Draft Regulations laid before Parliament under sections 1(4), 10(4) and 173(5)(a) of the Tobacco and Vapes Act 2026 (c. 18), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

PUBLIC HEALTH, ENGLAND AND WALES

The Tobacco and Vapes Act 2026 (Age Verification Defence to Underage Sales) (England and Wales) Regulations 2026

Made - - - -	*****
Coming into force - -	*1st January 2027*

The Secretary of State, in exercise of the powers conferred by sections 1(2)(a), 10(2)(a) and 172(1)(b) of the Tobacco and Vapes Act 2026(**a**) and with consent of the Welsh Ministers in accordance with sections 1(3) and 10(3) of that Act, makes the following Regulations.

A draft of these Regulations was laid before Parliament in accordance with sections 1(4), 10(4) and 173(5)(a) of that Act and was approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Tobacco and Vapes Act 2026 (Age Verification Defence to Underage Sales) (England and Wales) Regulations 2026.

(2) These Regulations come into force on 1st January 2027.

(3) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

"the Act" means the Tobacco and Vapes Act 2026(**b**);

"P" means a person charged with an offence under section 1(1) or 10(1) of the Act;

"relevant age requirement" means that the customer—

(a) in relation to an offence under section 1(1) of the Act, was born before 1st January 2009;

(b) in relation to an offence under section 10(1) of the Act, was at least 18 years old.

(**a**) 2026 c. 18.
(**b**) 2026 c. 18.

Steps to verify age of customer

3.—(1) For the purposes of section 1(2)(a) or 10(2)(a) of the Act, P must have taken, before the sale, the steps specified in paragraph (2) or (3).

(2) The step specified in this paragraph is that P inspected a physical identity document shown to P by the customer which would appear to a reasonable person to be a document that—

(a) had not been altered, and

(b) demonstrated that the customer met the relevant age requirement.

(3) The steps specified in this paragraph are that P—

(a) satisfied the condition in regulation 4,

(b) confirmed that the customer made available to P the means by which the customer's digital identification may be verified, and

(c) used those means to verify that the customer had met the relevant age requirement.

(4) In paragraph (2), "physical identity document" means a document bearing—

(a) a photograph of the customer,

(b) a date of birth, and

(c) a holographic mark or ultraviolet feature.

Digital identification condition

4.—(1) For the purposes of regulation 3(3), the condition is that P is covered by an agreement with a DVSP ("the relevant DVSP") for the provision of digital verification services where—

(a) the relevant DVSP has agreed that it will confirm, in the course of providing its services, whether or not the customer has met the relevant age requirement;

(b) the relevant DVSP has agreed that it will deliver identification that reaches at least a medium level of confidence;

(c) that level of confidence has been verified by a DVSP, whether that DVSP is the relevant DVSP or another; and

(d) the relevant DVSP is registered as a provider of those services in the DVS register in accordance with Version 0.4 or Version 1.0 of the DVS trust framework(**a**).

(2) In this regulation—

(a) "the 2025 Act" means the Data (Use and Access) Act 2025(**b**);

(b) "DVSP" means a person who provides digital verification services and is included in the DVS register;

(c) "DVS register" means the register maintained by the Secretary of State under section 32 (DVS register) of the 2025 Act;

(d) "DVS trust framework" is to be construed in accordance with section 28 (DVS trust framework) of the 2025 Act;

(e) "medium level of confidence", in respect of identification described in sub-paragraph (1)(b), is to be construed in accordance with—

(i) Version 0.4(**c**) of the DVS trust framework, in the case that the relevant DVSP, or as the case may be, another DVSP provides the service described in

(**a**) Accessible at https://www.gov.uk/government/collections/uk-digital-verification-services-trust-framework.
(**b**) 2025 c. 18.
(**c**) Accessible at https://www.gov.uk/government/collections/uk-digital-verification-services-trust-framework.

sub-paragraph (1)(b), and is registered as a provider of that service in the DVS register, in accordance with Version 0.4 of the DVS trust framework;

(ii) Version 1.0(**a**) of the DVS trust framework, in the case that the relevant DVSP, or as the case may be, another DVSP provides the service described in sub-paragraph (1)(b), and is registered as a provider of that service in the DVS register, in accordance with Version 1.0 of the DVS trust framework.

Signed by authority of the Secretary of State for Health and Social Care

Minister of State
Department of Health and Social Care

(**a**) Accessible at https://www.gov.uk/government/collections/uk-digital-verification-services-trust-framework.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 1(1) of the Tobacco and Vapes Act 2026 (c. 18) ("the 2026 Act"), it is an offence to sell tobacco products, herbal smoking products or cigarette papers to a person born on or after 1 January 2009. Under section 10(1) of the 2026 Act, it is an offence to sell vaping products or nicotine products to a person who is under the age of 18.

These Regulations specify the steps that must be taken for the purposes of the defence to those offences in sections 1(2)(a) and 10(2)(a) of the 2026 Act. The specified steps relate to verification of a customer's age using a physical identity document or digital identification. In relation to digital identification the Regulations make provision for digital identification to be verified through the use of Digital Verification Services in line with the framework provided for in the Data (Use and Access) Act 2025 (c. 18).

Version 0.4 and Version 1.0 of the DVS trust framework are accessible at https://www.gov.uk/government/collections/uk-digital-verification-services-trust-framework. Copies may also be obtained by writing to the Office for Digital Identities and Attributes (OfDIA), Department for Digital, Culture, Media and Sport, 22-26 Whitehall, London SW1A 2EG.

An impact assessment was produced in relation to the 2026 Act and copies can be obtained at https://www.gov.uk/government/publications/the-tobacco-and-vapes-bill-impact-assessment or from the Department of Health and Social Care at 39 Victoria Street, London, SW1H 0EU. A full impact assessment has not been produced for this instrument as no significant direct impact on the private, voluntary or public sector is anticipated beyond that assessed in the impact assessment for the 2026 Act. Information about indirect impacts of digital verification service on businesses, the voluntary sector and the public sector is set out in the Explanatory Memorandum to this instrument. The Explanatory Memorandum is published alongside this instrument and is available from www.legislation.gov.uk.

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