

FROM THE MINISTER OF HEALTH



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Dear Philip

THE TOBACCO RETAILER FIXED PENALTY (AMOUNT) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2026

The Department of Health proposes to make a Statutory Rule under the powers conferred by sections 12(8), 3(1) and 24(3) of the Tobacco Retailers Act (Northern Ireland) 2014¹.

The Statutory Rule is subject to the draft affirmative resolution procedure before the Assembly and will be made and laid once all the necessary approvals are in place.

Purpose of the Statutory Rule

These Regulations prescribe the amount of fixed penalties for certain tobacco, vape and nicotine related offences under the Health and Personal Social Services (Northern Ireland) Order 1978, the Tobacco Retailers Act (Northern Ireland) 2014 and The Tobacco and Vapes Act 2026² ("the Act").

The Act, which is UK extent, and has the support of the Assembly³, received Royal Assent on 29th April 2026. The Act introduces several amendments to Part 2 of the Health and Personal Social Services (Northern Ireland) Order 1978⁴, revising existing monetary amounts payable for tobacco-related fixed penalty offences and introduces new fixed penalty offences and amounts with respect to the retail of vaping and nicotine products. The Act also amends section 12 of the Tobacco Retailers Act 2014 to incorporate these new and revised fixed penalty offences.

¹) SR 2021 No.331.

² 2026 c. 18

³ A Legislative Consent Motion (LCM) was agreed by the NI Assembly on 25 February 2025

⁴ S.I. 1978/1907 (N.I.26)

The Statutory Rule amends the Schedule to The Tobacco Retailer Fixed Penalty (Amount) Regulations (Northern Ireland) 2016⁵ to update fixed penalty offences and the associated monetary amounts payable so that they align with the new and revised offences now regulated under the Tobacco Retailers Act (Northern Ireland) 2014, as amended by the Tobacco and Vapes Act 2026.

These Regulations also revoke The Tobacco Retailer (Fixed Penalty) (Amount) (Amendment) Regulations (Northern Ireland) 2021⁶ as the amendments contained in those Regulations are now superseded.

Previous Engagement with the Committee

None.

Financial Implications

There are no financial cost implications for the Department.

Consultation

The amendments introduced by this Rule are technical and consequential in nature. They do not introduce new policy and therefore did not require public consultation.

Compliance with section 24 of the Northern Ireland Act 1998

The proposals relate solely to the following amendments:

- Updating the Schedule of fixed penalty offences in *The Tobacco Retailer Fixed Penalty (Amount) Regulations (Northern Ireland) 2016*.
- Revoking of *The Tobacco Retailer (Fixed Penalty) (Amount) (Amendment) Regulations (Northern Ireland) 2021*, as the amendments contained in those Regulations are now superseded

These amendments do not impose restrictions on individual's rights. The Department has concluded that the proposals are compatible with Convention Rights and section 24 of the Northern Ireland Act 1998⁷.

Furthermore, the proposed amendments to the existing Regulations do not engage any right included in the relevant part of the Belfast/Good Friday 1998 Agreement⁸ and those human and equality rights set out under that section of the Agreement entitled *Rights, Safeguards and Equality of Opportunity: Human Rights*.

In consequence, there is no diminution of rights, including protection against discrimination, as enshrined in the provisions of European Union law listed in Annex 1 to the Windsor Framework⁹.

⁵ S.R. 2016 No. 180

⁶ S.R. 2021 No. 331

⁷ 1998 c. 47

⁸ Cm 3882, 1998

⁹ [EUR-Lex - 22023D0819 - EN - EUR-Lex](#)

The changes are administrative and financial in nature and do not alter rights or equality of opportunity, and, therefore, they do not engage Article 2(1) of the Windsor Framework. Given the scope of the proposals, engagement with the Equality Commission for Northern Ireland or the Northern Ireland Human Rights Commission was not considered necessary.

Consideration by the Executive

The SL1 and draft Statutory Rule have not been considered by the Executive as there was no requirement to do so. The Statutory Rule does not engage paragraph 2.4 of the Ministerial Code.

Equality Impact

An Equality Screening was carried out by the Department. The policy proposals have been considered under section 75 of the Northern Ireland Act 1998.

The policy proposal addresses an experience and a priority for pregnant women. The impact assessment conducted for the Westminster Tobacco and Vapes Act 2026 identified smoking as representing a significant risk for poor pregnancy-associated health outcomes. Women who smoked during pregnancy were 2.6 times more likely to give birth prematurely.

Whilst not a gender specific issue, smoking rates and smoking related ill-health is disproportionately high in areas of high deprivation. It is therefore expected that in due course, the policy will result in reduced health inequalities, increased productivity and more expendable income for smokers in those areas. This benefit will be welcome for pregnant women in deprived areas who are a target group in our tobacco strategy.

The Department considers the proposals to fully comply with the legislation with no adverse impact on any of the section 75 Groups. A full Equality Impact Assessment is not considered necessary.

Regulatory Impact

The Regulations are not expected to have a direct impact on businesses. With regards to the cost to business of checking people's age (age verification) the Impact Assessment¹⁰ conducted for the Tobacco and Vapes Act 2026 concluded that there is some limited evidence to suggest that retailers do not view the process of age checking as excessively burdensome. A survey of local retailers in the United Kingdom commissioned by ASH in 2022¹¹ found that 83% supported the introduction of mandatory age verification for anyone under 25.

The Windsor Framework is the new way to refer to the Protocol on Ireland/Northern Ireland, in accordance with Joint Declaration No 1/2023 of the European Union and the United Kingdom, made in the Withdrawal Agreement Joint Committee on 24 March 2023.

¹⁰ [Tobacco and Vapes Bill - impact assessment](#) – page 63 refers.

¹¹ Action on Smoking and Health, 2022. Regulation is not a dirty word: Local retailers' views of proposals for new tobacco laws - [Retailer-research-report-online.pdf](#)

It is anticipated that there will be a cost for retailers in terms of training staff and raising awareness of the new age of sale restriction and the products range to which it applies. Although it will mean the legal age of sale effectively increases by one year each year, the regulations will not change every year. This means it will be a one-off cost, as opposed to a recurring annual cost, for retailers in terms of training staff and raising awareness of the new age of sale restriction.

It is anticipated that the Regulations will impose minor additional costs on businesses, and no additional costs on voluntary organisations, or the public sector.

As the Regulations are expected to have only a minor, indirect and initial/ transitory effect on Businesses, the Department does not consider that a full Regulatory Impact Assessment is necessary.

Rural Needs Impact Assessment

The Department has assessed the proposals in line with the Rural Needs Act (Northern Ireland) 2016 and has determined they will not have an adverse impact on rural communities.

Data Protection Impact

These Regulations, which are specific to Northern Ireland, do not, provide for the collection, handling and processing of data but, rather, they make amendments which are consequential upon the provisions in the Tobacco and Vapes Act 2026, which has already been impact assessed.

The Department considers that these Regulations are compliant the requirements of the Data Protection Act 1998 and the GDPR and that the Regulations are consistent with the data protection principles set out in therein. A Data Protection Impact Assessment is not necessary.

Child Rights Impact

The proposals do not involve any direct impact on children's rights; therefore, a Child Rights Impact Assessment is not necessary.

Position in Great Britain

There is currently no statutory requirement in England or Wales for retailers of tobacco, vaping, or other nicotine products to register their business. At present, there is also no regulatory provision enabling the use of Fixed Penalty Notices for age of sale offences. Individuals who commit an underage sale offence may, however, be prosecuted and face

a fine of up to £2,500 on conviction under the Children and Young Persons Act 1933 and, for nicotine products, under the Children and Families Act 2014.

The Proxy Purchasing of Tobacco, Nicotine Products etc. (Fixed Penalty Notice) (England) Regulations 2015 and the equivalent 2015 Regulations for Wales allow enforcement officers to issue FPNs for breaches of legislation relating to the proxy purchase of tobacco and vaping products.

The Tobacco and Vapes Act 2026 introduces enabling provisions that give enforcement authorities in England and Wales the power to issue Fixed Penalty Notices of £200 for offences related to underage sales, proxy purchasing, free distribution of tobacco, vaping and nicotine products, as well as breaches of display restrictions and age-of-sale notice requirements.

In Scotland, the Tobacco and Primary Medical Services (Scotland) Act 2010 established a mandatory registration scheme for retailers and created FPN regimes for age-of-sale and proxy purchasing offences relating to tobacco products, cigarette papers, and vaping products. The fixed-penalty offences and associated monetary amounts are broadly comparable with those in Northern Ireland.

Any other information

None.

Proposed timing of consideration of the SL1

The SL1 has been submitted to the Committee in accordance with the minimum four-week timeframe and the Department would propose that the Committee considers it at their next scheduled meeting to ensure that the regulations come into operation as soon as possible.

Proposed Operational Date

These Regulations must be in operation no later than 29th October 2026, except for regulations 4 and 5.

Regulation 4 updates the Schedule (amount of fixed penalty) to The Tobacco Retailer Fixed Penalty (Amount) Regulations (Northern Ireland) 2016 so that fixed penalty offences reflect the tobacco age-of-sale restrictions introduced by the Tobacco and Vapes Act 2026 and is scheduled to come into operation on 1st January 2027.

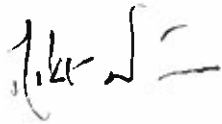
Regulation 5 also amends the Schedule (amount of fixed penalty) to The Tobacco Retailer Fixed Penalty (Amount) Regulations (Northern Ireland) 2016 and relates to the registration of tobacco retailers, so that the registration requirement for tobacco retailers also now applies to retailers of vaping and nicotine products by referring to a "registrable" business. The regulation also prescribes the monetary value of fixed penalties for the related offences under the Tobacco Retailers Act (Northern Ireland) 2014. It is scheduled to come into operation on 1st March 2027.

It is proposed that the Statutory Rule will be made and laid as soon as all necessary approvals are received. A draft of the proposed Statutory Rule is attached.

When the finalised Statutory Rule together with the Explanatory Memorandum has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

I should be grateful, if you would please bring this matter to the attention of the Committee for Health at your earliest convenience.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Nesbitt', with a stylized flourish at the end.

Mike Nesbitt MLA
Minister of Health

cc.

NI Human Rights Commission

Equality Commission

Gary Mervyn (Departmental Assembly Liaison Officer)

Siobhan Broderick (Director of Population Health, Department of Health NI)

Lesley Heaney (Head of Tobacco Control and Infected Blood Compensation Policy Branch, Department of Health NI)