SCOTTISH STATUTORY INSTRUMENTS

2026 No. 213

PUBLIC HEALTH

The Tobacco and Vapes Act 2026 (Consequential, Transitional and Saving Provisions) (Scotland) Regulations 2026

Made - - - -	*24th June 2026*
Laid before the Scottish Parliament	*26th June 2026*
Coming into force in accordance with regulation 1(2) to (4)	

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 169(1)(a) and 172(1) of the Tobacco and Vapes Act 2026(**a**) and all other powers enabling them to do so.

PART 1

Citation and commencement

Citation and commencement

1.—(1) These Regulations may be cited as the Tobacco and Vapes Act 2026 (Consequential, Transitional and Saving Provisions) (Scotland) Regulations 2026 and come into force in accordance with paragraphs (2) to (4).

(2) This regulation and regulations 2 to 6 come into force on 29 October 2026.

(3) Regulations 7 to 9 come into force on 29 October 2026 immediately after the coming into force of section 68 and schedule 8 of the Tobacco and Vapes Act 2026 (alignment of definition of "vaping product")(**b**).

(4) Regulation 10 comes into force on 1 January 2027.

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

(**b**) This is to align with the coming into force of section 69 and the paragraphs in schedule 9 of the Tobacco and Vapes Act 2026 (c. 18) ("the 2026 Act") which come into force immediately after the coming into force of section 68 and schedule 8 of that Act as per regulation 2(1) of the Tobacco and Vapes Act 2026 (Commencement No. 1, Transitional and Saving Provisions) (Scotland) Regulations 2026 (S.S.I. 2026/210 (C. 22)). Section 68 and schedule 8 of the 2026 Act come into force on 29 October 2026 by virtue of section 175(1) of that Act.

PART 2

Alignment of definition of "vaping product" and restrictions on nicotine products and herbal smoking products.

The Prisons and Young Offenders Institutions (Scotland) Rules 2011

2.—(1) The Prisons and Young Offenders Institutions (Scotland) Rules 2011(**a**) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) omit the definition of "nicotine vapour product",

(b) after the definition of "untried prisoner" insert—

> ""vaping product" has the meaning given by section 35 of the Tobacco and Primary Medical Services (Scotland) Act 2010(**b**)".

(3) In rule 36 (use of nicotine vapour products)—

(a) in paragraphs (1), (2), (3)(a), (4) and (5), for "nicotine vapour", in each place it occurs, substitute "vaping",

(b) in paragraph (5), after "inhale the vapour" insert "or aerosol",

(c) in the heading, for "nicotine vapour" substitute "vaping".

(4) in rule 45(3)(d) (privileges), for "nicotine vapour" substitute "vaping".

(5) In paragraph 26 of schedule 1 (breaches of discipline), for "nicotine vapour", in both places it occurs, substitute "vaping".

The Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013

3. In the Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013(**c**), in the heading of regulation 2 (prescribed documents), after "tobacco" insert "and herbal smoking products".

The Sale of Nicotine Vapour Products (Prescribed Documents) (Scotland) Regulations 2017

4. In the Sale of Nicotine Vapour Products (Prescribed Documents) (Scotland) Regulations 2017(**d**), in the heading of regulation 2 (prescribed documents), for "nicotine vapour" substitute "vaping and nicotine".

The Sale of Tobacco and Nicotine Vapour Products by Persons Under 18 (Scotland) Regulations 2017

5.—(1) The Sale of Tobacco and Nicotine Vapour Products by Persons Under 18 (Scotland) Regulations 2017(**e**) are amended as follows.

(2) In regulation 2(1) (sale of tobacco and nicotine vapour products by persons under 18)—

(a) for "tobacco or nicotine vapour" substitute "tobacco, vaping or nicotine",

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(**a**) S.S.I. 2011/331. Rules 2, 36, 45 and paragraph 26 of schedule 1 were relevantly amended by rule 2 of S.S.I. 2018/293.
(**b**) 2010 asp 3. Section 35 was relevantly amended by schedule 8, paragraph 18(c) of the Tobacco and Vapes Act 2026 (c. 18).
(**c**) S.S.I. 2013/202, amended by S.S.I. 2019/142.
(**d**) S.S.I. 2017/13, amended by S.S.I. 2019/142.
(**e**) S.S.I. 2017/50.

(b) in sub-paragraph (b), for "cigarette papers or nicotine vapour" substitute "herbal smoking product, cigarette papers, vaping product or nicotine".

(3) In regulation 2(2)—

(a) in sub-paragraphs (a) and (b), for "cigarette papers or nicotine vapour" substitute "herbal smoking product, cigarette papers, vaping product or nicotine",

(b) in sub-paragraph (d), for "cigarette papers or a nicotine vapour product" substitute "herbal smoking products, cigarette papers, vaping products or nicotine products".

(4) In the heading of regulation 2, for "tobacco and nicotine vapour" substitute "tobacco, vaping or nicotine".

PART 3

Repeal of offences

The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011

6.—(1) The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011(**a**) are amended as follows.

(2) Regulation 6 (amount of fixed penalty for offences under sections 5 and 7) is omitted.

(3) In regulation 7(1) (amount of fixed penalty for all other offences) omit "other than sections 5 and 7".

PART 4

Extension of retailer register etc

The Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010

7.—(1) The Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010(**b**) are amended as follows.

(2) In regulation 3(b) (other information to be contained in an application), for "tobacco or nicotine vapour product" substitute "registrable".

(3) For the schedule (tobacco and nicotine vapour banning order notice), substitute the schedule set out in the schedule of these Regulations.

The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011

8.—(1) The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011(**c**) are amended as follows.

(2) In the definition of "moveable premises" in regulation 1(2) (interpretation), for "tobacco or nicotine vapour product" substitute "registrable".

(3) In regulation 3(1)(a), (1)(b), (2)(a) and (2)(b) (application of Chapter 2 of the Act to vehicles and other moveable structures), for "tobacco or nicotine vapour product" substitute "registrable".

(**a**) S.S.I. 2011/23, amended by S.S.I. 2017/70.
(**b**) S.S.I. 2010/407, relevantly amended by S.S.I. 2017/51.
(**c**) S.S.I. 2011/23, amended by S.S.I. 2017/70.

Transitional and saving provisions for Part 4

9.—(1) This regulation applies where a tobacco and vaping product banning order(**a**) (being an order made under section 15 of the Tobacco and Primary Medical Services (Scotland) Act 2010(**b**) before 29 October 2026) has effect in respect of a person.

(2) In regulation 3(b) of the Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010, the reference to a "registrable business" is to be read as including reference to a "tobacco or vaping product business".

(3) Regulation 7(3) of these Regulations has no effect in respect of a notice relating to the tobacco and vaping product banning order.

PART 5

Age of sale for tobacco products etc

The Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013

10. In the Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013, in the heading of regulation 2, for "under 18" substitute "born on or after 1 January 2009".

ALISON THEWLISS
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
24th June 2026

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

(**b**) 2010 asp 3. 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) and is amended by section 64(3) and section 68 and paragraphs 9 and 10 of schedule 8 of the 2026 Act which come into force on 29 October 2026 and section 69 and paragraphs 9 and 10 of the 2026 Act which come into force on 29 October 2026 immediately after the coming into force of section 68 and schedule 8 by virtue of S.S.I. 2026/210 (C. 22).

SCHEDULE Regulation 7(3)

“SCHEDULE Regulation 4(3)

Banning Order Notice

These premises have been specified in an order made under section 15 of the Tobacco and Primary Medical Services (Scotland) Act 2010.

[Insert name and address of person against whom the banning order has been made] is banned from carrying on a registrable business at these premises for a period of [insert period for which banning order has effect] from [insert date banning order was made].

The following businesses are each a registrable business:

(a) a tobacco business,

(b) a herbal smoking business,

(c) a vaping product business,

(d) a nicotine product business.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in consequence of the Tobacco and Vapes Act 2026 ("the 2026 Act").

Section 56 of the 2026 Act extends 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. This includes age of sale restrictions. Section 61 of the 2026 Act extends various existing offences in the 2010 Act which apply to vaping products to nicotine products and changes references from "nicotine vapour product" to "vaping product" so that the definitions are consistent across the UK. Schedule 8 of the 2026 Act also amends the 2010 Act to change references from "nicotine vapour product" to "vaping product" to ensure alignment. Part 2 of the Regulations makes amendments to secondary legislation in consequence of these provisions to ensure that all relevant products are covered and ensure consistent alignment of definitions.

Section 54 of the 2026 Act repeals the offence of purchasing tobacco products by a person under the age of 18 and section 55 repeals the offence of a person under 18 failing to comply with a confiscation request. Regulation 6 (Part 3) makes amendments to the Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011 in consequence of those provisions. The amendments ensure that there are no longer prescribed fixed penalties for the repealed offences.

Part 4 of the Regulations makes amendments in consequence of provision in the 2026 Act (section 69 and schedule 9) which extends Chapter 2 (register of tobacco and vaping product retailers) 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. Once the amendments to the 2010 Act 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" which is an order banning a person from carrying on a registrable business from premises within the council's area. The amendments made by regulations 7 and 8 of the Regulations update relevant existing secondary legislation so that it refers to registrable businesses.

The transitional provision in regulation 9(2) ensures that a person who is subject to an existing tobacco and vaping product banning order which was made before 29 October 2026 will still be required to declare that in an application to be registered, in accordance with regulation 3(b) of the Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010. The saving provision in regulation 9(3) means that the old form of notice will continue to apply for notices relating to existing tobacco and vaping product banning orders.

Regulation 10 makes an amendment in consequence of the change to the age of sale made by section 52 of the 2026 Act which comes into force on 1 January 2027.

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