in the same session of Parliament as this Bill or Northern Ireland legislation passed or made before this Bill.

524 Any regulations that amend, repeal or revoke an Act or Northern Ireland legislation are subject to the affirmative resolution procedure. Any other regulations under this section will be subject to the negative resolution.

Clause 165: Regulations: general

525 Clause 165 provides that where regulations are made under this Bill, the regulations may make consequential, supplementary, incidental, transitional, or saving provision and allows regulations to make different provision for different purposes and different provision for different parts of the UK. This does not apply to regulations made under clauses 168 (Commencement: Parts 1 to 4), 169 (Commencement: Parts 5 to 8), and 170 (Transitional provision).

Clause 166: Regulations and orders: procedure

526 Clause 166 provides the procedure for making regulations under this Bill. Regulations made by the Secretary of State or the Welsh Ministers under this Bill are to be made by statutory instrument.

- 527 Regulations made under this Bill by the Scottish Ministers are to be made by Scottish statutory instrument.
- 528 Reference is made to section 27 (Scottish statutory instruments) of the [Interpretation and Legislative Reform \(Scotland\) Act 2010](#) as this makes provision about Scottish statutory instruments.
- 529 The power of the Department of Health in Northern Ireland to make regulations under clause 164 (Power of Northern Ireland department to make consequential provision) is exercisable by statutory rule for the purposes of the [Statutory Rules \(Northern Ireland\) Order 1979](#).
- 530 The clause defines the “the affirmative resolution procedure” and “the negative resolution procedure” in the context of this Bill.

Clause 167: Extent

- 531 Clause 167 provides for the extent of this Bill. A table on territorial extent of each clause in the Bill can be found at Annex A. The extent of the different Parts of the Bill are as follows:
- a. Part 1 extends to England and Wales only.
 - b. Part 2 extends to Scotland only.
 - c. Part 3 extends to Northern Ireland only.
 - d. Parts 4, 5 and 6 and this Part of the Bill extend to England and Wales, Scotland and Northern Ireland.
- 532 Any amendment or repeal made by the Bill has the same extent as the provision that is amended or repealed.

Clause 168: Commencement: Parts 1 to 4

- 533 Clause 168 provides commencement dates for the various clauses in Parts 1 to 4 in this Bill. The commencement section of the Explanatory Notes provides a detailed summary and explanation of these commencement dates.

Clause 169: Commencement: Parts 5 to 8

- 534 Clause 169 provides commencement dates for the various clauses in Parts 5 to 8 in this Bill. The commencement section of the Explanatory Notes provides a detailed summary and explanation of these commencement dates.

Clause 170: Transitional provision

- 535 Clause 170 provides a power to make the transitional or saving provisions.
- 536 The Welsh Ministers may by regulations make transitional or saving provision in relation to the coming into force of clause 40 and Schedule 5, clauses 147 to 152, Schedule 19.
- 537 The Scottish Ministers may by regulations make transitional or saving provision in relation to the coming into force of Part 2 (Sale and Distribution: Scotland), clauses 142 to 146 and Schedule 18 (smoke-free places, vape-free places and other free-from places: Scotland)
- 538 The Department of Health in Northern Ireland may by regulations make transitional or saving provision in relation to the coming into force of Part 3 (Sale and Distribution: Northern Ireland), clauses 153 to 157 and Schedule 20 (smoke-free places, vape-free places and other free-from places: Northern Ireland).
- 539 The Secretary of State may by regulations make transitional or saving provision in relation to the coming into force of any provision of this Bill.

Clause 171: Short title

540 Clause 171 provides that this Bill can be cited as the Tobacco and Vapes Act 2024 once passed.

Commencement

541 Clauses 168 and 169 provide for the commencement of the clauses in this Bill.

542 To give businesses sufficient time to prepare for implementation of measures in the Bill, Part 1 (Sale and Distribution: England and Wales), Part 2 (Sale and Distribution: Scotland), Part 3 (Sale and Distribution: Northern Ireland) and Part 4 (Snus etc: Seizure and Detention Powers) come into force 6 months from the day on which the Bill is passed, with the exception of:

543 Any provision, or amendment made by, Parts 1 to 3 where it confers a power to make regulations or relates to the exercise of the power. These are powers to make secondary legislation and the commencement of the powers does not require an implementation period and so come into force on the day on which the Bill is passed.

544 Measures which relate to the age of sale of tobacco etc and are therefore required to come into force on the 1 January 2027 when children born on or after 1 January 2009 turn 18. This includes:

- a. In relation to England and Wales: Clauses 1 (Sale of tobacco etc), 2 (Purchase of tobacco etc on behalf of others), 5 (Age of sale notice at point of sale: England), 6 (Age of Sale notice at point of sale: Wales), 41 (2) (Consequential amendments to do with Part 1) and Schedule 7 (Part 1 consequential amendments commencing on 1 January 2027)
- b. In relation to Scotland: Clauses 50 (Age of sale for tobacco products etc)
- c. In relation to Northern Ireland: Clauses 68 (Age of sale for tobacco products etc), 69 (Purchase of tobacco on behalf of others) and 72 (Age of sale notice at point of sale), 87(2) (Consequential and other amendments) and Schedule 15 (Part 3 consequential amendments commencing on 1 January 2027).

545 Clause 16 (Prohibition of retail sales of tobacco products etc in England without a licence), 17 (Offences in connection with licences: England), 18 (Financial penalties for breach of licence conditions: England), Schedule 1 (Retail licensing scheme: England) and Schedule 2 (Financial penalties for breach of retail licence conditions: England) come into force on such a day as set out by the Secretary of State by regulations.

546 Clause 19 (Prohibition of retail sales of tobacco products etc in Wales without a licence), 20 (Offences in connection with licences: Wales), 21 (Financial penalties for breach of licence conditions: Wales), 22 (Repeal of register of retailers of tobacco and nicotine products in Wales etc), Schedule 3 (Retail licensing scheme: Wales) and Schedule 4 (Financial penalties for breach of retail licence conditions: Wales) come into force on such a day as set by the Welsh Ministers by order.

547 Clause 40 (Handing over tobacco etc to underage people in Wales) and Schedule 5 (Handing over tobacco etc to underage people in Wales) which come into force on such a day as set out by the Welsh Ministers by order.

548 Clause 63 (Alignment of definition of “tobacco product” in Scottish legislation) comes into force at the end of the period of 2 months beginning with the day on which is the Bill is passed.

549 Clause 65 (Extension of retailer register etc) and Schedule 9 (Extension of retailer register etc: Scotland) come into force on such a day as set out by the Scottish Ministers by regulations.

- 550 Clause 84 (Extension of retailer register), Clause 85 (Prohibition of retailer sales of tobacco products etc without a licence) and Schedule 10 (Extension of retailer register: Northern Ireland), Schedule 11 (Retail licensing schemes in Northern Ireland), Schedule 12 (Financial penalties for breach of retail licence conditions in Northern Ireland) and Schedule 13 (Licensing of retail sales of tobacco products etc: consequential amendments) come into force on such a day as set out by the Department of Health in Northern Ireland by order.
- 551 Part 5 (Product and Information Requirements Etc) contains delegated powers and so comes into force on the day on which the Bill is passed.
- 552 Part 6 (Advertising and Sponsorship), Clause 125 (Sponsorship: vaping and nicotine and other products), 132 (Alignment of definition of “tobacco product” in old legislation), 134 (Crown application) and 135 (Interpretation of Part 6) come into force at the end of the period of 2 months beginning with the day on which the Bill is passed. The remainder of the provisions in Part 6 come into force on such day as the Secretary of State may by regulations appoint.
- 553 Part 7 (Smoke-free, vape-free places and other free-from places) come into force on such day as the appropriate national authority appoints. The Secretary of State may by regulations commence clauses 136 to 141, clause 158, and Schedule 17. The Scottish Ministers may by regulations commence clauses 142 to 146, and Schedule 18. The Welsh Ministers may by order commence clauses 147 to 152, and Schedule 19. The Department of Health in Northern Ireland may by order commence clauses 153 to 157, and Schedule 20.
- 554 Part 8 (General) comes into force on the day on which the Bill is passed, with the exception of clause 160 (Further consequential amendments) and Schedule 21 (Consequential amendments: general) which come into force on such a day as the Secretary of State may by regulations appoint.

Financial implications of the Bill

- 555 The measures in the Bill are enabling and as a result most of the proposals will not place direct costs on health and care organisations purely by their enactment.
- 556 Smoking places a significant cost on society. ASH estimates that the total costs of smoking per annum in England are £21.8 billion³³. Uplifting this estimate based on the relative size of the population in England compared to the whole of the UK, the government estimates the costs of smoking to the UK to be around £25.8 billion. This includes a £21.7 billion loss to productivity per year through smoking related lost earnings, unemployment, and early death, as well as costs to the NHS and social care sector of £2.2 billion and £1.4 billion respectively.
- 557 The previous government published a Tobacco and Vapes Bill Impact assessment on 20 March 2024.³⁴ Whilst this impact assessment does draw on similar evidence and data there have been a number of publications containing updates to estimates and figures used throughout the Impact Assessment, as well as additional data covering more recent time periods that were not available at the time of the original publication, such as data from a range of stakeholders including other

³³ ASH. 2024. [Latest figures show cost of smoking in England up 25% to at least £21.8 billion - ASH](#)

³⁴ DHSC. 2024. [Tobacco and Vapes Bill: impact assessment - GOV.UK \(www.gov.uk\)](#)

government departments and external bodies. As a result, a new Tobacco and Vapes Bill Impact Assessment has been produced that utilises the latest data available and includes analysis for new measures included in the Bill.

- 558 In the Impact Assessment for the Tobacco and Vapes Bill, in relation to costs, the analysis showed the overall reduction in tobacco consumption over 30 years in the UK is expected to reduce profits for tobacco retailers by £2,366m, and for tobacco wholesalers by £508m. It is expected that tobacco retailers will incur familiarisation costs of £8m, costs due to increased time to check people's IDs of £84m and costs to put up new signage in shops of £0.2m. These costs are in 2024 prices.
- 559 The reduction in tobacco consumption would also reduce the amount of tobacco duty collected by HMRC. It is estimated that the cumulative reduction in tobacco duty receipts over 30 years in the UK would be £23,750m. However, this reduction in the tobacco duty revenue represents a transfer from the government collecting this tax to the people in society previously paying the tax. The people that no longer take up smoking because of this policy benefit from an increase in the amount they can spend on other goods and services and the government loses an equal amount that they can spend. Therefore, this reduction in tax revenue does not make society as a whole better or worse off.
- 560 In order to discourage non-smokers and young people from taking up vaping, and to raise revenue, the government has confirmed the introduction of Vaping Products Duty (VPD) which will come into force from 1 October 2026. To ensure the new duty does not make smoking more attractive than vaping, there will be a simultaneous one-off rate increase for tobacco duties on 1 October 2026.
- 561 In relation to financial benefits, the analysis showed the expected benefits in the UK accrued from the health benefits of a reduction in the number of people taking up smoking would result in monetised QALYs gains from fewer deaths of £418m. There will also be wider societal benefits, including productivity gains of £27,298m, reduced healthcare usage costs of £2,814m, reduced social care usage costs of £1,839m, and reductions in fire costs associated with smoking of £982m. These benefits are in 2024 prices.
- 562 The benefits of the policy will continue beyond 30 years and increase in size due to the nature of the policy option. For example, the policy is estimated to provide a total net benefit of over £75 billion by 2100.
- 563 With the new legal age of sale, local authorities would need to check the same number of businesses, and the government expects it to take the same amount of time to investigate any potential offences. Local authorities may incur some additional costs to familiarise themselves with the new law, but do not expect this to be a significant cost.
- 564 To help support the enforcement of underage and illicit sales of tobacco and vapes, we will invest an extra £30 million per year for enforcement agencies including Trading Standards, HMRC and Border Force. Of this new funding, £100 million over 5 years will support HMRC and Border Force's illicit tobacco strategy, which sets out plans to be at the forefront of tackling illegal activity and opportunities that criminals may seek to exploit. The strategy establishes a new Illicit Tobacco Taskforce, which will combine the operational, investigative and intelligence expertise of various agencies and enhance the ability to disrupt organised crime. The new funding will also build on the work being taken forward by National Trading Standards, supported by £3 million investment over two years, specifically to tackle illicit and underage vape sales.

- 565 As it is local authorities that will be responsible for checking compliance with the new law on the legal age of sale for tobacco, the government does not anticipate any additional enforcement costs for the police. However, there may be additional costs for the justice system and a Justice Impact Test and New Burdens Assessment will be completed.
- 566 In relation to vaping, the updated impact assessment includes full appraisals of the additional measures for banning vape vending machines and extending advertising restrictions.
- 567 For all the vaping measures and powers, it is estimated that there would be costs to vape manufacturers, retailers and wholesalers for all of the vaping regulations (restrictions on flavours, packaging requirements and regulations on point-of-sale displays). These would include costs to familiarise themselves with the new regulations as well as a reduction in profits. For each of the measures, there are additional industry specific costs.
- 568 The main health benefits expected as a result of the vaping policies is a reduction in the number of children and young people that take up vaping. As there is currently limited evidence on the health impacts of vaping, particularly the long-term harms of vaping, it has not been possible to quantify the health benefits from a reduction in the number of children and young people that take up vaping. However, evidence from Canada, suggests that for every young person not taking up vaping the health benefits to the individual could be over £14,000.
- 569 In relation to the impact of new smoke-free, vape-free, and heated tobacco-free policies, the financial impact will be dependent on the scope of the policy adopted in secondary legislation at which further impact assessment(s) will be completed to assess the costs and benefits of implementing the policy.

Parliamentary approval for financial costs or charges imposed

- 570 The Bill will require a money resolution to authorise new charges on the public revenue (broadly speaking, new public expenditure). The resolution is required because, among other things, the Bill confers various functions on local authorities, which are funded, in part, by grants paid out of money provided by Parliament (see, for example, clause 32, 104(1)(a) and 129(1)). It also confers various functions on the Secretary of State that could result in additional administrative expenditure of a kind that requires a money resolution (see, for example, clause 101 and the substituted section 4(1) inserted by clause 136).
- 571 The Bill will also require a ways and means resolution (which, broadly speaking, is required in relation to a charge on the people or for other payments into the Consolidated Fund). The resolution is required because, among other things, clauses 95(3) and 99(2)(e) confer powers to provide for fees, or to extend existing legislation about fees, that could be characterised as a charge on the people, and clause 38(1) makes provision for the proceeds from fixed penalty notices in England to be paid into the Consolidated Fund.

Compatibility with the European Convention on Human Rights

- 572 The Rt Honourable Wes Streeting MP, Secretary of State for Health and Social Care, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights.
- 573 The Bill contains a limited number of provisions which may engage Convention rights, in particular Article 1 of Protocol 1 to the Convention (right to property) (“A1P1”), Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination). The remaining provisions of the Bill are considered not to engage Convention rights.
- 574 A fuller consideration of the provisions of the Bill which may raise European Convention on Human Rights (ECHR) issues is provided in Annex C.

Environmental Law

- 575 The Rt Honourable Wes Streeting MP, Secretary of State for Health and Social Care, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the [Environment Act 2021](#). Accordingly, no statement under that section has been made.

Duty under section 13C of the European Union (Withdrawal) Act 2018

- 576 The Rt Honourable Wes Streeting MP, Secretary of State for Health and Social Care, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the UK. Accordingly, no statement under section 13C of the [European Union \(Withdrawal\) Act 2018](#) has been made.

Related documents

- 577 The following documents are relevant to the Bill and can be read at the stated locations:

- [Children and Young Persons Act 1933](#)

- [Creating a smokefree generation and tackling youth vaping consultation: government response](#)
- Delegated Powers Memorandum
- [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#)
- [Health and Personal Social Services \(Northern Ireland\) Order 1978](#)
- [Health and Social Care Committee recommendations on youth vaping](#)
- [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#)
- [Proxy Purchasing of Tobacco, Nicotine Products etc. \(Fixed Penalty Notice\) \(England\) Regulations 2015](#)
- [Public Health \(Wales\) Act 2017](#)
- [Retained EU Law \(Revocation and Reform\) Act 2023](#)
- [Science and Technology Committee report and recommendations on an inquiry on e-cigarettes](#)
- [Smoking, Health and Social Care \(Scotland\) Act 2005](#)
- [Towards a smoke-free generation: tobacco control plan for England](#)
- [The Children and Families Act 2014](#)
- [The Khan review: making smoking obsolete](#)
- [The Tobacco Advertising and Promotions Act 2002 \(TAPA\)](#)
- [Tobacco and Related Products Regulations 2016](#)
- [United Kingdom Internal Market Act 2020](#)
- [Youth vaping call for evidence analysis](#)

Annex A - Territorial extent and application in the UK

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
1 Sale and distribution: England and Wales							
Clause 1	Yes	Yes	Yes	No	No	No	No
Clause 2	Yes	Yes	Yes	No	No	No	No
Clause 3	Yes	Yes	Yes	No	No	No	No
Clause 4	Yes	Yes	Yes	No	No	No	No
Clause 5	Yes	No	No	No	No	No	No
Clause 6	No	Yes	Yes	No	No	No	No
Clause 7	Yes	Yes	Yes	No	No	No	No
Clause 8	Yes	Yes	Yes	No	No	No	No
Clause 9	Yes	Yes	Yes	No	No	No	No
Clause 10	Yes	Yes	Yes	No	No	No	No
Clause 11	Yes	Yes	Yes	No	No	No	No
Clause 12	Yes	Yes	Yes	No	No	No	No
Clause 13	Yes	No	No	No	No	No	No
Clause 14	No	Yes	Yes	No	No	No	No
Clause 15	Yes	Yes	Yes	No	No	No	No
Clause 16	Yes	No	No	No	No	No	No
Clause 17	Yes	No	No	No	No	No	No
Clause 18	Yes	No	No	No	No	No	No
Clause 19	No	Yes	Yes	No	No	No	No
Clause 20	No	Yes	Yes	No	No	No	No
Clause 21	No	Yes	Yes	No	No	No	No
Clause 22	No	Yes	Yes	No	No	No	No

Clause 23	Yes	Yes	Yes	No	No	No	No
Clause 24	Yes	Yes	Yes	No	No	No	No
Clause 25	Yes	Yes	No	No	No	No	No
Clause 26	Yes	Yes	Yes	No	No	No	No
Clause 27	No	Yes	Yes	No	No	No	No
Clause 28	Yes	Yes	Yes	No	No	No	No
Clause 29	Yes	Yes	No	No	No	No	No
Clause 30	Yes	Yes	Yes	No	No	No	No
Clause 31	Yes	Yes	Yes	No	No	No	No
Clause 32	Yes	Yes	Yes	No	No	No	No
Clause 33	Yes	No	No	No	No	No	No
Clause 34	No	Yes	Yes	No	No	No	No
Clause 35	Yes	Yes	Yes	No	No	No	No
Clause 36	Yes	Yes	Yes	No	No	No	No
Clause 37	Yes	Yes	Yes	No	No	No	No
Clause 38	Yes	Yes	Yes	No	No	No	No
Clause 39	Yes	Yes	Yes	No	No	No	No
Clause 40	No	Yes	Yes	No	No	No	No
Clause 41	Yes	Yes	Yes	No	No	No	No
Clause 42	Yes	Yes	Yes	No	No	No	No
Clause 43	Yes	Yes	Yes	No	No	No	No
Clause 44	Yes	Yes	Yes	No	No	No	No
Clause 45	Yes	Yes	Yes	No	No	No	No
Clause 46	Yes	Yes	Yes	No	No	No	No
Clause 47	Yes	Yes	Yes	No	No	No	No
Clause 48	Yes	Yes	Yes	No	No	No	No
Clause 49	Yes	Yes	Yes	No	No	No	No
2 Sale and distribution: Scotland							
Clause 50	No	No	No	Yes	Yes	No	No
Clause 51	No	No	No	Yes	Yes	No	No
Clause 52	No	No	No	Yes	Yes	No	No
Clause 53	No	No	No	Yes	Yes	No	No

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Clause 54	No	No	No	Yes	Yes	No	No
Clause 55	No	No	No	Yes	Yes	No	No
Clause 56	No	No	No	Yes	Yes	No	No
Clause 57	No	No	No	Yes	Yes	No	No
Clause 58	No	No	No	Yes	Yes	No	No
Clause 59	No	No	No	Yes	Yes	No	No
Clause 60	No	No	No	Yes	Yes	No	No
Clause 61	No	No	No	Yes	Yes	No	No
Clause 62	No	No	No	Yes	Yes	No	No
Clause 63	No	No	No	Yes	Yes	No	No
Clause 64	No	No	No	Yes	Yes	No	No
Clause 65	No	No	No	Yes	Yes	No	No
Clause 66	No	No	No	Yes	Yes	No	No
Clause 67	No	No	No	Yes	Yes	No	No
3 Sale and distribution: Northern Ireland							
Clause 68	No	No	No	No	No	Yes	Yes
Clause 69	No	No	No	No	No	Yes	Yes
Clause 70	No	No	No	No	No	Yes	Yes
Clause 71	No	No	No	No	No	Yes	Yes
Clause 72	No	No	No	No	No	Yes	Yes
Clause 73	No	No	No	No	No	Yes	Yes
Clause 74	No	No	No	No	No	Yes	Yes
Clause 75	No	No	No	No	No	Yes	Yes
Clause 76	No	No	No	No	No	Yes	Yes
Clause 77	No	No	No	No	No	Yes	Yes
Clause 78	No	No	No	No	No	Yes	Yes
Clause 79	No	No	No	No	No	Yes	Yes
Clause 80	No	No	No	No	No	Yes	Yes
Clause 81	No	No	No	No	No	Yes	Yes
Clause 82	No	No	No	No	No	Yes	Yes
Clause 83	No	No	No	No	No	Yes	Yes

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Clause 84	No	No	No	No	No	Yes	Yes
Clause 85	No	No	No	No	No	Yes	Yes
Clause 86	No	No	No	No	No	Yes	Yes
Clause 87	No	No	No	No	No	Yes	Yes
Clause 88	No	No	No	No	No	Yes	Yes
4 Snus etc: Seizure and Detention powers							
Clause 89	Yes	Yes	No	Yes	No	Yes	No
5 Product and Information Requirements etc							
Clause 90	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 91	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 92	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 93	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 94	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 95	Yes	Yes	No	Yes	No	Yes	Yes
Clause 96	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 97	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 98	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 99	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 100	Yes	Yes	No	Yes	No	Yes	No
Clause 101	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 102	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 103	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 104	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 105	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 106	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 107	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 108	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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Clause 109	Yes	Yes	No	Yes	No	Yes	Yes
Clause 110	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 111	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 112	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 113	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6 Advertising and sponsorship							
Clause 114	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 115	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 116	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 117	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 118	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 119	Yes	Yes	No	Yes	No	Yes	No
Clause 120	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 121	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 122	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 123	Yes	Yes	No	Yes	Yes	Yes	Yes
Clause 124	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 125	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 126	Yes	Yes	No	Yes	No	Yes	No
Clause 127	Yes	Yes	No	Yes	No	Yes	No
Clause 128	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 129	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 130	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 131	Yes	Yes	Yes	No	No	Yes	Yes
Clause 132	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 133	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 134	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 135	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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7 Smoke-free places, vape-free places and other free-from places							
Clause 136	Yes	No	No	No	No	No	No
Clause 137	Yes	No	No	No	No	No	No
Clause 138	Yes	No	No	No	No	No	No
Clause 139	Yes	No	No	No	No	No	No
Clause 140	Yes	No	No	No	No	No	No
Clause 141	Yes	No	No	No	No	No	No
Clause 142	No	No	No	Yes	Yes	No	No
Clause 143	No	No	No	Yes	Yes	No	No
Clause 144	No	No	No	Yes	Yes	No	No
Clause 145	No	No	No	Yes	Yes	No	No
Clause 146	No	No	No	Yes	Yes	No	No
Clause 147	No	Yes	Yes	No	No	No	No
Clause 148	No	Yes	Yes	No	No	No	No
Clause 149	No	Yes	Yes	No	No	No	No
Clause 150	No	Yes	Yes	No	No	No	No
Clause 151	No	Yes	Yes	No	No	No	No
Clause 152	No	Yes	Yes	No	No	No	No
Clause 153	No	No	No	No	No	Yes	Yes
Clause 154	No	No	No	No	No	Yes	Yes
Clause 155	No	No	No	No	No	Yes	Yes
Clause 156	No	No	No	No	No	Yes	Yes
Clause 157	No	No	No	No	No	Yes	Yes
Clause 158	Yes	Yes	No	Yes	No	Yes	No

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8 General							
Clause 159	Yes	No	No	No	No	No	No
Clause 160	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 161	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 162	No	No	No	Yes	Yes	No	No
Clause 163	No	Yes	Yes	No	No	No	No
Clause 164	No	No	No	No	No	Yes	Yes
Clause 165	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 166	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 167	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 168	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 169	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 170	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clause 171	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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Annex B – Products captured

Annex B illustrates examples of tobacco and related products, vaping and nicotine products currently on the UK market that are in the government's view are in scope of each clause of the Bill. This is not intended to be an exhaustive list of products.

Part	Clause	Products Captured
Part 1: Sale and Distribution: England and Wales	1: Sale of tobacco etc	<ul style="list-style-type: none">• Cigarettes• Hand rolling tobacco• Cigarette papers• Cigars• Cigarillos• Pipe tobacco• Waterpipe tobacco (e.g shisha)• Herbal smoking products• Nasal tobacco (snuff)• Chewing tobacco• Heated tobacco• Blunts tobacco and herbal• Herbal Shisha
	2: Purchase of tobacco etc on behalf of others	
	3: Tobacco vending machines	<ul style="list-style-type: none">• Cigarettes• Hand rolling tobacco• Cigars• Cigarillos• Pipe tobacco• Waterpipe tobacco (e.g shisha)• Herbal smoking products• Nasal tobacco (snuff)• Chewing tobacco

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		<ul style="list-style-type: none"> • Heated tobacco • Blunts tobacco and herbal • Herbal Shisha • Cigarette papers
	4: Sale of unpackaged cigarettes	<ul style="list-style-type: none"> • Cigarettes
	5: Age of sale notice at point of sale: England 6: Age of sale notice at point of sale: Wales	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco
	7: Ban on manufacture of snus etc 8: Ban of sales of snus etc 9: Possession of snus etc with intent to supply	<ul style="list-style-type: none"> • Snus
	10: Sale of vaping or nicotine products to under 18s	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use),

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	<p>11: Purchase of vaping or nicotine products on behalf of under 18s</p> <p>12: Vaping and nicotine product vending machines</p>	<ul style="list-style-type: none"> • Pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
	<p>13: Displays of products and prices in England</p> <p>14: Displays of products and prices in Wales</p>	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.

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		<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Herbal Shisha
	15: Free distribution and discount of products	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (a) a tobacco product; (b) a herbal smoking product;

		<p>(c) cigarette papers;</p> <p>(d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products;</p> <p>(e) vaping products.</p> <ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Herbal Shisha
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	<p>19: Prohibition of retail sales of tobacco products etc without a licence</p> <p>20: Offences in connection with licences</p> <p>21: Financial penalties for breach of licence conditions</p>	<ul style="list-style-type: none"> • Under a licensing scheme, a licence would be required for the retail sale of: • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco
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		<ul style="list-style-type: none"> • Blunts tobacco and herbal • Herbal Shisha • Flavoured or unflavoured nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Supplement infused vapes • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks (Neafs) • Herbal/CBD/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
	23: Restricted premises orders	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products

		<ul style="list-style-type: none"> • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Flavoured or unflavoured nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
	28: Restricted sale orders	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco

		<ul style="list-style-type: none"> • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Flavoured or unflavoured nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
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	45: Power to extend Part 1 to other products	<ul style="list-style-type: none"> • Heated tobacco device • Pipe
Part 2: Sale and distribution: Scotland	50: Age of sale for tobacco products etc	<p>If amended in accordance with clause 50 (Extension of tobacco legislation to herbal smoking products) of the Bill, sections 4, 4B, 4C, 6 and 9 of the Tobacco and Primary Medical Services (Scotland) Act 2010 will apply to tobacco products, herbal smoking products and cigarette papers.</p> <p>This will therefore cover products such as:</p>

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		<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Chewing tobacco • Heated tobacco • Blunts (tobacco and herbal) • Herbal Shisha
	51: Sale of unpackaged cigarettes	<ul style="list-style-type: none"> • Cigarettes
	54: Extension of tobacco legislation to herbal smoking products	<p>If amended in accordance with the Bill, section 8 of the 2010 Act will apply to a tobacco business, covering (but not limited to) a business which sells products such as:</p> <ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Herbal smoking product • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts (tobacco)

	55: Power to make provision about warning statements	<p>If amended in accordance with the Bill, section 8 of the 2010 Act will apply to a tobacco business, covering (but not limited to) a business which sells products such as:</p> <ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Herbal smoking product • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts (tobacco)
	56: Ban on manufacture of snus etc	<ul style="list-style-type: none"> • Snus
	57: Ban on sales of snus etc	
	58: Possession of snus etc with intent to supply	
	61: Displays of vaping and nicotine products	<p>The Bill will insert clause 3A into the 2010 Act. This would apply to vaping products and nicotine products. The power would therefore cover products such as:</p>

		<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured Non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Non nicotine liquid in Shortfills/longfills bottles • Vape devices: tank based, single use, cartridge/pod systems includes E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Supplement infused vapes • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
	62: Free distribution and discount of products	<ul style="list-style-type: none"> • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches

	67: Power to extend 2010 Act to other products	<ul style="list-style-type: none">• Heated tobacco device• Pipe tobacco
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		<ul style="list-style-type: none"> • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products. • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Herbal Shisha
Part 3: Sale and distribution: Northern Ireland	<p>68: Age of sale for tobacco products etc</p> <p>69: Purchase of tobacco on behalf of others</p>	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff)

	<ul style="list-style-type: none"> • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha
70: Tobacco vending machines	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Cigarette papers
71: Sale of unpackaged cigarettes	<ul style="list-style-type: none"> • Cigarettes
72: Age of sale notice at point of sale	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff)

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		<ul style="list-style-type: none"> • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha
	<p>73: Ban on manufacture of snus etc</p> <p>74: Ban of sales of snus etc</p>	<ul style="list-style-type: none"> • Snus
	75: Possession of snus etc with intent to supply	<ul style="list-style-type: none"> • Snus
	<p>76: Sale of vaping or nicotine products to under 18s</p> <p>77: Purchase of vaping or nicotine products on behalf of under 18s</p>	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (a) a tobacco product; (b) a herbal smoking product;

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	78: Vaping and nicotine product vending machines	(c) cigarette papers; (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products; (e) vaping products.
	79: Displays of products and prices in Northern Ireland	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (a) a tobacco product; (b) a herbal smoking product;

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		(c) cigarette papers; (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products; (e) vaping products.
	80: Free distribution and discount of products	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos
	84: Extension of retailer register	<p>The Bill amends the Tobacco Retailers Act (Northern Ireland) 2014 to extend provisions that currently apply to tobacco retailers, to also apply to retailers of vaping and nicotine products. Therefore, this would apply to vaping products and nicotine products, such as:</p> <ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches

		<ul style="list-style-type: none"> • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (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) vaping products.
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Part 4: Snus etc: Seizure and Detention Powers	89: Power of officer of Revenue and Customs to seize and detain snus etc	<ul style="list-style-type: none"> • Snus
Part 5: Product and information requirements etc	90: Retail packaging 91: Features of products 92: Contents and flavour 93: Substances released into the human body and emissions 94: Non-compliant images 95: Registration 96: information 97: Studies 98: Responsible person 99: Testing	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigarette papers • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal smoking products • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco and herbal • Snus (already banned) • Herbal Shisha • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (a) a tobacco product; (b) a herbal smoking product;

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	100: Product safety	(c) cigarette papers; (d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products; (e) vaping products.
Part 6: Advertising and Sponsorship	114: Publishing advertisements 115: Designing advertisements 116: Printing advertisements 117: Distributing advertisements 118: Causing publication, designing, printing or distribution 119: Internet services 123: Brandsharing 124: Sponsorship: tobacco products	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Nasal tobacco (snuff) • Chewing tobacco • Heated tobacco • Blunts tobacco • Tobacco snus (banned for sale) • Cigarette papers • Herbal smoking products • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes) • Nicotine pouches • Future emerging nicotine products that are not: <ul style="list-style-type: none"> (a) a tobacco product; (b) a herbal smoking product; (c) cigarette papers;

	<p>125: Sponsorship: vaping and nicotine and other products</p> <p>126: Audiovisual services and radio broadcasting</p> <p>127: Extension of provisions about audiovisual and radio broadcasting</p>	<p>(d) any device which is intended to be used for the consumption of tobacco products or herbal smoking products;</p> <p>(e) vaping products.</p>
	133: Power to extend Part 6 and Communications Act 2003 to other products	<ul style="list-style-type: none"> • Heated tobacco device • Pipe
Part 7: Smoke-free places, Vape-free places and other free-from places	136: Addition of smoke-free places in England	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal Shisha • Herbal smoking products
	139: Vape-free places in England	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills

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		<ul style="list-style-type: none"> • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes)
	140: Heated tobacco-free places in England	<ul style="list-style-type: none"> • Heated tobacco
	142: No-smoking premises in Scotland	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal Shisha • Herbal smoking products
	144: Vape-free premises in Scotland	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes)
	145: Heated tobacco-free premises in Scotland	<ul style="list-style-type: none"> • Heated tobacco

	148: Smoke-free vehicles in Wales	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal Shisha • Herbal smoking products
	150: Vape-free places in Wales	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes)
	151: Heated tobacco-free places in Wales	<ul style="list-style-type: none"> • Heated tobacco
	153: Additional smoke-free places in Northern Ireland	<ul style="list-style-type: none"> • Cigarettes • Hand rolling tobacco • Cigars • Cigarillos • Pipe tobacco • Waterpipe tobacco (e.g shisha) • Herbal Shisha • Herbal smoking products
	155: Vape-free places in Northern Ireland	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges

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		<ul style="list-style-type: none"> • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes)
	156: Heated tobacco-free places in Northern Ireland	<ul style="list-style-type: none"> • Heated tobacco
	158: Power to prohibit vaping etc on ships	<ul style="list-style-type: none"> • Flavoured or unflavoured Nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Flavoured or unflavoured non-nicotine vapes- liquid bottles, disposable (single use), pods/cartridges • Nicotine shot liquids to be placed in Shortfills/Longfills • Vape devices: tank based, single use, cartridge/pod systems including E-hookah; e-cigars; e-pipes • Heated nicotine sticks • Herbal/Vitamin vapes-liquid or single use, pod/cartridge (classed as non-nicotine vapes)

Annex C – Compatibility with the European Convention on Human Rights

THE BILL AND CONVENTION RIGHTS

Progressive smoking ban

Clause 1 – Sale of tobacco etc (E&W)

Clause 50 – Age of sale for tobacco products etc (Scotland)

Clause 68 – Age of sale for tobacco products etc (Northern Ireland)

1. Clause 1 makes it an offence in England and Wales to sell a tobacco product, a herbal smoking product or cigarette papers ('tobacco products') to a person born on or after 1st January 2009. This replaces the current age of sale restriction of 18 for these products. Clauses 50 and 68 make the same provision for Scotland and Northern Ireland by amending the Tobacco and Primary Medical Services (Scotland) Act 2010 and the Health and Personal Social Services (Northern Ireland) Order 1978 respectively.
2. There will be no change to the law for anyone who can presently be sold tobacco products (so is over 18 now) nor for those who reach the age of 18 before 1st January 2027. The cohort in respect of whom the progressive smoking ban policy will apply are too young to be sold tobacco products at present. It will not be an offence for someone in this cohort to possess tobacco products nor will smoking be criminalised. The impact for businesses will be on future sales of tobacco products, to a group who cannot currently be sold these products, with a reduction in overall sales of tobacco products in the United Kingdom over time.

Article 1 Protocol 1 Right to Property

3. The progressive smoking ban which will apply to a cohort of the UK population born on or after 1 January 2009 may engage the right of peaceful enjoyment to the possessions of those businesses affected by an expected reduction in sales of tobacco products to the UK market. If, or to the extent that, Article 1 Protocol 1 (A1P1) is engaged then the Department considers that any interference can be justified and is proportionate.

4. The progressive smoking ban is provided for by law as it is contained in primary legislation subject to significant parliamentary scrutiny. The provisions pursue legitimate aims including preventing young people from becoming addicted to tobacco and protecting public health by gradually eliminating use of tobacco products. The Department considers that the measures are a proportionate means to achieve these aims with no less restrictive measure achieving the same effect, and do not impose an undue burden on affected businesses.

Article 8 with Article 14 Right to enjoy ECHR rights without discrimination

5. Individuals born before 1 January 2009 will be able to be sold tobacco products from age 18 as now. Someone born on 31 December 2008 will be in a different position from someone born on 1 January 2009. This difference in treatment could potentially engage the right to enjoy ECHR rights without discrimination (Article 14) if this measure is within the ambit of a substantive ECHR right such as Article 8: right to respect for family and private life.
6. The Department's view is that these measures which control the sale of tobacco products without otherwise prohibiting or limiting what individuals can do would not engage the right to private and family life. The legislation would not criminalise individuals in the affected cohort for possessing tobacco products or smoking.
7. Alternatively, if these measures are within the ambit of Article 8, the Department considers that any interference (Article 8) and any differential treatment (Article 14) can be justified and is proportionate. The only practical way for the measure to be introduced is with a cut-off date after which individuals cannot be sold tobacco; this prohibition is limited in that it will apply to a subset of individuals only (those born on or after 1 January 2009). The justification for any difference of treatment is that this is necessary in order to introduce the measure to achieve the legitimate aim of the protection of public health. There is no less restrictive way to achieve the aim of ultimately making smoking and use of tobacco obsolete. Any interference with Article 8 is justified under Article 8(2) for being in accordance with the law and necessary and proportionate in a democratic society in pursuit of a legitimate aim to protect public health.
8. Accordingly, the Department considers that these provisions are compatible with Article 1 Protocol 1 of the ECHR and Article 8 of the ECHR read with Article 14.

Vending Machine ban

Clauses 3 and 12 – Tobacco vending machines and vaping and nicotine product vending machines (E&W)

Clause 59 – Extension of offences to vaping and nicotine products (Scotland)

Clauses 70 and 78 – Tobacco vending machines and vaping and nicotine product vending machines (Northern Ireland)

9. Clauses 3, 59 and 70 re-enact the ban on vending machines for the sale of tobacco and extend the ban to vending machines selling herbal smoking products and cigarette papers for England and Wales, Scotland and Northern Ireland respectively. Clauses 12, 59 and 78 ban the sales of vaping products and nicotine products from vending machines.
10. Sales of tobacco from vending machines were banned in England and Wales and Scotland in 2010. The impact of these measures will be on businesses that provide vending machines for the sale of products other than tobacco, and on businesses that have such machines available for use on their premises.

Article 1 Protocol 1 Right to property

11. The ban will affect the use of assets held by businesses that own vending machines for the sale of herbal smoking products, cigarette paper and vaping and nicotine products, and therefore it is likely to engage the right of peaceful enjoyment to those possessions by these businesses. In respect of the impact on businesses that make available vending machines for use, it seems less likely that Article 1 Protocol 1 (A1P1) is engaged because anticipated future income is not a possession within scope of A1P1. To the extent that Article 1 Protocol 1 (A1P1) is engaged then the Department considered that any interference can be justified and is proportionate.
12. The ban on vending machines for the sale of tobacco products was challenged in the Courts: *R (Sinclair Collis Ltd) v Secretary of State for Health* [2011] EWCA Civ 437; [2012] QB 394. The Court taking the view that the ban was to be considered as an interference with property amounting to a control of use rather than a deprivation. This interference would be ‘provided for by law’ as it would be contained in primary legislation.
13. The ban on vending machines for these products pursues the legitimate aim of protecting children’s health by restricting children’s use of, and exposure to, tobacco and herbal smoking products, products containing nicotine and cigarette papers which enable smoking. The further aim is to limit access to

tobacco products and to nicotine products for adults who do not smoke and reduce visibility of these products due to the presence of vending machines. The existence of vending machines for these products is a form of promotion.

14. The Department considers that the measures are a proportionate means to achieve these aims with no less restrictive measure achieving the same effect, and do not impose an undue burden on affected businesses. Accordingly, the Department considers that these provisions are compatible with Article 1 Protocol 1 of the ECHR.

Advertising and sponsorship

Clauses 114 – 119 – Publishing advertisements, designing advertisements; printing advertisements; distributing advertisements; causing publication, designing, printing or distribution; and internet services

Clause 124 – Sponsorship which promotes tobacco products

Clause 125 – Sponsorship which promotes herbal smoking, vaping or nicotine products or cigarette papers

15. Clauses 114-119 contain provisions relating to advertisement. These make it unlawful to publish or cause to be published any advertisement promoting tobacco, herbal smoking products, vaping and nicotine products and cigarette papers in the course of business, as well as to print, design or distribute such an advertisement in electronic or physical formats.
16. Clause 124 makes it an offence to be party to an agreement and contribute in the course of a business if the purpose or effect of the agreement is to promote a tobacco product. This clause re-enacts the current ban on tobacco sponsorship in the Tobacco Advertising and Promotion Act 2002. Clause 123 creates a new offence to be a party to an agreement and contribute such that this has the purpose or effect of promoting a herbal smoking product, a vaping or nicotine product and cigarette papers.
17. The new offence under clause 125 applies to agreements entered into after the section comes into force when contributions are made under the agreement on or after a later date which will be specified in regulations. Agreements entered into before the section comes into force will not be affected by the prohibition. A reasonable time period will be allowed for agreements entered into after the section comes into force to be concluded. Parties to

sponsorship agreements entered into after clause 125 comes into force will be aware that their agreement will have to be terminated when the prohibition comes into effect.

Article 1 Protocol 1

18. The Department's view is that the introduction of the ban under clause 125 would not engage the right to peaceful enjoyment of possessions under A1P1. It should be possible for businesses to avoid the prohibition applying to existing sponsorship agreements and, therefore, the prohibition will not cause any loss to be suffered under existing contracts. To the extent that Article 1 Protocol 1 (A1P1) is engaged then the Department considers that any interference can be justified and is proportionate.
19. The prohibition pursues the legitimate aims of improving public health by making such products less visible and so less attractive to children and non-smokers. The Department considers that the restriction is a proportionate means to achieve the stated public health policy aims. Accordingly, the Department considers that these provisions are compatible with Article 1 Protocol 1 of the ECHR.

Article 10 right to freedom of expression

20. The European Court of Human Rights has established that freedom of expression extends to commercial expression in a series of cases and that advertising is a form of expression protected under Article 10. Consequently, these provisions have the potential to interfere with the right to freedom of expression.
21. Freedom of expression is a qualified right and, therefore, can be legitimately interfered with where there is sufficient justification and provided the interference is proportionate. Article 10(2) specifically provides that the exercise the right to freedom of expression may be subject to conditions and restrictions prescribed by law (among other reasons) in the interest of public safety and the protection of health.
22. In this case, the limitations on advertising tobacco, herbal smoking products, vaping and nicotine products and cigarette papers pursue the legitimate aims of improving public health by making these harmful products less visible and so less attractive to children and non-smokers, thereby reducing uptake amongst new users.

23. The Department considers that the restrictions on the advertising and sponsorship of these products contained are proportionate. They are contained in primary legislation and so have been subject to significant parliamentary scrutiny. Furthermore, governments are generally granted a wide margin of appreciation in respect of measures seeking to achieve public health objectives.

24. Accordingly, the Department considers these provisions are compatible with A1P1 and Article 10 of the ECHR.

Powers of entry, search and seizure

Clause 32 – Enforcement by local weights and measures authorities

Clause 89 – Power of officer of Revenue and Customs to seize and detain snus etc

Clause 104 – Enforcement

25. Clause 32 makes provision for enforcement in England and Wales by local weights and measures authorities (“Trading Standards officer’s), in relation to the progressive smoking ban policy and associated offences in Part 1 of the Bill. To enforce these offences, Trading Standards officers are given the investigatory powers set out in Schedule 5 to the Consumers Rights Act 2015. These include powers to request the production of specified information or documents, a power to enter premises and a power to inspect, seize and test documents, good or products.

26. Clause 89 to facilitate enforcement by Trading Standards officers, clause 89 enables an officer of Revenue and Customs to seize any relevant oral tobacco products that have been imported and detain them for not more than 48 hours.

27. Regulations made under Clause 104 may make provision about enforcement in relation to regulations made under Part 5, including applying provisions of the Consumer Protection Act 1987 to provide Trading Standards officers with investigatory powers such as to enter premises, search and seize documents or goods.

A1P1 and Article 8

28. The powers of entry, search and seizure which are or may be conferred by these clauses may be used to enter premises to obtain information for the purposes of an investigation or seize goods, and therefore engage Article 8 and A1P1.

29. The purpose of providing these powers is to facilitate high quality investigations to support effective enforcement. They will only be used for this purpose and there are safeguards provided in Schedule 5 of the Consumer Rights Act 2015 and the Consumer Protection Act 1987 to ensure that these powers are compatible with ECHR rights. Furthermore, the powers are exercisable only by local weights and measures authorities and Revenue and Customs Officers, public bodies who are required by section 6 of the Human Rights Act 1998 to act compatibly with ECHR rights.
30. The Department considers that any interference with Article 8 is justified under Article 8(2) for being in accordance with the law and necessary in a democratic society and any interference with A1P1 is justified on the basis that it is prescribed by law, in pursuit of a legitimate aim and proportionate. These powers have a clear and rational connection to the pursuit of a legitimate aim in preventing crime as well as protection of health. The safeguards in place for the exercise of these powers will ensure that they are exercised proportionately.
31. Accordingly, the Department considers the powers which are or may be conferred by these clauses are compatible with Article 8 and A1P1 of the ECHR.

TOBACCO AND VAPES BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Bill as brought from the Commons on 5 November 2024 [Bill 121].

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