

Number 38 *of* 2026

Public Health (Tobacco Products and Nicotine Inhaling Products) (Amendment) Act 2026

Number 38 *of* 2026

PUBLIC HEALTH (TOBACCO PRODUCTS AND NICOTINE INHALING PRODUCTS) (AMENDMENT) ACT 2026

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and commencement
2. Definitions
3. Expenses
4. Repeals
5. Review of operation of Act

PART 2

AMENDMENT OF ACT OF 2002

6. Amendment of section 2 of Act of 2002
7. Amendment of section 5 of Act of 2002
8. Amendment of section 48 of Act of 2002
9. Amendment of section 50 of Act of 2002
10. Amendment of section 54 of Act of 2002
11. Amendment of section 55 of Act of 2002
12. Amendment of Act of 2002
13. Amendment of section 56 of Act of 2002

PART 3

AMENDMENT OF ACT OF 2023

14. Amendment of section 2 of Act of 2023
15. Amendment of section 3 of Act of 2023
16. Remote sale of tobacco products, nicotine inhaling products or nicotine consumption products
17. Signage and display relating to sale of nicotine inhaling products
18. Prohibition on sale of nicotine consumption product to child

19. Amendment of section 30 of Act of 2023

20. Prohibition on advertising of nicotine inhaling products and nicotine consumption products in retail premises or from website

21. Amendment of Act of 2023

22. Amendment of section 33 of Act of 2023

23. Amendment of section 34 of Act of 2023

24. Amendment of section 35 of Act of 2023

25. Amendment of section 38 of Act of 2023

26. Amendment of section 39 of Act of 2023

27. Insertion of Schedule to Act of 2023

PART 4

MISCELLANEOUS AMENDMENTS

28. Amendment of section 7 of Act of 2024

29. Amendment of European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016

SCHEDULE

ACTS REFERRED TO

Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023 (No. 35)

Public Health (Tobacco) (Amendment) Act 2024 (No. 47)

Public Health (Tobacco) Act 2002 (No. 6)

Public Health (Tobacco) Acts 2002 to 2024

Trade Marks Act 1996 (No. 6)

Number 38 *of* 2026

PUBLIC HEALTH (TOBACCO PRODUCTS AND NICOTINE INHALING PRODUCTS) (AMENDMENT) ACT 2026

An Act to regulate the packaging and appearance of nicotine inhaling products and refill containers of such products; to provide for the prohibition on the sale of nicotine consumption products to a child; to provide for certain restrictions in relation to the signage, display and advertising of nicotine inhaling products and nicotine consumption products; to provide that the Minister for Health may, by order, regulate the flavour names of nicotine inhaling products; to provide for further enforcement measures and to provide for certain related offences; for those and other purposes to amend the Public Health (Tobacco) Act 2002 and the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023; and to provide for related matters. [27*th October*, 2026]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and general

Short title, collective citation and commencement

1. (1) This Act may be cited as the Public Health (Tobacco Products and Nicotine Inhaling Products) (Amendment) Act 2026.

(2) The Public Health (Tobacco) Acts 2002 to 2024 and this Act may be cited as the Public Health (Tobacco) Acts 2002 to 2026.

(3) Subject to *sections 10(2)*, *22(2)*, *24(2)*, *26(2)* and *28(2)*, this Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—

"Act of 2002" means the Public Health (Tobacco) Act 2002;

"Act of 2023" means the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023;

"Act of 2024" means the Public Health (Tobacco) (Amendment) Act 2024;

"Minister" means the Minister for Health.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys provided by the Oireachtas.

Repeals

4. The following provisions of the Act of 2024 are repealed:

(a) section 2;

(b) section 7(c);

(c) section 8;

(d) section 9.

Review of operation of Act

5. (1) The Minister shall, not later than 3 years after the commencement of this section, carry out a review of the operation of the amendments to the Act of 2023 effected by this Act.

(2) As soon as practicable after the completion of the review under *subsection (1)*, the Minister shall prepare a report, in writing, of the findings of the review and cause a copy of the report to be laid before each House of the Oireachtas.

(3) In carrying out a review under *subsection (1)*, the Minister may consult with such and so many persons as he or she considers appropriate.

PART 2

Amendment of Act of 2002

Amendment of section 2 of Act of 2002

6. Section 2 of the Act of 2002 is amended, in subsection (1), by the insertion of the following definitions:

" 'General Product Safety Regulation' means Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May

2023[1] on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC;

'herbal product for smoking' has the same meaning as it has in Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014[2] on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC;

'nicotine consumption product' means—

(a) a product for human consumption containing nicotine and which is designed or intended for the intake of nicotine in the human body, or

(b) nicotine pouches,

but shall not include tobacco products, herbal products for smoking, nicotine inhaling products or any device which is designed or intended to be used for the consumption of tobacco products or herbal products for smoking;

'nicotine pouches' means products containing nicotine intended for oral intake which—

(a) are mixed with vegetable fibres or an equivalent substrate,

(b) are presented in sachet portions or porous sachets or in an equivalent format, and

(c) do not contain tobacco;

'serious risk' has the same meaning as it has in the General Product Safety Regulation;".

Amendment of section 5 of Act of 2002

7. Section 5 of the Act of 2002 is amended—

(a) by the substitution of the following subsection for subsection (2):

"(2) A person guilty of an offence under section 37(13), 43(3), 43(4), 46, 48 or 54(9) shall be liable on summary conviction—

(a) in the case of a first offence, to a class B fine or to imprisonment for a term not exceeding 6 months, or to both, or

1 OJ No. L 135, 23.5.2023, p. 1
2 OJ No. L 127, 29.4.2014, p. 1

(b) in the case of any subsequent offence, to a class A fine or to imprisonment for a term not exceeding 12 months, or to both.",

(b) by the substitution of the following subsection for subsection (3):

"(3) A person guilty of an offence under section 33, 33A, 36, 37(14), 38, 39, 40, 42, 53 or 55C shall be liable—

(a) on summary conviction—

(i) in the case of a first offence, to a class B fine or to imprisonment for a term not exceeding 6 months, or to both, or

(ii) in the case of any subsequent offence, to a class A fine or to imprisonment for a term not exceeding 12 months, or to both,

or

(b) on conviction on indictment to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years, or to both.",

and

(c) in subsection (4), by the substitution of "provided for in subsection (3)(a)(i) in the case of a first offence and subsection (3)(a)(ii) in the case of any subsequent offence" for "provided for in subsection (3)(a)".

Amendment of section 48 of Act of 2002

8. Section 48 of the Act of 2002 is amended—

(a) in subsection (4)—

(i) in paragraph (a)(i), by the substitution of "a tobacco product, a nicotine inhaling product or a nicotine consumption product" for "a tobacco product or a nicotine inhaling product",

(ii) in paragraph (c), by the substitution of "tobacco products, nicotine inhaling products or nicotine consumption products" for "tobacco products or nicotine inhaling products",

(iii) by the insertion of the following paragraph after paragraph (c):

"(ca) at such premises, take any measurements or photographs or make any video, electrical or other recordings that he or she reasonably considers to be necessary,",

(iv) in paragraph (e), by the substitution of the following subparagraph for subparagraph (ii):

"(ii) any tobacco product, nicotine inhaling product or nicotine consumption product, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products or any article, substance or procedure used in the manufacture,

processing, labelling, retail packaging or storage of tobacco products, nicotine inhaling products or nicotine consumption products at the premises, or",

(v) in paragraph (f), by the substitution of "retail packaging of tobacco products, retail packaging of nicotine inhaling products or retail packaging of nicotine consumption products, tobacco products, nicotine inhaling products, nicotine consumption products" for "retail packaging of tobacco products, retail packaging of nicotine inhaling products, tobacco products, nicotine inhaling products",

(vi) by the substitution of the following paragraph for paragraph (g):

"(g) take samples of any tobacco product, nicotine inhaling product, nicotine consumption product, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products, or any article or substance used in the manufacture, processing, labelling, retail packaging or storage of tobacco products, nicotine inhaling products or nicotine consumption products found at the premises for the purposes of analysis and examination,",

(vii) in paragraph (h), by the substitution of "tobacco products, nicotine inhaling products, nicotine consumption products or retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products" for "tobacco products, nicotine inhaling products or retail packaging of tobacco products or nicotine inhaling products",

(viii) by the substitution of the following paragraph for paragraph (i):

"(i) secure for later inspection any premises or part of any premises in which a tobacco product, a nicotine inhaling product, a nicotine consumption product, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products, any substance or article used in the manufacture, processing, labelling, retail packaging or storage of tobacco products, nicotine inhaling products or nicotine consumption products is found or ordinarily kept, or records, labels, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products, books or documents are found or ordinarily kept, for such period as may reasonably be necessary for the purposes of his or her functions under this Act, the Act of 2015 or the Act of 2023, or",

and

(ix) by the substitution of the following paragraph for paragraph (j):

"(j) take possession of and remove from the premises for examination and analysis any tobacco products, nicotine inhaling products, nicotine consumption products, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption

products or any substance or article used in the manufacture, processing, labelling, retail packaging or storage of tobacco products, nicotine inhaling products or nicotine consumption products found there, and detain them for such period as he or she considers reasonably necessary for the purposes of his or her functions under this Act, the Act of 2015 or the Act of 2023.",

(b) in subsection (4A)—

(i) by the substitution of "the Act of 2015 or the Act of 2023" for "the Act or 2015 or the Act of 2023", and

(ii) by the substitution of "tobacco product, nicotine inhaling product or nicotine consumption product" for "tobacco product or nicotine inhaling product" in both places that it occurs,

(c) by the insertion of the following subsections after subsection (4A):

"(4B) For the purposes of this Act, the Act of 2015 and the Act of 2023, an authorised officer may require a person to provide information on—

(a) the supply chain of a tobacco product, nicotine inhaling product or nicotine consumption product,

(b) the details of the distribution network of a tobacco product, nicotine inhaling product or nicotine consumption product,

(c) quantities of a tobacco product, nicotine inhaling product or nicotine consumption product on the market, and

(d) other tobacco products, nicotine inhaling products or nicotine consumption products that have the same technical characteristics as the product in question.

(4C) An authorised officer may require a person to provide information for the purpose of ascertaining the ownership of a website where the information in question is related to a matter under investigation under this Act, the Act of 2015 or the Act of 2023.",

(d) in subsection (7), by the substitution of the following paragraph for paragraph (a):

"(a) a tobacco product, nicotine inhaling product, nicotine consumption product, retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products or any substance or article used in the manufacture, processing, labelling, retail packaging or storage of a tobacco product, nicotine inhaling product or nicotine consumption product is to be found in any dwelling or premises, or is being or has been subjected to any process or stored in any dwelling or premises,",

(e) by the substitution of the following subsection for subsection (10):

"(10) Where an authorised officer has—

(a) directed pursuant to subsection (4)(h) that tobacco products, nicotine inhaling products or nicotine consumption products or retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products not be sold, distributed or moved, or

(b) taken possession of and removed pursuant to subsection (4)(j) any tobacco products, nicotine inhaling products or nicotine consumption products or retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products,

he or she may apply to the District Court for an order that any such tobacco product, nicotine inhaling product or nicotine consumption product or retail packaging be destroyed, and the judge of the District Court may grant such an order if he or she is satisfied that such product or retail packaging contravenes a provision of this Act, the Act of 2015 or the Act of 2023.",

(f) by the deletion of subsection (13), and

(g) in subsection (14)—

(i) by the substitution of the following definition for the definition of "premises":

" 'premises' means any place, ship or other vessel, aircraft, railway wagon or other vehicle, and includes a container used to transport tobacco products, nicotine inhaling products or nicotine consumption products or retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products or any article or substance used in the manufacture, processing or storage of tobacco products, nicotine inhaling products or nicotine consumption products or retail packaging of tobacco products, nicotine inhaling products or nicotine consumption products;",

and

(ii) by the substitution of the following definition for the definition of "retail packaging":

" 'retail packaging' means—

(a) in relation to a tobacco product, the outside packaging of the tobacco product, any lining contained therein and any wrapper that covers such outside packaging, or

(b) in relation to a nicotine inhaling product or a nicotine consumption product, the outside packaging of the nicotine inhaling product or nicotine consumption product, any lining or inner packaging contained therein and any wrapper that covers such outside packaging;".

Amendment of section 50 of Act of 2002

9. Section 50 of the Act of 2002 is amended—

(a) by the substitution of the following subsection for subsection (1):

"(1) Where an authorised officer takes a sample of a tobacco product, a nicotine inhaling product or a nicotine consumption product or a sample of any substance or article used in the manufacturing, processing or storage of tobacco products, nicotine inhaling products or nicotine consumption products, he or she shall divide the sample into 3 approximately equal parts, and place each part into separate containers which he or she shall forthwith seal and mark in such a manner as to identify it as part of the sample taken by that authorised officer.",

(b) in subsection (2), by the substitution of "tobacco product, nicotine inhaling product or nicotine consumption product" for "tobacco product or nicotine inhaling product", and

(c) by the substitution of the following subsection for subsection (3):

"(3) Where a tobacco product, a nicotine inhaling product or a nicotine consumption product, or any substance or article used in the manufacturing, processing or storage of a tobacco product, a nicotine inhaling product or a nicotine consumption product is contained in a container and its division into parts is (for whatever reason) not practicable, an authorised officer, who wishes to take samples of such tobacco product, nicotine inhaling product or nicotine consumption product, substance or article for the purposes of analysis, shall take possession of 3 such containers belonging to the same batch, and each such container shall be deemed to be part of a sample for the purposes of subsection (1), and the provisions of subsections (1) and (2) shall apply thereto accordingly.".

Amendment of section 54 of Act of 2002

10. (1) Section 54 of the Act of 2002 is amended, in subsection (12)—

(a) by the substitution of the following paragraph for paragraph (a):

"(a) sections 33, 33A, 36, 46 and 47;",

and

(b) by the substitution of the following paragraph for paragraph (c):

"(c) sections 22, 26A, 27, 28, 28A, 28B, 30, 30A, 31, 32 and 32G of the Act of 2023.".

(2) The amendment effected by *subsection (1)(b)*, insofar as it relates to section 28A of the Act of 2023 (inserted by section 6 of the Act of 2024), shall come into operation on 1 February 2028.

Amendment of section 55 of Act of 2002

11. Section 55 of the Act of 2002 is amended—

(a) in subsection (1), by the substitution of "a notice" for "an order",

(b) in subsection (2), by the substitution of the following paragraph for paragraph (d):

"(d) direct the person on whom the prohibition notice is served to ensure that—

(i) the contravention of a provision referred to in paragraph (c), should cease immediately on the service of the prohibition notice,

(ii) the tobacco product, nicotine inhaling product or nicotine consumption product to which the contravention relates, is not placed or made available on the market until such time as all appropriate measures, including corrective measures, have been taken to ensure compliance with the provision of this Act or the Act of 2023 to which the contravention relates,

(iii) the tobacco product, nicotine inhaling product or nicotine consumption product to which the contravention relates is withdrawn or recalled from the market within a specified period of time,

(iv) the tobacco product, nicotine inhaling product or nicotine consumption product is destroyed or otherwise disposed of within a specified period of time and in a manner specified in the notice by the authorised officer, or

(v) the tobacco product, nicotine inhaling product or nicotine consumption product is detained and provided to the authorised officer for the purposes of disposal by the authorised officer.",

(c) in subsection (13)(b), by the substitution of "28B, 29, 32C, 32D, 32E, 32F and 32G" for "and 29", and

(d) by the insertion of the following subsections after subsection (13):

"(14) In the case of any steps taken under subsection (2)(d)(v) or (6), the costs of storage, seizure and disposal may be charged to the person on whom the prohibition notice has been served, the manager of the premises or place where the tobacco product, nicotine inhaling product or nicotine consumption product was found, or the person having lawful possession of the product at the time of seizure, where known.

(15) In this section, 'disposal' includes any manner of disposal which in the opinion of the authorised officer will least endanger the public, and includes—

(a) the surrender of the tobacco product, nicotine inhaling product or nicotine consumption product to any competent agency or organisation for its disposal, or

(b) the certified return of the tobacco product, nicotine inhaling product or nicotine consumption product to the person who manufactured, imported, distributed or supplied the tobacco product, nicotine inhaling product or nicotine consumption product in order to remove it from the market, at the expense of the person on whom the notice was served, the manager of the premises or place where the tobacco product, nicotine inhaling product or nicotine consumption product was found, or person having lawful possession of the product at the time of seizure, where known.".

Amendment of Act of 2002

12. The Act of 2002 is amended by the insertion of the following sections after section 55:

"Prohibition notice for serious risk

55A. (1) Where an authorised officer is of the opinion that any tobacco product or nicotine inhaling product presents a serious risk, the authorised officer may, with the approval of the chief executive officer of the Executive or another officer of the Executive designated for that purpose, serve, or arrange to have served, on the person concerned a notice (in this section referred to as a 'prohibition notice for a serious risk') in accordance with subsection (2).

(2) A prohibition notice for a serious risk shall—

(a) be signed by the authorised officer issuing it,

(b) state that the authorised officer is of the opinion that a tobacco product or nicotine inhaling product presents a serious risk, and

(c) direct the person on whom the prohibition notice for a serious risk is served to ensure that—

(i) the serious risk should cease immediately on the service of the prohibition notice for a serious risk,

(ii) the tobacco product or nicotine inhaling product to which the notice relates is not placed or made available on the market until such time as all appropriate measures, including corrective measures, have been taken to ensure that the product no longer presents a serious risk,

(iii) the tobacco product or nicotine inhaling product to which the notice relates is withdrawn or recalled from the market within a specified period of time,

(iv) the tobacco product or nicotine inhaling product is destroyed within a specified period of time and in a manner specified in the notice by the authorised officer, or

(v) the tobacco product or nicotine inhaling product is detained and provided to the authorised officer for the purposes of destruction by the authorised officer.

(3) The Executive shall immediately notify the European Commission and the competent authorities of other Member States under Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014[3] on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC of any directions given under subsection (2)(c).

(4) The approval referred to in subsection (1) or (7) may be given orally or in writing and if given orally, shall be recorded in writing as soon as practicable.

(5) A prohibition notice for a serious risk shall take effect—

(a) where the prohibition notice for a serious risk so declares, immediately when the notice is received by the person on whom it is served, or

(b) in any other case—

(i) where no appeal is taken against the prohibition notice for a serious risk, on the expiration of the period during which such an appeal may be taken or the day specified in the prohibition notice for a serious risk as the day on which it is to come into effect, whichever is the later, or

(ii) where an appeal is taken, on the day next following the day on which the prohibition notice for a serious risk is confirmed on appeal or the appeal is withdrawn or the day specified in the prohibition notice for a serious risk as the day on which it is to come into effect, whichever is the later.

(6) The bringing of an appeal against a prohibition notice for a serious risk which is to take effect in accordance with subsection (5)(a) shall not have the effect of suspending the operation of the prohibition notice for a serious risk, but the appellant may apply to the District Court to have the operation of the prohibition notice for a serious risk suspended until the appeal is disposed of and, on such application, the District Court may, if it thinks it proper to do so, direct that the operation of the prohibition notice for a serious risk be suspended until the appeal is disposed of.

3 OJ No. L 127, 29.4.2014, p. 1

(7) In the event of non-compliance or delay by the person on whom the prohibition notice for a serious risk has been served, an authorised officer shall, with the approval of the chief executive officer of the Executive, or another officer of the Executive designated for that purpose, take whatever steps are considered necessary to ensure compliance with the direction given under subsection (2)(c) and this may include the withdrawal, recall, seizure and destruction of the products in question or the making of any arrangements for such withdrawal, recall, seizure or destruction.

(8) A person who is aggrieved by a prohibition notice for a serious risk may, within the period of 7 days beginning on the day on which the prohibition notice for a serious risk is served on him or her, appeal against the notice to a judge of the District Court in the District Court district in which the prohibition notice for a serious risk was served and in determining the appeal the judge may—

(a) if he or she is satisfied that in the circumstances of the case it is reasonable to do so, confirm the prohibition notice for a serious risk, with or without modification, or

(b) cancel the prohibition notice for a serious risk.

(9) Where on the hearing of an appeal under subsection (8), a prohibition notice for a serious risk is confirmed, notwithstanding subsection (6), the judge of the District Court by whom the appeal is heard may, on the application of the appellant, suspend the operation of the prohibition notice for a serious risk for such period as in the circumstances of the case the judge considers appropriate.

(10) A person who appeals against a prohibition notice for a serious risk or who applies for a direction suspending the application of the prohibition notice for a serious risk under subsection (6) shall at the same time notify the Executive of the appeal or the application and the grounds for the appeal or the application and the Executive shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.

(11) The chief executive officer of the Executive or another officer of the Executive designated for that purpose may, for stated reasons, revoke or vary a prohibition notice for a serious risk made in accordance with this section and the Executive shall be notified at the next available meeting of the Executive of any such revocation or variation and the reasons therefor.

(12) Where a prohibition notice for a serious risk has been served and activities are carried on in contravention of the prohibition notice for a serious risk, the High Court may, on the application of the Executive, by order prohibit the continuance of the activities.

(13) An application to the High Court for an order under subsection (12) shall be by motion on notice to the person the subject of the prohibition notice for serious risk and the Court, when considering the matter, may make such interim or interlocutory order (if any) as it considers appropriate and the order by which an application under subsection (12) is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

Seizure and destruction or disposal of tobacco products and nicotine inhaling products presenting serious risk

55B. (1) Without prejudice to sections 55 and 55A, where an authorised officer is of the opinion that a tobacco product or nicotine inhaling product presents a serious risk, it may be seized and destroyed or otherwise disposed of by the authorised officer in such manner and at such time and place as the authorised officer may direct, and the costs of storage, seizure and disposal may be charged to the owner or manager of the premises or place where the product was found, or the person having lawful possession of the product at the time of seizure, where known.

(2) In this section, 'disposal' includes any manner of disposal which in the opinion of the authorised officer will least endanger the public, and includes—

(a) the surrender of the tobacco product or nicotine inhaling product to a competent agency or organisation for its destruction, or

(b) the certified return of the product to the person who manufactured, imported, distributed or supplied the tobacco product or nicotine inhaling product in order to remove it from the market, at the expense of the owner, manager of the premises or place where the tobacco product or nicotine inhaling product was found, or person having lawful possession of the product at the time of seizure, where known.

(3) An authorised officer, when taking a measure referred to in subsection (1), shall notify the person concerned in writing, setting out—

(a) the reasons for the seizure and disposal of the tobacco product or nicotine inhaling product, and

(b) the right of appeal under section 55D.

Notice for removal of content to eliminate serious risk

55C. (1) Without prejudice to Regulation 7 of the European Union (General Product Safety) Regulations 2024 (S.I. No. 726 of 2024) where, in relation to a tobacco product or a nicotine inhaling product, an authorised officer is of the opinion that there are no other effective means to eliminate a serious risk in relation to the offer of a dangerous tobacco product or a nicotine inhaling product on an online interface,

an authorised officer may, with the approval of the chief executive officer of the Executive or another officer of the Executive designated for that purpose, in accordance with Article 22 of the General Product Safety Regulation issue a notice (in this section referred to as a 'notice for removal of content to eliminate serious risk') and any such notice shall require the person on whom the notice is served to—

(a) remove content referring to the products concerned from an online interface,

(b) disable access to that online content, or

(c) display an explicit warning to end users which is visible when the users access an online interface.

(2) A person who has been served a notice for removal of content to eliminate serious risk in accordance with subsection (1) shall comply with the notice within the period specified in the notice.

(3) A person who fails to comply with a notice under this section within the period specified in the notice shall be guilty of an offence.

(4) A word or expression that is used in this section and is also used in the Market Surveillance Regulation or the General Product Safety Regulation has, unless the context otherwise requires, the same meaning in this section as it has in the Market Surveillance Regulation or the General Product Safety Regulation, as the case may be.

(5) In this section, 'Market Surveillance Regulation' means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019[4] on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011.

Right of appeal against certain measures

55D. (1) A person aggrieved by a direction given or measure taken under section 55B or 55C may appeal to the appropriate court against the direction given or measure taken.

(2) An appeal under this section shall state the grounds on which the appeal is made and be made by written notice, which shall be lodged with the appropriate office of the court not later than 14 days from the date upon which the notification concerned was given to him or her or from the date upon which the direction was given or the measure was taken.

(3) A copy of the notice by which a person makes an appeal under this section shall be given by him or her to the Executive.

4 OJ No. L 169, 25.6.2019, p. 1

(4) Where an appeal is made under subsection (1), the direction given or measure taken shall remain in force until the appeal is determined or withdrawn, subject to any decision to the contrary by the appropriate court.

(5) On the hearing of an appeal under this section, the appropriate court may either confirm or vary the direction or the measure or allow the appeal and make any other order it considers appropriate.

(6) If, in relation to an appeal under this section to the District Court, that court becomes of the opinion during the hearing of the appeal that the value of the tobacco product or nicotine inhaling product, the subject of the appeal, exceeds that court's jurisdiction in tort, it may, if it thinks fit, transfer the appeal to the Circuit Court or the High Court, whichever it considers appropriate having regard to its opinion of the value of the tobacco product or nicotine inhaling product.

(7) If, in relation to an appeal under this section to the Circuit Court, that court becomes of the opinion during the hearing of the appeal that the value of the tobacco product or nicotine inhaling product, the subject of the appeal, exceeds that court's jurisdiction in tort, it may, if it thinks fit, transfer the appeal to the High Court.

(8) Subsections (6) and (7) are without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an appeal under this section in relation to which it was, at the time of the hearing of the appeal, the appropriate court.

(9) An appeal under this section to the District Court shall be determined by a judge of the District Court for the District Court district in which the tobacco product or nicotine inhaling product concerned was placed on the market or the appellant ordinarily resides.

(10) An appeal under this section to the Circuit Court shall be determined by the judge of the Circuit Court for the circuit in which the tobacco product or nicotine inhaling product concerned was placed on the market or the appellant ordinarily resides.

(11) A decision of the District Court on an appeal under this section shall be final, save that, by leave of the District Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(12) A decision of the Circuit Court on an appeal under this section shall be final, save that, by leave of the Circuit Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(13) A decision of the High Court on an appeal under this section shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the Court of Appeal on a specified question of law.

(14) In this section, 'appropriate court' means—

(a) in any case where the estimated value of the tobacco product or nicotine inhaling product concerned does not exceed €15,000, or such other amount as may stand specified for the time being by law as that court's jurisdiction in tort, the District Court,

(b) in any case where the estimated value of the tobacco product or nicotine inhaling product concerned does not exceed €75,000, or such other amount as may stand specified for the time being by law as that court's jurisdiction in tort, the Circuit Court, and

(c) in any other case, the High Court.

Costs of prosecution

55E. Where a person is convicted of an offence under this Act, the Act of 2015 or the Act of 2023, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Executive, where appropriate, the costs and expenses, measured by the court, reasonably incurred by the Executive in relation to the investigation, detection and prosecution of the offence including costs incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers.".

Amendment of section 56 of Act of 2002

13. Section 56 of the Act of 2002 is amended, in subsection (6), by the substitution of the following paragraph for paragraph (b):

"(b) an offence under section 22, 26, 26A, 29 or 32G of the Act of 2023.".

PART 3

Amendment of Act of 2023

Amendment of section 2 of Act of 2023

14. Section 2 of the Act of 2023 is amended—

(a) by the substitution of the following definition for the definition of "sell":

" 'sell', in relation to a tobacco product, a nicotine inhaling product or a nicotine consumption product, means sell by retail and includes—

(a) offer or expose for sale,

(b) invite the making by a person of an offer to purchase,

(c) distribute free of charge, and

(d) supply for any of these purposes (whether or not for profit);",

and

(b) by the insertion of the following definitions:

" 'herbal product for smoking' has the same meaning as it has in Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014[5] on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC;

'nicotine consumption product' means—

(a) a product for human consumption containing nicotine and which is designed or intended for the intake of nicotine in the human body, or

(b) nicotine pouches,

but shall not include tobacco products, herbal products for smoking, nicotine inhaling products or any device which is designed or intended to be used for the consumption of tobacco products or herbal products for smoking;

'nicotine pouches' means products containing nicotine intended for oral intake which—

(a) are mixed with vegetable fibres or an equivalent substrate,

(b) are presented in sachet portions or porous sachets or in an equivalent format, and

(c) do not contain tobacco;

'unit packet' means the smallest individual packaging of a nicotine inhaling product that is placed on the market;

'vape' means a device that vaporises substances, other than tobacco, for the purpose of inhalation through a mouthpiece (whether or not it is capable also of vaporising tobacco), and which is not a nicotine inhaling product or a nicotine consumption product;

'vaping substance' means a substance, other than tobacco or nicotine, that is intended to be vaporised with a vape;

'vaporises' includes aerosolises.".

Amendment of section 3 of Act of 2023

15. Section 3 of the Act of 2023 is amended by the substitution of the following subsections for subsections (2) and (3):

5 OJ No. L 127, 29.4.2014, p. 1

"(2) This Act does not apply to—

(a) medical devices,

(b) an accessory for a medical device, or

(c) medicinal products.

(3) In this section—

'accessory for a medical device' has the same meaning as it has in Regulation (EU) 2017/745;

'medical device' has the same meaning as it has in Regulation (EU) 2017/745;

'medicinal product' has the same meaning as it has in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001[6] on the Community code relating to medicinal products for human use as amended by Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004[7] amending Directive 2001/83/EC on the Community code relating to medicinal products for human use;

'Regulation (EU) 2017/745' means Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017[8] on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC.".

Remote sale of tobacco products, nicotine inhaling products or nicotine consumption products

16. The Act of 2023 is amended by the substitution of the following section for section 8:

"8. (1) Subject to subsection (2), the sale of a tobacco product, a nicotine inhaling product or a nicotine consumption product is deemed, for the purposes of this Act, to take place at the premises where an agreement is made for the sale of the tobacco product, nicotine inhaling product or nicotine consumption product concerned.

(2) Where—

(a) the premises where the agreement for the sale of the tobacco product, nicotine inhaling product or nicotine consumption product concerned is made is not in the State, and

(b) the premises from which the tobacco product, nicotine inhaling product or nicotine consumption product concerned is despatched are in the State,

6 OJ No. L 311, 28.11.2001, p. 67
7 OJ No. L 136, 30.4.2004, p. 34
8 OJ No. L 117, 5.5.2017, p. 1

the sale is deemed, for the purposes of this Act, to take place at the premises from which the tobacco product, nicotine inhaling product or nicotine consumption product concerned is despatched.".

Signage and display relating to sale of nicotine inhaling products

17. The Act of 2023 is amended by the insertion of the following section after section 26:

"26A.(1) Subject to subsection (7), a licensee shall ensure that nicotine inhaling products sold by him or her are kept in a closed container or dispenser that is not visible or accessible to anyone other than the licensee, or a person employed by him or her in connection with the business of selling goods while so employed.

(2) Subject to subsection (3) and the European Communities (Requirements To Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002), a licensee shall ensure that—

(a) no notice, sign or display shall be displayed, and

(b) no leaflet, circular, pamphlet or brochure shall be issued to the public or given to a purchaser of a product,

at any place, indicating that nicotine inhaling products may be purchased at the premises concerned or from a website (or otherwise online).

(3) Notwithstanding subsection (2), a licensee may display a sign indicating that nicotine inhaling products may be purchased at the premises or from a website (or otherwise online)—

(a) in such a manner and form as may be prescribed,

(b) informing the public that nicotine inhaling products may be sold at those premises to persons who have attained the age of 18 years, and

(c) providing such other information as may be so prescribed.

(4) A licensee may provide such information relating to a nicotine inhaling product sold by him or her to a member of the public intending to purchase a nicotine inhaling product as may be prescribed.

(5) Regulations under subsection (4) may provide that a licensee may—

(a) notwithstanding subsection (2), show the member of the public concerned one unit packet only of each nicotine inhaling product sold by him or her, or a reproduction thereof, or

(b) show the member of the public concerned a pictorial list consisting of visual images of unit packets of the nicotine inhaling products sold by him or her, provided that—

(i) each such image is not greater in size than the size of the unit packet of the product concerned,

(ii) the list does not contain more than one image of the same product, and

(iii) the list or each such image contains such statements of information, including warnings in relation to harms to health, in such form and of such type, as may be prescribed.

(6) A person who contravenes subsection (2), or a regulation under subsection (3) or (4), commits an offence.

(7) This section shall not apply to a premises or a website (or otherwise online) which wholly comprises the sale of nicotine inhaling products or mainly comprises the sale of nicotine inhaling products, provided that the only other products sold at that premises or from that website (or otherwise online) are—

(a) nicotine consumption products,

(b) vapes,

(c) vaping substances, or

(d) accessories related to the functioning or maintenance of nicotine inhaling products or vapes.".

Prohibition on sale of nicotine consumption product to child

18. The Act of 2023 is amended by the insertion of the following section after section 28A:

"28B.(1) A person shall not sell by retail, or cause to be sold by retail, a nicotine consumption product to a child.

(2) A person who contravenes subsection (1) commits an offence.

(3) In proceedings against a person for an offence under subsection (2), it shall be a defence for such person to prove that the child to whom the alleged offence relates produced to him or her—

(a) an age card,

(b) a passport, or

(c) a driving licence,

for the time being in force, relating to that child.".

Amendment of section 30 of Act of 2023

19. Section 30 of the Act of 2023 is amended, in subsection (3), by the substitution of the following definition for the definition of "advertise":

" 'advertise' means to advertise by the display of posters, billboards, hoardings, placards or other signage whether intended to be permanent or temporary but, subject to section 30A, does not include an advertisement on or attached to a premises where nicotine inhaling products are manufactured or sold by wholesale or retail;".

Prohibition on advertising of nicotine inhaling products and nicotine consumption products in retail premises or from website

20. The Act of 2023 is amended by the insertion of the following section after section 30:

"30A.(1) Notwithstanding Regulation 31 of the Regulations of 2016, a person shall not advertise, or cause the advertisement of, a nicotine inhaling product or a nicotine consumption product in or at a premises or from a website (or otherwise online) which sells by retail nicotine inhaling products or nicotine consumption products.

(2) A person who contravenes subsection (1) commits an offence.

(3) In this section, 'advertise' in relation to a nicotine inhaling product or a nicotine consumption product includes, the display of posters, digital screens, banners, billboards, hoardings, placards or other signage (including where provided online) whether intended to be permanent or temporary with the aim or direct or indirect effect of promoting nicotine inhaling products or nicotine consumption products, but does not include—

(a) signage displaying the business name of the retail premises or a sign referred to in section 26A(3) or 32G(3),

(b) providing factual information on—

(i) nicotine inhaling products in accordance with section 26A(4), or

(ii) nicotine consumption products in accordance with section 32G(4),

or

(c) in the case of retail premises or a website (or otherwise online) to which section 26A or 32G does not apply, providing factual information regarding the products themselves, prices and price promotions or factual signposting to products within the premises or website (or otherwise online).".

Amendment of Act of 2023

21. The Act of 2023 is amended by the insertion of the following Parts after Part 3:

"PART 3A

APPEARANCE, PACKAGING AND FLAVOUR NAMES OF NICOTINE INHALING PRODUCTS

Interpretation (Part 3A)

32A. (1) In this Part—

'Act of 1996' means the Trade Marks Act 1996;

'affixed item' means anything affixed or otherwise attached to the retail packaging of a nicotine inhaling product or the lining of a unit packet of a nicotine inhaling product other than items affixed or attached as required by law;

'flavour name', in relation to a nicotine inhaling product, means the name used to describe the smell or taste of the nicotine inhaling product;

'outer surface', in relation to a nicotine inhaling product, means the outermost visible surface of the nicotine inhaling product, whether it forms part of the component or device or is an adhesive skin applied to the component or device;

'retail packaging', in relation to a nicotine inhaling product, means the outside packaging of the nicotine inhaling product, any lining or inner packaging contained therein and any wrapper that covers such outside packaging;

'trade mark' has the same meaning as it has in the Act of 1996;

'variant name', in relation to a nicotine inhaling product, means the name used to distinguish that nicotine inhaling product from other nicotine inhaling products of the same brand name.

Restriction of Part and transitional provision

32B. (1) Nothing in this Part shall operate to—

(a) prohibit the registration of a trade mark under the Act of 1996, or

(b) be grounds for the revocation of the registration of a trade mark under that Act.

(2) This Part shall not apply to the retail sale of nicotine inhaling products until the expiration of the period of one year after the date on which *section 21* of the *Public Health (Tobacco Products and Nicotine Inhaling Products) (Amendment) Act 2026* comes into operation.

Appearance of nicotine inhaling product

32C. (1) The outer surface of a nicotine inhaling product device or component of such device intended for sale by retail in the State, as the case may be, shall comply with the following requirements:

(a) it shall be a prescribed colour, except for visible components where colour cannot be added for reasons of function or safety;

(b) it shall not contain any imagery such as cartoons or graphics, except illustrated safety or usage instructions;

(c) where any text, safety or usage instructions or a trade mark is visible, such text, safety or usage instructions or trade mark shall be a prescribed colour;

(d) where part or all of that outer surface is transparent, any visible inner components shall comply with paragraphs (a) to (c) and any visible liquid shall comply with section 32D(1)(f).

(2) A nicotine inhaling product shall not—

(a) depict, resemble, or function as a toy or any other product that is not a nicotine inhaling product, or

(b) have functionality beyond that which is necessary to operate as a nicotine inhaling product.

(3) A person who sells by retail a nicotine inhaling product which contravenes subsection (1) or (2) commits an offence.

Appearance of refill container

32D. (1) Subject to Regulation 29 of the Regulations of 2016 and subsection (3), a refill container intended for sale by retail in the State shall comply with the following requirements:

(a) it shall be a prescribed colour;

(b) the cap of the container shall be a prescribed colour;

(c) the label of the container shall be a prescribed colour;

(d) the surface or label of the refill container shall not contain any imagery such as cartoons or graphics, except illustrated safety or usage instructions;

(e) where any text, safety or usage instructions or a trade mark is visible, such text, safety or usage instructions or trade mark shall be a prescribed colour;

(f) any liquid contained in the refill container shall be a prescribed colour.

(2) A barcode or other identification mark or code may be printed once on a refill container and, if so printed, shall be printed in a prescribed colour.

(3) Subsection (1) shall not apply to any warnings or identification marks (including health warnings) provided for by law.

(4) A person who sells by retail a refill container which contravenes subsection (1) or (2) commits an offence.

(5) For the purposes of this section, 'refill container' has the same meaning as it has in Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014[9] on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

Retail packaging of nicotine inhaling product

32E. (1) Subject to Regulation 29 of the Regulations of 2016 and subsection (6), a unit packet of a nicotine inhaling product intended for sale by retail in the State shall comply with the following requirements:

(a) the outer surface thereof shall be a prescribed colour;

(b) the inner surface thereof shall be a prescribed colour;

(c) it shall not bear any decorative ridges, embossing or other embellishments;

(d) it shall not contain an adhesive that is coloured or non-transparent;

(e) it shall not contain any imagery such as cartoons or graphics, other than—

(i) a single realistic depiction of the nicotine inhaling product, which depiction complies with the requirements of sections 32C and 32D, or

(ii) any illustrated safety or usage instructions;

(f) where any text, safety or usage instructions or a trade mark is visible, such text, safety or usage instructions or trade mark shall be a prescribed colour;

(g) it shall not contain any affixed item or any item other than the nicotine inhaling product itself and any inner packaging other than as provided for by law.

(2) A barcode or other identification mark or code may be printed once on a unit packet and, if so printed, shall be printed in a prescribed colour.

9 OJ No. L 127, 29.4.2014, p. 1

(3) Subsections (1) and (2) shall apply with all necessary modifications to any other form of outside packaging of nicotine inhaling products.

(4) A wrapper that covers a unit packet or any other form of outside packaging for a nicotine inhaling product shall comply with the following requirements:

(a) it shall be transparent and not be coloured;

(b) it shall not bear any decorative ridges, embossing or other embellishments;

(c) where a tear strip is included, such tear strip shall be a prescribed colour;

(d) it shall not have any affixed item other than as provided for by law.

(5) Where a unit packet of a nicotine inhaling product contains a lining or inner packaging, such lining or inner packaging shall be of such colour and material as may be prescribed.

(6) Subsection (1) shall not apply to any warnings or identification marks (including health warnings) provided for by law.

(7) A person who sells by retail a nicotine inhaling product which contravenes subsection (1), (2), (4) or (5) commits an offence.

Flavour names of nicotine inhaling products

32F. (1) Subject to subsection (2), a person shall not sell by retail a nicotine inhaling product with a flavour name.

(2) Subsection (1) shall not apply to the sale by retail of a nicotine inhaling product with a flavour name specified in the Schedule.

(3) Subject to subsection (4), the Minister may, by regulation, add flavour names to the flavour names specified in the Schedule or remove flavour names specified in the Schedule.

(4) When making regulations under subsection (3), the Minister shall, having regard to public health and to the objectives of reducing harm from tobacco products and nicotine inhaling products and prioritising the protection of health of children, take the following matters into account:

(a) the need to limit flavour names that may disproportionately appeal to children;

(b) evidence relating to flavours for nicotine inhaling products and smoking cessation, initiation and continuation of nicotine inhaling product use, or harm to health relating to nicotine inhaling products;

(c) the prevalence of smoking of tobacco and use of nicotine inhaling products in both children and adults, and the demographics of children and adults who smoke tobacco or use nicotine inhaling products;

(d) evidence of the effectiveness, and other impacts, of the restrictions concerning flavour names for nicotine inhaling products contained in this Act.

(5) A person shall not sell by retail a nicotine inhaling product with a variant name which implies that such product has—

(a) a particular sensory characteristic, or otherwise contains references to temperatures, textures or oral sensations, or

(b) a flavour other than that described in the flavour name.

(6) A person who contravenes subsection (1) or (5) commits an offence.

PART 3B

Nicotine Consumption Products

Signage and display relating to sale of nicotine consumption products

32G. (1) Subject to subsection (7), a person shall ensure that nicotine consumption products sold by him or her are kept in a closed container or dispenser that is not visible or accessible to anyone other than the person or any person employed by him or her in connection with the business of selling goods while so employed.

(2) Subject to subsection (3) and the European Communities (Requirements To Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002), a person shall ensure that—

(a) no notice, sign or display shall be displayed, and

(b) no leaflet, circular, pamphlet or brochure shall be issued to the public or given to a purchaser of a product,

at any place, indicating that nicotine consumption products may be purchased at the premises concerned or from a website (or otherwise online).

(3) Notwithstanding subsection (2), a person may display a sign indicating that nicotine consumption products may be purchased at the premises or from a website (or otherwise online)—

(a) in such a manner and form as may be prescribed,

(b) informing the public that nicotine consumption products may be sold at those premises to persons who have attained the age of 18 years, and

(c) providing such other information as may be so prescribed.

(4) A person may provide such information relating to a nicotine consumption product sold by him or her to a member of the public intending to purchase a nicotine consumption product as may be prescribed.

(5) Regulations under subsection (4) may provide that a person may—

(a) notwithstanding subsection (2), show the member of the public concerned one unit packet only of each nicotine consumption product sold by him or her, or a reproduction thereof, or

(b) show the member of the public concerned a pictorial list consisting of visual images of unit packets of the nicotine consumption products sold by him or her, provided that—

(i) each such image is not greater in size than the size of the unit packet of the product concerned,

(ii) the list does not contain more than one image of the same product, and

(iii) the list or each such image contains such statements of information, including warnings in relation to harms to health, in such form and of such type, as may be prescribed.

(6) A person who contravenes subsection (2), or a regulation under subsection (3) or (4), commits an offence.

(7) This section shall not apply to a premises or website (or otherwise online) which wholly comprises the sale of nicotine consumption products or mainly comprises the sale of nicotine consumption products, provided that the only other products sold at that premises or from that website (or otherwise online) are—

(a) nicotine inhaling products,

(b) vapes,

(c) vaping substances, or

(d) accessories related to the functioning or maintenance of nicotine inhaling products or vapes.".

Amendment of section 33 of Act of 2023

22. (1) Section 33 of the Act of 2023 is amended—

(a) in subsection (1), by the substitution of "premises at which tobacco products, nicotine inhaling products or nicotine consumption products are for sale by retail for the purpose of the person purchasing tobacco products, nicotine inhaling products or nicotine consumption products on those premises" for "premises at

which tobacco products or nicotine inhaling products are for sale by retail for the purpose of the person purchasing tobacco products or nicotine inhaling products on those premises", and

(b) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (a):

"(a) prohibiting any active instigation of a contravention of section 28, 28A or 28B such as a false representation, whether made orally or by means of the production of any document, that a person is—

(i) in the case of section 28 or 28B, over the age of 18 years, and

(ii) in the case of section 28A, over the age of 21 years, and",

and

(ii) in paragraph (b)(iii), by the substitution of "section 28, 28A or 28B" for "section 28".

(2) The amendment effected by *subsection (1)(b)*, insofar as it relates to section 28A of the Act of 2023 (inserted by section 6 of the Act of 2024), shall come into operation on 1 February 2028.

Amendment of section 34 of Act of 2023

23. Section 34 of the Act of 2023 is amended—

(a) in subsection (2)(a), by the substitution of "maintained by the licensee or person through which the tobacco products, nicotine inhaling products or nicotine consumption products are sold" for "maintained by the licensee through which the tobacco products or nicotine inhaling products are sold", and

(b) by the substitution of "tobacco and nicotine products non-compliance list" for "tobacco products and nicotine inhaling products non-compliance list" in each place that it occurs.

Amendment of section 35 of Act of 2023

24. (1) Section 35 of the Act of 2023 is amended—

(a) in subsection (1), by the substitution of "section 11(9), 25, 27(3), 28(2), 28A, 28B, 30A, 32C, 32D, 32E or 32F" for "section 11(9), 25, 27(3) or 28(2)", and

(b) in subsection (2), by the substitution of "section 22(3), 24(2), 26(3), 26A, 29(2), 30(2), 31, 32 or 32G" for "section 22(3), 24(2), 26(3), 29(2), 30(2), 31 or 32".

(2) The amendment effected by *subsection (1)(a)*, insofar as it relates to section 28A of the Act of 2023 (inserted by section 6 of the Act of 2024), shall come into operation on 1 February 2028.

Amendment of section 38 of Act of 2023

25. Section 38 of the Act of 2023 is amended—

(a) by the substitution of the following subsection for subsection (5):

"(5) In proceedings for an offence under this Act, a tobacco product, a nicotine inhaling product or a nicotine consumption product that purports to bear the name of the manufacturer or importer of that product, shall, unless the contrary is proved, be evidence that the tobacco product, nicotine inhaling product or nicotine consumption product was manufactured or imported, as the case may be, by the person concerned.",

and

(b) in subsection (6), by the substitution of "a tobacco product, a nicotine inhaling product or a nicotine consumption product" for "a tobacco product or a nicotine inhaling product".

Amendment of section 39 of Act of 2023

26. (1) Section 39 of the Act of 2023 is amended, in subsection (5), in the definition of "category A offence", by the substitution of the following paragraph for paragraph (a):

"(a) section 11(9), 25, 26(3), 26A, 28(2), 28A, 30A, 32C, 32D, 32E or 32F,".

(2) The amendment effected by *subsection (1)*, insofar as it relates to section 28A of the Act of 2023 (inserted by section 6 of the Act of 2024), shall come into operation on 1 February 2028.

Insertion of Schedule to Act of 2023

27. The Act of 2023 is amended by the insertion of the Schedule to this Act as the Schedule to that Act.

PART 4

MISCELLANEOUS AMENDMENTS

Amendment of section 7 of Act of 2024

28. (1) Section 7 of the Act of 2024 is amended by the substitution of the following paragraph for paragraph (a):

"(a) by the substitution of the following subsection for subsection (1):

'(1) An authorised officer may, in the course of his or her duty as such officer and in accordance with guidelines issued under subsection (2), send a person who is at least 15 years of age but under 18 years of age into a premises at which nicotine inhaling

products or nicotine consumption products are for sale by retail for the purpose of the person purchasing nicotine inhaling products or nicotine consumption products on those premises if, but only if—

(a) the parent or guardian of the person has consented in writing to him or her being sent into those premises for that purpose, and

(b) the authorised officer is satisfied that all reasonable steps have been or will be taken to avoid harm to the welfare of the person.' ".

(2) The amendment effected by *subsection (1)* shall come into operation on 1 February 2028.

Amendment of European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016

29. Regulation 42 of the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 (S.I. No. 271 of 2016) is amended—

(a) in paragraph (2)(d)—

(i) in clause (iii), by the substitution of "time limit," for "time limit, or", and

(ii) by the substitution of the following clauses for clause (iv):

"(iv) is to be destroyed or otherwise disposed of within a specified time-limit and in a manner prescribed by the authorised officer, or

(v) is detained and to be provided to the authorised officer for the purposes of disposal by the authorised officer.",

and

(b) by the insertion of the following paragraphs after paragraph (10):

"(11) In the case of any steps taken under paragraphs (2)(d) or (6), the costs of storage, seizure and disposal may be charged to the person on whom the prohibition notice has been served, the manager of the premises or place where the relevant product was found, or the person having lawful possession of the product at the time of seizure or destruction, where known.

(12) In this Regulation, 'disposal' includes any manner of disposal which in the opinion of the authorised officer will least endanger the public, and includes—

(a) the surrender of the relevant product to any competent agency or organisation for its disposal, or

(b) the certified return of the relevant product to the person who manufactured, imported, distributed or supplied the relevant product, in order to remove it from the market, at the expense of the person on whom the notice was served, or the manager of the premises or place where the relevant product was found, or person having lawful possession of the product at the time of seizure, where known.".

SCHEDULE

Section 27

"SCHEDULE

Flavour names for nicotine inhaling products

Flavour Name in the English Language	**Flavour Name in the Irish Language**
Tobacco	*Tobac*
Unflavoured	*Gan Bhlas*

".