EXPLANATORY MEMORANDUM TO

THE VAPING PRODUCTS (PRODUCTION, DUTY STAMPS AND COMMENCEMENT) REGULATIONS 2026

2026 No. 331

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 Joanne Flannery 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 Vaping Products Duty and the Vaping Duty Stamps scheme. Vaping Products Duty is a tax on vaping products, specifically the liquid intended for vaping, whether or not it contains nicotine. The Vaping Duty Stamps Scheme is a compliance measure which supports the administration and enforcement of Vaping Products Duty by requiring vaping products in the UK to carry a duty stamp.

4.2 The Vaping Products (Production, Duty Stamps and Commencement) Regulations 2026 establish the regulatory framework for the administration, control and enforcement of Vaping Products Duty and the associated Vaping Duty Stamps scheme.

4.3 The Regulations set out the requirements applying to the production, importation, storage and movement of vaping products, including approval requirements, duty liability and the use of vaping stamps. They also modify or amend a number of other relevant provisions.

Where does the legislation extend to, and apply?

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

4.5 The territorial application of this instrument (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 Statutory Instrument gives effect to Vaping Products Duty and the associated Vaping Duty Stamps scheme, as introduced by the Finance Act 2026. The Finance Act creates the charge to duty and the enabling powers, while these Regulations provide the detailed operational rules necessary to administer, enforce and secure the duty and to support compliance across the vaping supply chain.

5.2 In particular, the Regulations: set out approval requirements for persons involved in the production, importation, storage and stamping of vaping products; make provision for duty-suspension arrangements and the movement and storage of vaping products under those arrangements; and provide for certain provisions relating to enforcement.

5.3 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.

5.4 The 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.

What was the previous policy, how is this different?

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

5.6 The Government is introducing Vaping Products Duty, supported by the 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 The Finance Act 2026 introduced Vaping Products Duty, and this instrument makes the provision necessary to give effect to that duty. 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.

6.2 These Regulations should be read in conjunction with the Vaping Duty Stamps (Requirements, Reviews and Appeals) Regulations 2026. That instrument makes supplementary provision about the circumstances in which duty stamps are required to be affixed to vaping products and amends Schedule 15 to the Finance Act 2026 to ensure that decisions relating to UK representatives are subject to rights of review and

appeal. As those matters are subject to the affirmative resolution procedure, they are provided for in a separate instrument.

Why was this approach taken to change the law?

6.3 There was no viable alternative legislative approach, 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 undertook two formal public consultations on the introduction of Vaping Products Duty and the associated compliance framework, including duty stamps.

7.2 A public consultation was launched by HM Treasury in March 2024 on the introduction of a new excise duty on vaping products. The consultation sought views on whether vaping products should be subject to an excise duty; the scope of the duty, including whether it should apply to nicotine-free liquids; the basis on which the duty should be charged (including volume-based and nicotine-strength based options); and the interaction of the duty with wider health objectives.

7.3 The consultation was open to industry, public health bodies, retailers, consumers and other interested stakeholders, and responses were submitted through an online consultation document published on the GOV.UK website.

7.4 The Government consultation response was published in October 2024, confirming the decision to introduce Vaping Products Duty and to apply it at a flat rate per millilitre, regardless of nicotine strength. The Government concluded that a flat-rate structure would simplify administration and reduce compliance risks, while still meeting policy objectives.

7.5 A second, technical consultation was launched in October 2024, focusing on the detailed operation of Vaping Products Duty. The consultation sought views on the introduction of a Vaping Duty Stamps scheme; approval and registration requirements for producers, importers and warehousekeepers; duty suspension arrangements; record-keeping and reporting obligations; and enforcement powers, offences and penalties.

7.6 The consultation was primarily directed at businesses operating within the vaping supply chain, enforcement bodies and professional advisers. It was conducted through a published consultation document on the GOV.UK website, with written responses invited.

7.7 The Government consultation response was published in April 2025. The response confirmed the introduction of a duty stamps scheme to operate alongside Vaping Products Duty, reflecting concerns raised by enforcement bodies and industry about the risk of illicit trade and non-compliance.

7.8 Across both consultations, respondents broadly supported the introduction of a regulatory framework for vaping products, though views differed between public health objectives, revenue protection and industry impacts.

7.9 Major objections raised included: concerns from industry about the cost and administrative burden of duty stamps, particularly for smaller producers and

importers; objections to the application of the duty to nicotine-free liquids; concerns about the potential impact on consumer prices and legitimate supply chains; and requests for sufficient lead-in time and transitional arrangements.

7.10 The Government concluded that: applying the duty to all vaping liquids, regardless of nicotine content, was necessary to prevent avoidance and ensure consistent treatment of products intended for vaping; a flat-rate volume-based duty would reduce complexity and compliance risks compared with a tiered structure; a duty stamps scheme was necessary to support effective enforcement and to deter illicit supply; and transitional arrangements were required to allow businesses time to adapt to the new regime.

7.11 As a result, the Government confirmed the policy approach reflected in the Finance Act 2026 and provided for detailed operational rules through secondary legislation. The summary of responses and the Government's response were published on the GOV.UK website[1].

7.12 In developing the secondary legislation, HMRC have continued to engage with stakeholders through ongoing discussions and the Vaping Industry Working Group.

7.13 Excise duties are a reserved matter under the UK's devolution settlements and formal consent from devolved governments is 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 the impacts were assessed as part of the Impact Assessment completed and published for Vaping Products Duty and the Vaping Duty Stamps scheme at Autumn Budget 2025.

Impact on businesses, charities and voluntary bodies

9.2 The impact on businesses, charities and voluntary bodies is as follows. These Regulations will have a direct impact on businesses involved in the production, importation, storage, distribution and sale of vaping products. Affected businesses will be required to be approved by HMRC, comply with approval conditions, account for Vaping Products Duty, and affix duty stamps to vaping products in accordance with the Regulations. This will give rise to ongoing administrative and compliance costs, including record-keeping, reporting and operational changes necessary to meet excise requirements.

9.3 The instrument is not expected to have a significant impact on charities or voluntary bodies.

9.4 The legislation does impact small or micro businesses.

9.5 The Government has sought to minimise impacts on small and micro businesses by aligning the requirements with existing excise processes, limiting obligations to what

[1] Summary of Consultation Responses and the Government's Response: https://www.gov.uk/government/consultations/vaping-products-duty-consultation

[2] Guidance for Vaping Products Duty: https://www.gov.uk/money/vaping-products-duty

is necessary to achieve the policy objective, and providing clear guidance to support compliance.

9.6 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 market distortion, contrary to our objective of proportionate and effective regulation.

9.7 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.

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

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 instrument does 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 provisions 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 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").