EXPLANATORY MEMORANDUM TO

THE TOBACCO AND VAPES ACT 2026 (AGE OF SALE NOTICES AND CONSEQUENTIAL AMENDMENTS) (ENGLAND) REGULATIONS 2026

2026 No. 996

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Dame Diana Johnson, Minister of State for Public Health and Patient Safety at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Richard Boden, Deputy Director for Tobacco and Vapes Policy, at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Tobacco and Vapes Team at the Department of Health and Social Care can be contacted by email at the following address with any queries regarding the instrument: tobaccocontrol@dhsc.gov.uk. Alternatively, the department can be contacted by telephone: 0300 790 4007.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument sets the minimum size requirements for age of sale notices that retailers selling tobacco products in England must display on their premises from 1 January 2027, following the introduction of a new age of sale for these products as part of the Tobacco and Vapes Act 2026 ("the 2026 Act"). It also amends the requirements for age of sale notices that bulk tobacconists must display at the entrance to tobacco areas on their premises. Finally, it makes consequential amendments to legislation that restricts the display of tobacco products and price lists on premises in England, to reflect the new age of sale for tobacco products.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is split, it extends to England and Wales, Scotland and Northern Ireland except that regulations 3 and 4 extend to England and Wales only.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The 2026 Act introduced a new age of sale for tobacco products across the UK. From 1 January 2027, it will be an offence to sell tobacco products (as well as herbal smoking products and cigarette papers) to anyone born on or after 1 January 2009. This replaces the previous age of sale of 18 years. In practice, this means that the age of sale will gradually rise.

5.2 This policy aims to create a 'smoke-free generation', reducing tobacco use in the UK population over time. It responds to the evidence that smoking is the number one preventable cause of death, disability and ill health. It kills up to two-thirds of its long-term users and causes around 75,000 deaths a year in the UK. It also substantially increases the risk of many major health conditions throughout people's lives and costs society billions of pounds through lost productivity and health and care costs.

Age of sale notices at the point of sale

5.3 The 2026 Act introduced a requirement for tobacco retailers in England to display a notice stating "It is illegal to sell tobacco products to anyone born on or after 1 January 2009" in a prominent position visible at points of sale. This comes into force at the same time as the new age of sale and replaces the previous age of sale notice requirement, which reflected the old offence of selling to anyone under the age of 18. The requirement to display an age of sale notice aims to support awareness of the age of sale restrictions and encourage compliance.

5.4 This instrument sets out the minimum size for these notices, and the minimum size of the statement on the notice, for premises in England, to support the effective implementation of the policy from 1 January 2027. It aims to ensure that the notices and the text displayed on them are large enough to be clearly visible to customers and retailers, while still being practical for retailers to display.

Display of tobacco products and prices

5.5 Retailers in England are prohibited from displaying tobacco products and there are also restrictions on the display of prices for these products. These restrictions aim to reduce the visibility and appeal of these products and to contribute to reductions in smoking prevalence. The provisions which refer to the previous age of sale require updating to reflect the new age of sale.

Notices for bulk tobacconists

5.6 Under existing legislation, there is an exemption from the ban on the display of tobacco products in shops in England, which allows bulk tobacconists to display these products in a tobacco area, provided that certain requirements are met. One of these requirements is that an age of sale notice must be displayed at the entrance to the tobacco area. These notices aim to support understanding of the age of sale and discourage attempts by those under the age of sale to purchase relevant products.

5.7 This instrument amends the requirements for these notices, so that they align with the new text and size requirements of the notices that retailers will need to display at the point of sale.

Display of tobacco products

5.8 The Tobacco Advertising and Promotion Act 2002 ("the 2002 Act") includes an exemption that allows retailers to display tobacco products to a customer aged 18 or over, when the customer requests to purchase a tobacco product or requests information about it. The Government is laying a separate instrument to make consequential amendments to this exemption, to align with the new age of sale offence introduced by the 2026 Act, so that only customers who can legally be sold tobacco products can be shown them.

5.9 Regulations under the 2002 Act, the Tobacco Advertising and Promotion (Display) (England) Regulations 2010, provide a further exemption in relation to requested displays to people over the age of 18, which ensures that no offence is committed if individuals other than the person who requested the display see the products, provided that certain criteria are met. This instrument updates the reference to the age of the individual to align with the new age of sale.

Display of prices

5.10 There is a requirement in the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 which means that retailers may only display price lists containing pictures of tobacco products in response to a request for information from a customer aged 18 or over.

5.11 This instrument amends this requirement, to align the age at which customers can be shown picture price lists for tobacco products on request with the new age of sale. This aims to ensure that only customers who are old enough to be legally sold these products can be shown picture price lists for them.

5.12 Without this change, from 1 January 2027 onwards, there would have been a growing cohort of people who are aged 18 or over but born on or after 1 January 2009, who could have been shown picture price lists for tobacco products but could not be sold these products. This discrepancy could have created confusion for customers and retailers.

What was the previous policy, how is this different?

Age of sale notices at the point of sale

5.13 Previous regulations that set the specifications for age of sale notices at the point of sale required the notices to be at least 297 millimetres by 420 millimetres (equivalent to A3 size) and each character to be at least 36 millimetres high.

5.14 This instrument restates the minimum size of these notices (297 millimetres by 420 millimetres - A3 equivalent). It sets a smaller minimum character requirement, to ensure the new statement fits onto an A3 notice, as it is longer than the previous text. Under the new policy, each character must be at least 21 millimetres high.

Notices for bulk tobacconists

5.15 Under the previous regulations, the requirements for the notices that bulk tobacconists had to display at the entrance to tobacco areas mirrored the requirements for age of sale notices at point of sale (i.e. stating "It is illegal to sell tobacco products to anyone under the age of 18", at least 297 millimetres by 420 millimetres and each character at least 36 millimetres high).

5.16 This instrument amends the requirements for these notices in England, to reflect the new age of sale, so that, from 1 January 2027, the statement must read "It is illegal to

sell tobacco products to anyone born on or after 1 January 2009". It also amends the minimum size of each character, in line with the specifications for age of sale notices at point of sale (minimum 21 millimetres high).

Display of tobacco products and prices

5.17 Previously, the age of sale for tobacco products was 18 and therefore the age for showing picture price lists for these products was also 18.

5.18 This instrument maintains the policy on display, which provides for customers over the legal age of sale to request to see a picture price list for tobacco products. This instrument updates the age requirements so that these align with the new restrictions on selling to anyone born on or after 1 January 2009.

6. Legislative and Legal Context

How has the law changed?

Age of sale notices at the point of sale

6.1 The previous requirement for tobacco retailers in England and Wales to display an age of sale notice at the point of sale stating "It is illegal to sell tobacco products to anyone under the age of 18" was set out in section 4 of the Children and Young Persons (Protection from Tobacco) Act 1991 ("the 1991 Act").

6.2 Section 5 of the 2026 Act replaced the requirement in the 1991 Act with a new requirement for tobacco retailers in England (separate provision was made for Wales) to display an age of sale notice at the point of sale stating "It is illegal to sell tobacco products to anyone born on or after 1 January 2009" from 1 January 2027.

6.3 The Protection from Tobacco (Display of Warning Statements) Regulations 1992 ("the 1992 Regulations"), which were made under the power in section 4 of the 1991 Act, prescribed the minimum dimensions of these notices, and the minimum size of the statement on the notice.

6.4 The 1992 Regulations will cease to have any legal effect on 1 January 2027 when the 1991 Act is repealed. Regulation 3 of this instrument prescribes the minimum size of the new notice which must be displayed in accordance with section 5 of the 2026 Act, and regulation 4 prescribes the minimum size of the statement to be contained in that notice.

Notices for bulk tobacconists

6.5 Regulation 5(3) of this instrument amends the existing requirements in regulation 5(3) of the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 ("the Tobacco Products Display Regulations") on bulk tobacconists in England (as defined in regulation 2(1) of those Regulations). Regulation 5 of the Tobacco Products Display Regulations provides that bulk tobacconists are permitted to display tobacco products in certain circumstances including that a notice is exhibited at the entrance to the tobacco area which displays the statement in regulation 5(2)(b). Regulation 5(3) of this instrument amends the text of the notice and the minimum size of the statement which bulk tobacconists must display to meet this requirement, to be consistent with the requirements for age of sale notices imposed in section 5 of the 2026 Act and regulation 4 of this instrument.

Display of tobacco products and prices

6.6 Regulation 5(2) of this instrument amends the Tobacco Products Display Regulations in consequence of section 1 of the 2026 Act changing the required age at which an individual can legally be sold tobacco products from 18 years or over, to having been born before 1 January 2009. This regulation replaces the reference to an individual being "aged 18 or over" with a reference to an individual being "born before 1st January 2009".

6.7 Regulation 6 of this instrument makes equivalent amendments to regulation 7 of the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 (price lists: available only on request) to replace references to an individual being "aged 18 or over" or "aged under 18" with references to an individual's date of birth being either before, or on or after 1 January 2009.

6.8 A separate instrument will be laid to make equivalent consequential amendments to section 7B of the Tobacco Advertising and Promotion Act 2002.

Why was this approach taken to change the law?

6.9 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 From October 2023 to December 2023, the then government held an open consultation on policy proposals for inclusion in the Tobacco and Vapes Bill[1]. There were 27,921 responses, including 896 from organisations and 27,025 from individuals in both personal and professional capacities.

7.2 This consultation included the changes to the age of sale for tobacco products; 63.2% of respondents agreed with the proposal, 32.2% disagreed and 4.6% said they didn't know.

7.3 It also included a question on whether respondents agreed that age of sale notices in retail premises would need to be updated to reflect the new age of sale, to which 71.8% of respondents agreed, 22.6% disagreed and 5.6% said they did not know. While the consultation did not ask specifically about the size or appearance of the notices, a small number of respondents provided comments that were relevant to these issues. This included responses suggesting that we should seek to replicate previous size requirements and that the signs should be in large font and easily visible, as well as others suggesting that A3 is too large.

7.4 We have not considered it necessary to run a further consultation in relation to the specifications of the notices or the requirements for bulk tobacconists, given that the notices broadly replicate current requirements on size and appearance, with only the text and minimum character size requirements changing.

7.5 Similarly, this was not considered necessary for the provisions in relation to display of products and prices, which make consequential amendments because of the new age of sale, which was already consulted on. The additional impact of these will be minimal.

7.6 A separate consultation[2], which includes proposals on the display of products in scope of the 2026 Act, was launched on 10 July 2026. As part of this, the Government is

[1] https://www.gov.uk/government/consultations/creating-a-smokefree-generation-and-tackling-youth-vaping
[2] https://www.gov.uk/government/consultations/tobacco-and-vapes-packaging-appearance-and-display

consulting on removing exemptions from display restrictions for bulk tobacconists. Should these proposals be implemented, further amendments to the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 may be required.

Devolved Governments

7.7 While this instrument applies to England only, the Scottish Government, the Welsh Government and the Department of Health in Northern Ireland are developing separate regulations on age of sale notices, and the Welsh Government and the Department of Health in Northern Ireland are developing regulations which include consequential amendments to legislation governing the display of tobacco products and prices in their respective territories. We have worked with the devolved governments to create alignment in requirements, where possible.

8. Applicable Guidance

8.1 Guidance has been published on the new age of sale provisions for tobacco products, herbal smoking products and cigarette papers[3]. This includes guidance on the proposed requirements for age of sale notices and the proposed change to requested display, with references to these still being subject to parliamentary approval. The guidance will be updated to reflect the final position following parliamentary scrutiny of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impact of the new age of sale for tobacco products and some of the costs associated with replacing age of sale notices were considered as part of the Impact Assessment[4] for the 2026 Act, and additional impacts beyond this are expected to be small.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that retailers who sell tobacco products will need to ensure that their new age of sale notices at the point of sale comply with these specifications and will need to familiarise themselves with the amended policy on requested displays. Some of the costs for businesses associated with these policies have already been accounted for as part of the Impact Assessment for the 2026 Act; additional impacts beyond this are expected to be small. The costs for retailers to familiarise themselves with the wider changes to the age of sale have already been accounted for as part of the Impact Assessment for the 2026 Act; these are expected to include the requirements in this instrument relating to display. The cost to retailers to put up new signage was also estimated as part of the Impact Assessment for the 2026 Act. However, in that Impact Assessment the cost to bulk tobacconists of replacing the age of sale notices at the entrance to tobacco areas on their premises was not included. The costs to these businesses are expected to be small, given the small number of these businesses and the low cost of replacement notices.

9.3 The legislation does impact small or micro businesses. Given that a large proportion of tobacco is sold in small businesses, it would not be possible to exempt small

[3] https://www.gov.uk/guidance/selling-tobacco-herbal-smoking-products-and-cigarette-papers
[4] https://assets.publishing.service.gov.uk/media/6985eeb7cfe7ccf77efbc74e/tobacco-and-vapes-bill-impact-assessment.pdf

businesses from these regulations while still achieving the aims of the policy. As with businesses generally, the impacts are expected to be minimal.

9.4 The impact on the public sector is that trading standards officers, who will enforce the regulations, will need to familiarise themselves with the new notice requirements and the amended policy on requested displays. This impact is expected to be minimal.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through wider evaluation of the 2026 Act, given that this instrument makes consequential amendments as a result of that Act. Section 165 of that Act creates a statutory requirement for the Secretary of State to carry out a review of its operation within 4-7 years of passage. We expect this review to capture any relevant findings as part of consideration of the operation of the age of sale provisions introduced by the Act. However, this review is unlikely to specifically review in detail the elements of this instrument, and elements of this instrument that are not consequential to the Act, such as the new size requirements for age of sale notices and for bulk tobacconist signs.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Dame Diana Johnson, Minister of State for Public Health and Patient Safety, has made the following statement: "It is not considered necessary to include a review clause in this instrument or the Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010 as the annualised net impact on businesses of each element is expected to be significantly less than £10m".

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").