EXPLANATORY MEMORANDUM TO

THE VAPING DUTY STAMPS (REQUIREMENTS, REVIEWS AND APPEALS) REGULATIONS 2026

2026 No. 338

1. Introduction

1.1 This Explanatory Memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

2.1 Dan Tomlinson MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Higgins, Deputy Director for Indirect Taxes, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jacob Holder at the Vaping Products Duty Team can be contacted by email at the following address with any queries regarding the instrument: vapingproductsduty@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Finance Act 2026 introduced the Vaping Duty Stamps and the Vaping Products Duty schemes. These schemes will place a tax on vaping products, specifically the liquid used for vaping, and via physical stamps, place a compliance measure that supports the administration and enforcement of Vaping Products Duty by requiring vaping products in the UK to carry a duty stamp. It introduces the concept of vaping product producers and UK representatives of overseas businesses for duty stamps purposes. These are subject to an approval process.

4.2 This instrument makes provision for when vaping products must or must not bear a duty stamp. It also ensures that decisions made in relation to UK representatives are subject to rights of review and appeal.

4.3 The Regulations make provision for the administration, control and enforcement of Vaping Products Duty and the Vaping Duty Stamp scheme. The Regulations provide the detailed regulatory framework required to give effect to the vaping products duty regime introduced by the Finance Act 2026.

Where does the legislation extend to, and apply?

4.4 The extent of the Regulations (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom (UK).

4.5 The territorial application of the Regulations (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The Government announced at Spring Budget 2024 that it would introduce a new excise duty (i.e. a tax on specific goods applied at defined points in the supply chain) on vaping products, Vaping Products Duty, from October 2026. This was accompanied by a consultation on the introduction of additional compliance measures, including the Vaping Duty Stamps scheme. Duty stamps are highly secure labels with physical and digital features which verify that the duty has been paid. Under the scheme, businesses must ensure these are affixed to vaping products in accordance with methods specified by HMRC. These are linked to a digital duty stamp system that enables HMRC to monitor stamps throughout the supply chain, and to more easily detect non-compliance with the duty.

5.2 This Statutory Instrument sets out the administrative requirements that businesses must follow when using duty stamps. It introduces a requirement for duty stamps to be affixed to vaping products at or before excise duty becomes payable. However, it specifically excludes goods imported or produced before 1 October 2026 (i.e. before Vaping Products Duty goes live) from this requirement, unless they are still held on 1 April 2027. It also provides for general exceptions from this requirement in certain circumstances, including where the goods are not going to be consumed in the UK or are subject to an excise duty relief.

5.3 These Regulations also apply the statutory framework for the administrative review of HMRC decisions to decisions related to UK representatives acting on behalf of overseas businesses in relation to duty stamps and provide rights of appeal to an independent tribunal.

5.4 These measures ensure that HMRC can monitor and control the legitimate supply of vaping products through the duty stamps system and support the effective administration and enforcement of Vaping Products Duty. The Government decided to introduce the Vaping Duty Stamps scheme in response to consultation feedback which highlighted the risk of non-compliance and illicit activity in the vaping market. Duty stamps provide a visible and traceable indicator that the correct duty has been paid, helping to support enforcement activity and protect revenue.

5.5 The Regulations primarily affect businesses involved in the production, importation, storage and distribution of vaping products. HMRC and HM Treasury have engaged with stakeholders in developing the detailed regulatory framework.

5.6 Vaping Products Duty is being introduced to support public health objectives, discourage youth uptake of vaping and raise revenue. Due to an expansion of the vaping market, there is a need to ensure that vaping products are subject to appropriate excise controls. This instrument gives effect to that policy by establishing the detailed administrative, compliance and enforcement framework necessary for the duty to operate in practice.

5.7 These Regulations primarily affect businesses involved in the production, importation, storage and distribution of vaping products. Secondary legislation is required to set out these operational rules to ensure that the duty can be administered effectively and consistently across the UK from commencement. HMRC

and HM Treasury have engaged with stakeholders in developing the detailed regulatory framework.

What was the previous policy, how is this different?

5.8 Prior to this Regulation, vaping products were not subject to excise duty and not regulated through dedicated excise controls.

5.9 The Government is introducing Vaping Products Duty, supported by a Vaping Duty Stamps Scheme, to bring vaping products within the excise framework and ensure they are subject to appropriate controls. This instrument establishes the statutory framework needed to move from the previous position to a comprehensive and enforceable regime which cannot be delivered through primary legislation alone.

6. Legislative and Legal Context

How has the law changed?

6.1 Finance Act 2026 provides the primary legislative framework for Vaping Products Duty and enables the introduction of a duty stamps scheme.

6.2 These Regulations provide the detailed administrative framework necessary for the operation of the Vaping Duty Stamps scheme, including requirements, reviews and appeals.

6.3 The law accordingly changes from a position in which vaping products were regulated primarily through product and consumer safety to one within the UK excise framework with statutory obligations and enforcement powers.

6.4 This instrument sets out when vaping products must or must not bear a duty stamp, in relation to which provision has been made under section 120(1) of the Finance Act 2026. It also makes amendments to Schedule 15 of the Finance Act 2026 so that decisions made in relation to UK representatives are subject to the rights of review and appeal. Due to the wording of section 48(2) and (3)(a) and (d) of the Taxation (Cross-border Trade) Act 2018 and section 138(2)(a) and (3) of the Finance Act 2026, and the amendment to primary legislation, this instrument is subject to affirmative resolution.

6.5 It should be read in conjunction with the Vaping Products (Production, Duty Stamps and Commencement) Regulations 2026. This second instrument implements the bulk of the requirements for Vaping Products Duty and the Vaping Duty Stamps scheme and is subject to negative resolution.

Why was this approach taken to change the law?

6.6 There was no viable alternative legislative approach to change the law as existing regulation did not provide the necessary legal basis to control the production, storage and movement of vaping products. Secondary legislation under established excise powers is therefore required to give effect to the duty.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government consulted on the introduction and design of Vaping Products Duty as part of the Spring Budget 2024 process, including a public consultation on the structure of the duty and a technical consultation on additional compliance measures. Both consultations were open to businesses across the vaping supply chain, trade associations, public health organisations and other interested parties with

responses submitted online and in writing. A summary of responses and the Government's response were published here on the GOV.UK website[1] as part of a wider consultation on the overall Vaping Products Duty and Vaping Duty Stamps Scheme, rather than on this specific statutory instrument.

7.2 In developing the secondary legislation, HMRC have continued to engage with stakeholders through ongoing discussions and the Vaping Industry Working Group. Excise duties are a reserved matter under the UK's devolution settlements and formal consent from devolved governments was not required.

8. Applicable Guidance

8.1 Relevant guidance can be found on the GOV.UK website.[2]

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 this was completed and published for Vaping Products Duty and Vaping Duty Stamps at Autumn Budget 2025.[3]

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is expected to be felt primarily by businesses involved in the production, importation, storage and distribution of vaping products. The measure is expected to have a negligible administrative impact on an estimated population of 200 vaping product producers and up to 750 importers and warehousekeepers who will now have to pay an excise duty on the products they make or import into the United Kingdom. The Regulations are not expected to have a significant impact on charities or voluntary bodies as their involvement with the production, importation, storage and distribution of vaping products is negligible.

9.3 The legislation does impact small or micro businesses.

9.4 The Government has sought to minimise impacts on small and micro businesses by aligning the requirements with existing excise processes, limiting obligations to what is necessary to achieve the policy objective, and providing clear guidance to support compliance. An exemption to these Regulations for small and micro businesses has not been adopted as it would undermine the effective and proportionate operation of the Vaping Products Duty regime. Applying different requirements based on business size would introduce inconsistency within the supply chain, increase the risk of evasion and non-compliance and complicate enforcement. This would reduce the effectiveness of the regime and could create a market distortion contrary to our objective of proportionate and effective regulation. This approach balances the need for a consistent and enforceable duty regime with the Better Regulation Framework principle that regulatory burdens should be minimised and justified by the policy objective.

9.5 The impact on the public sector is not significant beyond administration and enforcement activity.

[1] Consultation: https://www.gov.uk/government/consultations/vaping-products-duty-consultation
[2] Vaping Products Duty Guidance: https://www.gov.uk/money/vaping-products-duty
[3] Impact assessment: https://www.gov.uk/government/publications/introduction-of-vaping-products-duty-from-1-october-2026/introduction-of-vaping-products-duty-from-1-october-2026

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is as follows. HMRC will monitor the operation of the Regulations as part of its ongoing administration of the Vaping Products Duty regime.

10.2 The Regulations do not include a statutory review clause, and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Dan Tomlinson MP has made the following statement: "a review clause is not required as the regulations make provision related to a duty."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument comes into force less than 21 days after it was laid. This is necessary as the instrument needs to come into force on 1 April 2026. The Regulations are required as a consequence of the changes included in the Finance Act 2026. Therefore, it was necessary for that Act to be granted Royal Assent before the instrument could be laid. Due to the short period of time between Royal Assent of the Finance Act 2026 and 1 April 2026, it was not possible to comply with the 21-day rule.

12. European Convention on Human Rights

12.1 The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights: "In my view the provisions of the Vaping Duty Stamps (Requirements, Reviews and Appeals) Regulations 2026 are compatible with the Convention rights"

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").