

## **Relevant E – cigarette legislation**

A person who sells a vape to someone under 18 commits an offence. This is a strict liability offence; the owner of the business can be held responsible as well as the member of staff who made the sale.

There is an exception for vapes that are licensed as medicines or medical devices. This exemption only applies to the extent to which the product is authorised.

If a business is convicted of selling vapes to persons under 18, and at least two other offences occurred in the preceding two years relating to the same premises, trading standards can make an application to a Magistrates' Court for a restricted premises order and/or a restricted sales order.

A restricted premises order prohibits the sale from the premises of any tobacco, cigarette papers or vapes to any person, by the business owner or any staff for a period of up to one year.

A restricted sales order prohibits a specified person who has been convicted of a tobacco or nicotine offence from selling any tobacco, cigarette papers or vapes to any person and from having any management function related to the sale of tobacco, cigarette papers or vapes for a period of up to one year.

Offences are committed if a person sells tobacco, cigarette papers or vapes when a restricted premises order is in place or if a person fails to comply with a restricted sales order.

An adult who buys or attempts to buy tobacco, cigarette papers or vapes on behalf of someone under 18 commits an offence. This is called 'proxy purchasing'. It is the buyer and not the trader who commits an offence under these circumstances.

The Tobacco and Related Products Regulations 2016 deal with the manufacture, presentation and sale of tobacco and related products, including herbal products for smoking, vapes and refill containers, as well as smokeless and novel tobacco products.

The Tobacco and Related Products Regulations 2016 set out rules covering vapes. No one must produce or supply a vape or refill container unless they meet the following requirements:

- nicotine-containing liquid for retail sale must be in a dedicated refill container in a maximum volume of 10 ml; in a disposable vape, single-use cartridge or a tank the maximum volume is 2 ml
- the capacity of the tank of a refillable vape must not be more than 2 ml
- there is a nicotine limit of 20 mg per ml that applies to nicotine-containing liquids in an vape or refill container

Disposable vapes sometimes display a typical number of puffs on the packaging. Typically, a disposable vape would provide 600 puffs or the equivalent of 20 cigarettes.

Nicotine-containing liquid must:

- be manufactured using only ingredients of high purity
- not contain certain additives (see the '**No vitamins, colourings or prohibited additives in tobacco products**' section of this guide) but can contain flavours
- not contain substances other than the ingredients that were part of the formal notification process laid down in the Regulations
- not include ingredients (except nicotine) that pose a risk to human health

In normal use the vape must deliver a consistent dose of nicotine.

A vape or refill container must be child-resistant and tamper-evident, protect against breakage and leakage and have a mechanism to ensure that refilling can take place without leakage (this does not apply to disposable vapes).

## Information and labelling

No one may produce or supply a vape or refill container unless it meets the requirements set out below:

- each unit packet of the vape or refill container must include a leaflet with the following information:
  - instructions for storage and use, including a reference that the product is not recommended for use by young people and non-smokers
  - contra-indications
  - warnings for specific risk groups of people
  - possible adverse effects
  - addictiveness and toxicity
  - the producer's contact details
- each unit packet of the vape or refill container must include:
  - a list of all ingredients in descending order by weight
  - nicotine content and delivery per dose
  - batch number
  - recommendations to keep the product out of reach of children
- each unit packet and any container pack must carry the health warning 'This product contains nicotine which is a highly addictive substance'. It must appear on the front and back surfaces and cover 30% of that area.

## Product presentation

A vape or refill container must meet the following requirements before it is produced or supplied. The unit packet and any container pack may not include any element or feature (including text, symbols, names, trademarks, figurative or other types of sign) which:

- promotes or encourages consumption by creating a false impression about its characteristics, health effects, risks or emissions
- suggests it is less harmful than other vapes or refill containers, has vitalising, energising, healing, rejuvenating, natural or organic properties or has other lifestyle benefits
- refers to taste, smell or other additives (except flavourings) or their absence
- suggests that a particular vape or refill container has improved biodegradability or other environmental advantage
- must not contain printed vouchers, offer discounts, free distribution, two-for-one or other similar offers



## Advertising

Vapes and refill containers cannot be advertised or promoted, directly or indirectly:

- on TV or on-demand TV
- on radio
- through internet advertising, commercial email and any other information society services
- in certain printed publications, such as newspapers, magazines and periodicals

The following activities are also prohibited:

- sponsorship of television and radio programmes that promote vapes
- product placement of vapes

The rules on advertising do not prevent you from supplying information about vapes and refill containers as long as it is supplied at the request of a consumer and given in a non-promotional manner. Nicotine-containing vapes and refill containers.

All producers of nicotine-containing vapes and refill containers must submit information about their products to the Medicines and Healthcare Regulatory Agency (MHRA), using a GB portal. This includes ingredients and emissions information, toxicology data, information on the nicotine dose and uptake when used normally and a description of the components of the product. Producers must also notify of the withdrawal of a product from the market.

Retailers should ensure, before they purchase these products, that they have been properly notified and not subsequently withdrawn. They can do this by checking the [list of submitted vape products](#) on the MHRA website or, if they cannot find them on the list, they should ask their supplier to confirm they comply with the requirements of the regulations and have been notified to MHRA. Products that have not been notified or have been withdrawn cannot be supplied and may be seized by trading standards.

