SCOTTISH STATUTORY INSTRUMENTS

2026 No. 210 (C. 22)

PUBLIC HEALTH

The Tobacco and Vapes Act 2026 (Commencement No. 1, Transitional and Saving Provisions) (Scotland) Regulations 2026

Made - - - -	*24th June 2026*
Laid before the Scottish Parliament	*26th June 2026*
Coming into force - -	*29th October 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 175(7)(b), 175(9) and 177(2)(a) of the Tobacco and Vapes Act 2026(**a**) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Tobacco and Vapes Act 2026 (Commencement No. 1, Transitional and Saving Provisions) (Scotland) Regulations 2026 and come into force on 29 October 2026.

(2) In these Regulations—

"the 2010 Act" means the Tobacco and Primary Medical Services (Scotland) Act 2010(**b**),

"the Act" means the Tobacco and Vapes Act 2026.

Appointed days

2.—(1) Except as provided by paragraph (2), section 69 and schedule 9 (extension of retailer register etc) of the Act come into force on 29 October 2026 immediately after the coming into force of section 68 and schedule 8 (alignment of definition of "vaping product") of the Act (**c**).

(2) Paragraph 15(a), (b) and (d) of schedule 9 of the Act come into force on 29 April 2027.

(**a**) 2026 c. 18.
(**b**) 2010 asp 3.
(**c**) Section 68 and schedule 8 of the Tobacco and Vapes Act 2026 (c. 18) come into force on 29 October 2026 by virtue of section 175(1) of that Act and the amendments in schedule 9 are drafted with the intention of taking effect after the amendments in schedule 8 are in force.

Transitional and saving provisions

3.—(1) Any application for a tobacco and vaping product banning order(**a**) under section 15(**b**) of the 2010 Act which is made, but not determined, before 29 October 2026 is to be treated as an application for a banning order referred to in section 15 of the 2010 Act(**c**).

(2) Paragraphs (3) to (5) apply where a tobacco and vaping product banning order (being an order made under section 15 of the 2010 Act before 29 October 2026) has effect in respect of a person.

(3) Each reference to a "banning order" in the following sections of the 2010 Act is to be read as including a reference to a "tobacco and vaping product banning order"—

(a) section 11(3)(b) (application for registration and addition of premises etc.)(**d**),

(b) section 14(2) (changes to and removal from Register)(**e**),

(c) section 16(1)(b) (ancillary orders)(**f**),

(d) section 16(4),

(e) section 16(5),

(f) section 17(1) (appeals)(**g**),

(g) section 17(3),

(h) section 20(4) (offences relating to the Register)(**h**).

(4) Where the order referred to in section 16(1)(b) of the 2010 Act is a tobacco and vaping product banning order, section 16(2) of the 2010 Act continues to have effect as if the amendments made by paragraph 11 of schedule 9 of the Act had not been made.

(5) Section 19 (display of notices)(**i**) of the 2010 Act continues to have effect in respect of the tobacco and vaping product banning order as if the amendments made by paragraph 14 of schedule 9 of the Act had not been made.

(6) Subject to paragraph (7), the definition of "tobacco or vaping product business" in section 35(1) (interpretation of Part 1)(**j**) of the 2010 Act continues to have effect for each of the following purposes—

(a) for the purpose of section 20(1) of the 2010 Act, and

(**a**) Paragraph 20 of schedule 8 of the Tobacco and Vapes Act 2026 (c. 18) ("the Act") makes relevant transitional provision meaning that an application which was referred to as an application for a "tobacco and nicotine vapour product banning order" at the time it was made is referred to on and after 29 October 2026 as an application for a "tobacco and vaping product banning order".

(**b**) Section 15 was amended by section 10(1) and section 15(3) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14) ("the 2016 Act") and is amended by section 64(3) and section 68 and paragraphs 9 and 10 of schedule 8 of the Act which come into force on 29 October 2026.

(**c**) Section 15 of the Tobacco and Primary Medical Services (Scotland) Act 2010 is amended by section 69 and paragraphs 9 and 10 of schedule 9 of the Act, meaning that the council will be able to apply to the sheriff for a "banning order" instead of a "tobacco and vaping product banning order". A banning order is an order banning a person from carrying on a registrable business from premises within the council's area.

(**d**) Section 11(3)(b) was amended by section 9(1)(c) of the 2016 Act and is amended by section 68 and paragraph 5 of schedule 8 of the Act which come into force on 29 October 2026.

(**e**) Section 14(2) was amended by section 9(4)(a) of the 2016 Act and is amended by section 68 and paragraph 8 of schedule 8 of the Act which come into force on 29 October 2026.

(**f**) Section 16 was amended by sections 10(2) and 15(4) of the 2016 Act and is amended by section 64(3) and section 68 and paragraph 11 of schedule 8 of the Act which come into force on 29 October 2026.

(**g**) Section 17 was amended by sections 10(3) and 15(5) of the 2016 Act and is amended by section 68 and paragraph 12 of schedule 8 of the Act which come into force on 29 October 2026.

(**h**) Section 20(4) was amended by section 11(d) of the 2016 Act and is amended by section 68 and paragraph 15 of schedule 8 of the Act which come into force on 29 October 2026.

(**i**) Section 19 was amended by section 10 and section 15(7) of the 2016 Act and is amended by section 68 and paragraph 14 of schedule 8 of the Act which come into force on 29 October 2026.

(**j**) Section 35(1) was amended by section 8(2) and section 13 of the 2016 Act and section 67 of the Act and is amended by section 53, section 56, and section 68 and paragraph 18 of Schedule 8 of the Act which come into force on 29 October 2026.

(b) insofar as necessary to give effect to paragraphs (2) to (5) of this regulation.

(7) Paragraph (6)(a) applies until 29 April 2027.

ALISON THEWLISS
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
24th June 2026

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the coming into force of section 69 and schedule 9 of the Tobacco and Vapes Act 2026 ("the Act"). Schedule 9 contains amendments to the Tobacco and Primary Medical Services (Scotland) Act 2010 ("the 2010 Act") for the purposes of extending Chapter 2 (register of tobacco and vaping product retailers) of Part 1 of that 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. Once the amendments referred to in regulation 2(1) take effect, tobacco businesses, herbal smoking product businesses, vaping product businesses and nicotine product businesses will all be "registrable businesses" and the council will have the power to apply to the sheriff for a "banning order" instead of a "tobacco and vaping product banning order". A banning order is an order banning a person from carrying on a registrable business from premises within the council's area.

The provisions in section 69 and schedule 9 come into force on 29 October 2026. The exception is the amendments in paragraph 15(a), (b) and (d) of schedule 9 which are amendments to registration offence provisions in section 20(1), (2), (2A) and (6)(a) of the 2010 Act. These amendments come into force 6 months later meaning that businesses will have 6 months from the date the extended register is active to register herbal smoking product businesses and nicotine product businesses.

Transitional and saving provisions are made to clarify the effect of the law for undetermined applications for tobacco and vaping product banning orders, for ancillary orders and for tobacco and vaping product banning orders which were made before 29 October 2026. In particular, regulation 3(1) means that an undetermined application for a tobacco and vaping product banning order will be converted to an application for a banning order. The definition of "tobacco or vaping product business" is saved for the purpose of the transitional and saving provisions in regulation 3(2) to (5) and also for the offence in 20(1) of the 2010 Act of being an unregistered person who carries on a tobacco or nicotine vapour product business. The definition is saved for the purpose of section 20(1) of the 2010 Act until 29 April 2027 which is when the amendment to section 20(1) comes into force by virtue of regulation 2(2).

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