

Tobacco and Vapes Bill

The government introduced the Tobacco and Vapes Bill ("the Bill") on 5th November 2024. A similar bill was proposed under the last government but was halted in light of the July 2024 election. The Bill has revived many of the proposals of the previous government but also includes proposals for a licensing scheme for tobacco products and the extension of smoke-free places.

We highlight below the key points of the Bill and its practical implications for retailers. The Bill is far ranging, and space does not allow us to cover all in this Briefing.

1. SALE OF TOBACCO PRODUCTS, HERBAL SMOKING PRODUCTS, AND CIGARETTE PAPERS IN ENGLAND AND WALES

The Bill prohibits the sale of tobacco products, herbal smoking products, and cigarette papers ("Tobacco Products") to anyone born on or after 1 January 2009 ("Relevant Date").

Retailers must check the identification documents of purchasers of Tobacco Products to verify they were born before the Relevant Date. This is different from the requirements for vaping and nicotine products, which require a purchaser to be aged 18 or over (see point 5).

The Bill sets out the acceptable forms of identification as passports, driving licences, and identity cards issued by the Proof of Age Standard Scheme. This list is more restrictive than the identification documents accepted under the Licensing Act 2003 for the sale of alcohol. No rationale has been offered for this distinction.

2. TOBACCO VENDING MACHINES IN ENGLAND AND WALES

The Bill prohibits an individual from managing or controlling premises where there is an automatic vending machine that dispenses Tobacco Products.

Retailers should note that while the prohibition of tobacco from vending machines is already illegal, cigarette papers are now included in this ban.

3. AGE OF SALE NOTICES IN ENGLAND AND WALES

Tobacco retailers must prominently display a notice within their premises that reads:

"It is illegal to sell tobacco products to anyone born on or after 1 January 2009."

In Wales, the sign must be displayed in English and Welsh.

Failure to comply with this could lead to a fine of up to £1,000.

It is important for retailers to stay informed about future regulations regarding the size and appearance of this notice.

4. BAN ON THE MANUFACTURING, SALE, AND POSSESSION OF "SNUS" IN ENGLAND AND WALES

The Bill makes it an offence to manufacture, sell, and possess with an intent to supply what is known as "snus", being tobacco products that are intended for oral use (but are not intended to be inhaled or chewed) and consist wholly or partly of tobacco in powder or particulate form. This extends the current prohibition on the production or supply of tobacco for oral use.

5. SALE OF VAPING OR NICOTINE PRODUCTS TO UNDER 18S IN ENGLAND AND WALES

The law currently prohibits the sale of nicotine vapes to under-18s but there are currently no age restrictions for other nicotine consumer products.

The sale of vaping and nicotine products to under-18s will now be prohibited.

Retailers should be aware of the difference between the age restrictions for Tobacco Products, and vaping and nicotine products.

The sale of Tobacco Products to anyone born after the Relevant Date (see point 1) will be prohibited.

The sale of nicotine and vaping products will be prohibited to anyone under the age of 18.

6. DISPLAY OF PRODUCTS OR PRICES IN ENGLAND AND WALES

Regulations will be introduced to regulate the display, pricing, and display of empty packaging of Tobacco Products, vaping products and nicotine products. Retailers will be interested in the detail of such regulations as these will impact store layouts.

7. LICENSING OF RETAIL SALES OF ALL TYPES OF PRODUCTS IN ENGLAND AND WALES

The Bill proposes a licensing regime for the sale of Tobacco Products, vaping products, and nicotine

products. The new regime looks to mirror the alcohol licensing scheme introducing the concept of the "personal licence" and a "premises licence".

Future regulations must specify:

- the local authority that will be the licensing authority responsible for granting the licences.
- the review and appeals process.

Regulations may:

- make provisions regarding the granting of a licence (e.g. the regulations may prevent licensing authorities from granting a licence due to a premises' proximity to a school or to limit the number of licences within a set radius).
- authorise local authorities to charge a fee for licence applications.
- make provisions in relation to the conditions of a licence such as the requirements needed to maintain the licence.
- make provision about the duration, renewal, variation, suspension, or revocation of licences.
- make provisions for the publication of licence information by the licensing authority.
- require a licensing authority to have regard to government guidance.

8. SANCTIONS

When a person commits an offence, such as selling tobacco, vapes, or nicotine products in contravention of the age restrictions, twice within a 2-year period, they may be subject to the following sanctions:

- **Restricted Premises Order** - A business will be prohibited from selling Tobacco Products, vaping products, and nicotine products for up to a year. The restriction will be registered as a local land charge and bind future purchasers. Retailers acquiring an interest in a property will need to conduct the relevant property searches to determine whether the property in question is subject to a Restricted Premises Order. Buyer beware!
- **Restricted Sales Order** - A person, in their individual capacity, will be prohibited from selling Tobacco Products, vaping products, and nicotine products or from managing premises where these items are sold for up to a year. Retail employers will need to vet individuals to determine whether they are subject to a restricted sales order.

- **Fixed-penalty notices** - Currently set at £2,500 for an offence of breach of licence conditions and £200 for other offences.

Directors and others in managerial roles may be guilty of an offence (committed with their consent or committed negligently) if they breach a Restricted Premises Order or incorrectly display products (point 6 above).

Retailers may already be aware of the industry's ability to adapt their products to circumvent the restrictions in the Bill...however, the government has come prepared! The Bill allows the government to extend the definition of Tobacco Products, which would allow them to regulate new products on the market that are not currently caught out by the current scope of the Bill.

The licensing scheme is likely to come into force in 2027, so watch this space as we update you with further details, the steps you will need to take, and when you will need to comply.

We will be watching the progress of the Bill and will be updating clients in the coming months. The prospect of a licensing regime for tobacco has huge implications for the trade and, at this time we have more questions than answers. Let us hope that regulations will be published, allowing good time for any necessary applications so that the chaos of 2005 (remember the transition from justices' licences to premises licences) is not repeated.

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Please do not hesitate to contact us if you would like to discuss further.



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This briefing note is not intended to be an exhaustive statement of the law and should not be relied on as legal advice to be applied to any particular set of circumstances. Instead, it is intended to act as a brief introductory view of some of the legal considerations relevant to the subject in question.