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**An Bille Sláinte Poiblí (Táirgí Tobac agus Táirgí  
Ionanálaithe Nicitín) (Leasú), 2026**  
**Public Health (Tobacco Products and Nicotine Inhaling  
Products) (Amendment) Bill 2026**

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*Meabhrán Míniúcháin*  
*Explanatory Memorandum*

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**AN BILLE SLÁINTE POIBLÍ (TÁIRGÍ TOBAC AGUS TÁIRGÍ  
IONANÁLAI THE NICITÍN) (LEASÚ), 2026**  
**PUBLIC HEALTH (TOBACCO PRODUCTS AND NICOTINE  
INHALING PRODUCTS) (AMENDMENT) BILL 2026**

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**EXPLANATORY MEMORANDUM**

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**Purpose of Bill**

The main purpose of the Bill is to amend the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023 to:

- Regulate the packaging and appearance of nicotine inhaling products and refill containers of such products;
- Provide for the prohibition on the sale of nicotine consumption products to a child;
- Provide for certain restrictions in relation to the signage, display and advertising of nicotine inhaling products and nicotine consumption products;
- Provide that the Minister for Health may, by order, regulate the flavour names of nicotine inhaling products.

The Bill also amends the Public Health (Tobacco) Act 2002 to provide for enforcement powers for the above provisions, update certain penalties and enforcement powers, and provide enforcement powers for products which are legally compliant but present a serious risk to health.

The draft Bill consists of four parts, twenty-nine sections and a schedule.

**Provisions of Bill**

**PART 1**

**PRELIMINARY AND GENERAL**

***Section 1 – (Short title, collective citation and commencement)***

This section provides for the short title, collective citation and commencement.

***Section 2 – (Interpretation)***

This section provides for the definition of relevant terms.

***Section 3 – (Expenses)***

This section provides for expenses.

***Section 4 – (Repeals)***

This section provides for the repeal of certain sections of the Act of 2024, which have been replaced in this Act.

**Section 5 – (Review of operation of Act)**

This section provides for a review of the operation of the amendments of the Act of 2023 effected by this Act.

**PART 2**

**AMENDMENT OF ACT OF 2002**

**Section 6 – (Amendment of section 2 of Act of 2002)**

This section provides for the amendment of section 2 of the Act of 2002 to include the definitions relevant to the subsequent amendments made by this Act.

**Section 7 – (Amendment of section 5 of Act of 2002)**

This section provides for the amendment of section 5 of the Act of 2002 regarding penalties, to include the new offences created by this Act and to update and align the penalties with the 2023 Act.

**Section 8 – (Amendment of section 48 of Act of 2002)**

This section provides for the amendment of section 48 of the Act of 2002 to include nicotine consumption products in the existing powers of authorised officers under the Act of 2002.

It also inserts subsections (4B) and (4C) to provide powers to ascertain details of the supply chain, market information and website ownership in relation to products under the 2002 Act, to align with the existing powers for tobacco and related products under the EU Market Surveillance Regulations.

**Section 9 – (Amendment of section 50 of Act of 2002)**

This section provides for the amendment of section 50 of the Act of 2002 to include nicotine consumption products in the protocols for taking of samples by authorised officers.

**Section 10 – (Amendment of section 54 of Act of 2002)**

This section provides for the amendment of section 54 of the Act of 2002 to include a compliance notice for relevant offences.

**Section 11 – (Amendment of section 55 of Act of 2002)**

This section provides for the amendment of section 55 of the Act of 2002 to include nicotine consumption products in the prohibition notice provisions, and to provide for prohibition notices for relevant new offences under the Act of 2023.

*Section 11(d)* amends section 55 of the Act of 2002 to provide that the costs of storage, seizure and disposal under Section 55 may be charged to the person on whom the prohibition notice has been served, the manager of the premises or place where the products were found, or the person having lawful possession of the product at the time of seizure where known.

**Section 12 – (Amendment of Act of 2002)**

This section provides for the insertion of several sections to the Act of 2002, giving the Executive powers to take enforcement action on tobacco and nicotine inhaling products which are compliant with domestic and EU tobacco control law but are deemed to present a serious risk to health, as defined by the General Product Safety Regulations.

Section 55A provides for a prohibition notice for serious risk;

Section 55B provides for the seizure and destruction or disposal of products and nicotine inhaling products presenting serious risk;

Section 55C provides for a notice for removal of online content to eliminate serious risk;

Section 55D provides for the right of appeal against measures under sections 55B and 55C.

*Section 12* also inserts section 55E to the Act of 2023 to provide for an update to the costs of prosecution under the Public Health (Tobacco) Acts to include samples, tests, examinations and analyses and other expenses of employees, consultants and advisers.

***Section 13 – (Amendment of Section 56 of Act of 2002)***

This section provides for the amendment of Section 56 to include Fixed Payment Notices for offences under section 26A (signage and display of nicotine inhaling products) and section 32G (signage and display of nicotine consumption products) of the Act of 2023.

**PART 3**

**AMENDMENT OF ACT OF 2023**

***Section 14 – (Amendment of Section 2 of the Act of 2023)***

This section provides for the amendment of Section 2 of the Act of 2023 to insert the relevant definitions regarding the subsequent amendments in Sections 15 – 25.

***Section 15 – (Amendment of section 3 of Act of 2023)***

This section provides for the amendment of Section 3 of the Act of 2023 to update the definition of medical devices and medicinal products and exclude accessories for a medical device from the application of the Act of 2023.

***Section 16 – (Remote sale of tobacco products, nicotine inhaling products or nicotine consumption products)***

This section provides for the substitution of Section 8 of the Act of 2023 to add nicotine consumption products to the existing remote sale provisions.

***Section 17 – (Signage and display relating to sale of nicotine inhaling products)***

This section provides for the insertion of section 26A to the Act of 2023, which creates the requirement for a licensee to keep nicotine inhaling products in a closed container or dispenser, and other requirements regarding signage and information that can be provided to customers regarding nicotine inhaling products. Section 26A(7) provides that this section does not apply to certain premises or websites which meet the criteria set out in subsections 7(a) to (d).

***Section 18 – (Prohibition on sale of nicotine consumption product to child)***

This section provides for the insertion of section 28B to the Act of 2023, to provide for the offence of selling nicotine consumption products to a child.

***Section 19 – (Amendment of section 30 of Act of 2023)***

This section provides for the amendment of section 30 of the Act of 2023 to account for the new advertising restrictions under section 30A.

***Section 20 – (Prohibition on advertising of nicotine inhaling products and nicotine consumption products in retail premises or from website)***

This section provides for the insertion of Section 30A to the Act of 2023, to prohibit the advertising of nicotine inhaling products and nicotine consumption products in retail premises or from a website.

***Section 21 – (Amendment of Act of 2023)***

This section provides for the insertion of Part 3A and 3B to the Act of 2023.

Part 3A comprises:

Section 32A, which provides for the necessary definitions for this Part;

Section 32B, which provides for the restriction of the Part regarding trademarks under the Trade Marks Act 1996, and a transitional period of one year from commencement for the provisions in Part 3A to take effect;

Section 32C, which provides for the regulation of the appearance of a nicotine inhaling product or component of such device;

Section 32D, which provides for the regulation of the appearance of the refill container and any liquid contained in the refill container;

Section 32E, which provides for the regulation of the retail packaging of nicotine inhaling products;

Section 32F, which provides for the prohibition on the sale of nicotine inhaling products with flavour names other than those contained in the Schedule, with Ministerial powers to amend the list of flavour names in the Schedule via Regulation.

Part 3B comprises:

Section 32G, which creates the requirement for a person to keep nicotine consumption products in a closed container or dispenser, and other requirements regarding signage and information that can be provided to customers regarding nicotine consumption products. Section 32G(7) provides that this section does not apply to certain premises or websites which meet the criteria set out in subsections 7(a) to (d).

***Section 22 – (Amendment of section 33 of Act of 2023)***

This section provides for the amendment of section 33 of the Act of 2023 to include nicotine consumption products in the existing test purchasing provisions.

***Section 23 – (Amendment of section 34 of Act of 2023)***

This section provides for the amendment of section 34 of the Act of 2023 to include nicotine consumption product-related offences in the non-compliance list which may be published by the Executive.

***Section 24 – (Amendment of section 35 of Act)***

This section provides for the amendment of section 35 to create penalties for the new offences.

***Section 25 – (Amendment of section 38 of Act of 2023)***

This section provides for the amendment of section 38 of the Act of 2023 to include nicotine consumption products to the provisions regarding evidence in court proceedings.

**Section 26 – (Amendment of section 39 of Act of 2023)**

This section provides for the amendment of section 39 of the Act of 2023 to include offences under sections 26A, 30A, 32C, 32D, 32E or 32F to the offences for the purposes of suspension of a licence under the 2023 Act.

**Section 27 – (Insertion of Schedule to Act of 2023)**

This section provides for the insertion of the Schedule of this Act as the Schedule to the Act of 2023.

**PART 4**

**MISCELLANEOUS AMENDMENTS**

**Section 28 – (Amendment of section 7 of Act of 2024)**

This section provides for the amendment of section 7 of the Act of 2024 to create the necessary amendment of Section 33 of the 2023 Act, which will take effect when the minimum age of sale of 21 for tobacco comes into force in 2028.

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

This section provides for the amendment of the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 to align the prohibition notice in that legislation with the prohibition notice in the Act of 2002.

*An Roinn Sláinte,*

*Aibreán, 2026.*

