

Submission form: Proposals for the Smoked Tobacco Regulatory Regime

Your details

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Additional information

These questions are optional. We are only asking for your age and ethnicity to help us analysis submissions.

My age is:

- Under 18
- 18 – 34
- 35 – 44
- 45 – 54
- 55 – 64
- 65 +
- Not applicable (eg, I am submitting on behalf of an organisation or group)

The ethnicity/ethnicities I identify with are:

- New Zealand European / Pākehā
- Māori
- Pacific Peoples
- Asian
- Other European
- Other ethnicity
- Prefer not to say/ not applicable (eg, I am submitting on behalf of an organisation or group)

Please provide details of any Iwi you might affiliate to below.

[Click or tap here to enter text.](#)

I am, or I represent, the following category or categories: *(tick all that apply)*

- Personal submission
- Healthcare provider (eg, primary care provider, stop smoking provider)
- Community or advocacy organisation
- Professional organisation
- Iwi/Hapū affiliated, and/or Māori organisation
- Tobacco manufacturer, importer or distributor
- Pacific community organisation
- Vaping or smokeless tobacco product retailer, distributor or manufacturer
- Government organisation (eg, local council)
- Small retailer (eg, dairy or convenience store)
- Research or academic organisation
- Medium or large retailer (eg supermarket chain or large petrol station)
- Other *(please specify)*:
NZ Charity

Privacy

We intend to publish the submissions from this consultation, but **we will only publish your submission if you give permission**. We will remove personal details such as contact details and the names of individuals.

If you do not want your submission published on the Ministry's website, please tick this box:

- Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act (even if it hasn't been published). If you want your personal details removed from your submission, please tick this box:

- Remove my personal details from responses to Official Information Act requests.

Commercial interests

Do you have any commercial interests?

- I have a commercial interest in smoked tobacco products
- I have a commercial interest in other regulated products (vaping products, and other notifiable products)
- I have commercial interests in both smoked tobacco and other regulated products (vaping products, other notifiable products)
- I do not have any commercial interests in tobacco or vaping products

Commercially sensitive information

We will redact commercially sensitive information before publishing submissions or releasing them under the Official Information Act.

If your submission contains commercially sensitive information, please tick this box:

- This submission contains commercially sensitive information.

If so, please let us know where.

Click or tap here to enter text.

Protection from commercial and other vested interests of the tobacco industry

New Zealand has an obligation under Article 5.3 of the World Health Organisation Framework Convention on Tobacco Control (FCTC) when 'setting and implementing public health policies with respect to tobacco control ... to protect these policies from the commercial and other vested interests of the tobacco industry'.

The internationally agreed Guidelines for Implementation of Article 5.3 recommend that parties to the treaty 'should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products'.

The proposals in this discussion document are relevant to the tobacco industry and we expect to receive feedback from companies in this industry. We will consider all feedback when analysing submissions.

To help us meet our obligations under the FCTC and ensure transparency, all respondents are asked to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

Please provide details of any tobacco company links or vested interests below.

Click or tap here to enter text.

Please return this form:

By email to: smokefree2025@health.govt.nz

By post to: Smokefree Consultation, PO Box 5013, Wellington 6140.

Consultation questions

The Ministry of Health is seeking comments on the following.

Regulatory proposal 1a: Number of smoked tobacco retail premises and their distribution across Aotearoa

This section focusses on how stores that sell tobacco products will be spread across the country. In this section you can tell us if there's anything you think we should know about how areas should be defined, how many stores should be in each area, and anything important about your area.

This proposal relates to the written notice under section 20M of the Act to set a maximum number of retail premises in areas of New Zealand. Currently there are around 6,000 retailers of smoked tobacco products in Aotearoa. The recent changes to the Act mean that no more than 600 approved retail premises will be permitted to sell smoked tobacco products across the country. We propose that New Zealand be divided into areas based on whether they are urban or rural.

We have suggested an example scenario for smoked tobacco retail premises summarised by region. It is likely that the final distribution will need to be adjusted to take into account feedback from consultation, so this is a starting point for discussion only.

1. Do you agree with dividing Aotearoa into areas and having a separate maximum number of smoked tobacco retail premises for each one?

Yes

No

2. Do you agree with the concept that urban and rural areas should be treated differently?

Yes

No

If you have any comments on how we have defined rural and urban, or how the geographic nature of the area required by the Act should be taken into account, write them here.

However we need to be conscious that we are not overlooking the proliferation of SVRs to replace smoked tobacco outlets. Already we see dense distribution of vape stores in rural small towns, so capping the number of SVRs should also apply.

3. Do you agree with our suggested allocation scenario, as described in Table 1 of the consultation document and the supplementary maps we have produced?

Yes

No

If not, how else could you determine the maximum number of retail premises for each area, bearing in mind the Act allows for a maximum of 600 retail premises?

Click or tap here to enter text.

4. We are interested in understanding the needs of different areas of Aotearoa. What is your area?

Northland (Te Tai Tokerau)

Auckland (Tāmaki Makaurau)

Waikato

Bay of Plenty (Te Moana a Toi-te-Huatahi)

Tairāwhiti/Hawkes Bay (Te Matau-a-Māui)

Taranaki

Other/I am not in New Zealand

(please specify):

ARFNZ is a national organisation.

Manawatū/Whanganui

Wairarapa/Wellington (Te Whanganui-a-Tara)

Nelson/Marlborough (Whakatū/Te Taihu-o-te-waka)

Tasman/West Coast (Te Tai o Aorere/Te Tai Poutini)

Canterbury/Chatham Islands (Waitaha/Wharekauri/Rēkohu)

Otago/Southland (Ōtākou/Murihiku)

Regulatory proposal 1b: Minimum requirements for approval as a smoked tobacco retailer

This section focusses on minimum requirements for selling smoked tobacco products. In this section you can tell us about who should be allowed to sell and what type of systems you think they should have.

This proposal relates to key criteria under 20I and regulation making powers under 82A of the Act to require the retailer to meet certain criteria before they can be approved.

The Director-General of Health must be satisfied that retail premises are run by people who are 'fit and proper'. Further requirements that need to be met can be set in regulations for security, training, delivery, other business systems, and other relevant criteria. We have proposed some requirements which are intended to ensure that the retail scheme works as intended.

1. Do you agree with the proposed requirements for a 'fit and proper' person in Appendix 2 of the consultation document?

- Yes
 No

If you have any comments on the proposed requirements for a 'fit and proper person, please write them here.

Click or tap here to enter text.

2. Do you agree with the minimum requirements we have proposed for security systems, **training**, sales systems, delivery systems and other business systems?

- Yes
 No

Do you have any other suggestions?

We also suggest the following: If vaping products are being marketed by the MoH and sold by suppliers as smoking cessation products, then all retailers that provide these (speciality or not) must have an employee on site who holds the SSPP qualification to provide advice on smoking cessation. The cost for this course is \$230 per course applicant, and this cost should come out of the retailers budget. This requirement must be mandatory. The retailer must have the SSPP certificates and employee's name clearly displayed in their store, and they must have smoking

cessation MoH literature/contacts available within the store and offered at time of purchase.

Regulatory proposal 1c: Approval processes and decision-making criteria

This section focusses on the retail application process for smoked tobacco retailers. The Act requires that the Director-General determine and publish a process for applications. We are seeking feedback on 2 main parts: firstly, how the application process will be run, and secondly how we will compare applications against each other if there are too many applicants for an area.

Here you can tell us what you think is important to consider.

You can find more details on this proposal in the consultation document.

1. Do you agree with the proposed application process?

Yes

No

2. Are there any aspects that need to be clearer?

Click or tap here to enter text.

3. If you have any changes or additions to the criteria we have proposed, please write them here.

We would also like to see all SVRs visited as part of their SVR application, and continue to be visited to ensure regulations are being followed, and enforced.

4. What do you think are the most and least important things to take into account when assessing an application?

More robust application assessment with regular site visits, mandatory smoking cessation training and displayed certificates upon completion. Enforcement/fines if selling to underage, no general retailers to partition off part of their stores to be classified as SVRs.

Additional retail questions

1. Do you have any feedback on additional decision-making criteria and processes for selling smoked tobacco products online?

Smoked tobacco products should not be sold on-line, and vaping/ENDs retailers should have much more robust over 18 verification mechanisms; not just a click of the button. E.g. Tools such as 'AgeChecked' that require customers to verify their age using an in-depth process only once. Evidence from credit card providers, driving licenses or mobile phone operators, for example, are all highly reliable means of proving an individual's age, but they take time and effort to provide. An online shopper required to refer to them every time they wish to make a purchase is unlikely to become a repeat customer.

2. Do you have any feedback on possible support for retailers who are no longer able to sell smoked tobacco products?

Click or tap here to enter text.

Regulatory proposal 2: Approval processes and decision-making criteria

From 1 April 2025 only low nicotine smoked tobacco products will be allowed in Aotearoa. This section focusses on the details of testing and product requirements, application processes as well as product packaging updates needed.

You can find more details on this proposal in the consultation document.

1. Do you agree that a suitable testing method may include a method based on WHO SOP4, validated to account for the low nicotine levels prescribed?

Yes

No

2. Do you have any other suggestions for suitable chemical analytical methods?

Click or tap here to enter text.

3. Do you agree with the proposal that the main packaging change should be to allow the words 'very low nicotine' on qualifying smoked tobacco products?

Yes

No

If not, why not?

Click or tap here to enter text.

4. Do you agree with the proposal to require an insert in smoked tobacco product packs?

Yes

No

If you have any additional feedback on smoked tobacco packaging, please comment here.

We support inserting mandatory messaging that encourages quit attempts, and aligns with quit smoking campaigns

5. Do you agree with the product application requirements?

Yes

No

If you have further comments on product application requirements, please write them here.

Click or tap here to enter text.

6. Do you agree with the proposed requirements for temporary approvals?

Yes

No

If you have further any comments on the proposed requirements for temporary approvals, please write them here.

Click or tap here to enter text.

Regulatory proposal 3: Fees

This section focusses on fees for applications, registrations and product approvals.

You can find more details on this proposal in the consultation document.

1. Do you agree that Manatū Hauora should charge for these processes?

- Yes
- No

What processes do you suggest we charge for?

We support application fees, as long as these are then returned back into the health system to support quit smoking wrap around services, and also quit vaping services.

2. Do you agree with the level of each of the fees?

- Yes
- No

If not, how much do you suggest we charge?

Click or tap here to enter text.

3. Do you agree with our cost recovery approach?

- Yes
- No

If not, what approach do you suggest we use?

Click or tap here to enter text.

Regulatory proposal 4: Notification requirements

This section is about the process for distributors of smoked tobacco products and retailers of notifiable products to tell the Director-General about their business.

You can find more details on this proposal in the consultation document.

1. Do you agree with the proposal that distributors and general retailers be required to re-register annually?

- Yes
- No

If you have any further comments (including how frequently registration should be required) please write them here.

Click or tap here to enter text.

Regulatory proposal 5: Youth vaping

Youth vaping rates are currently increasing. We propose extending vaping packaging and product restrictions to further improve product safety and reduce the appeal of these products to young people, specifically through restricting flavour names and introducing product safety requirements for single use vaping products.

You can find more details on this proposal in the consultation document.

1. Do you agree with the proposal to restrict the flavour names of vaping products to minimise their appeal to youth?

- Yes
 No

If not, why not? If you agree, which names do you think should be excluded or replaced on the example e-liquid flavour wheel set out in the consultation document?

We agree with the proposal to restrict flavour names to minimise their appeal to youth. In our view all flavours on the outer ring of the prescribed e-liquid flavour wheel in the proposal document under the 'Dessert' and 'Candy' category have been designed to target young people. We would suggest that these flavours should only be described using the generic term identified on the inner ring of the wheel, for example: 'Cotton Candy' would be 'Candy', 'Waffle' would be 'Dessert'. However, we do have concerns with how this will be implemented as there are nearly 20,000 e-liquids and 250 unique flavour descriptions now on the market (Ref: <https://tobaccocontrol.bmj.com/content/30/1/57>) Clarification is needed as to whether this applies to current stock, or only new stock coming into the market by a pre-determined date. We also would like further design restrictions implemented to limit the appeal of vape products to young people. We would like plain packaging (black and white only) used on all vape products. This measure would restrict marketers from using on-pack imagery to convey flavour connotations. Further to this, greater restrictions need to be implemented around advertising. We want to see in-store promotions of vaping products banned from generic retailers, and a requirement that vaping promotions in any retailer are not visible from the street/store front window or foot path signage/advertising. Restrictions around social media advertising of these products also needs further consideration, as this is easily accessible to young people

2. Do you agree with the proposal to extend product safety requirements for disposable vaping products?

- Yes
 No

If you have further comments on the proposal to extend product safety requirements for disposable vaping products, please write them here.

The Foundation would like to see all disposable vape products banned. Disposable vapes are low cost making them more easily accessible to young people. They have been described as 'an easy gateway product to vaping'. We would like this gateway product removed completely. This would not negatively impact smokers using vaping as a cessation tool, as these users need a device that will last for the period of their quit smoking cessation programme (weeks or months). If a ban is not accepted, then we support the proposals to require safety mechanisms, removeable/replaceable batteries, substance container labelling, and serial/batch numbers for single use vaping products. We would like to see the maximum concentration of nicotine salts in **all** vape products, including single use vapes, reduced to 20mg/ml in line with the European Union's limit. This is based on a pack a day cigarette smoker (classified as a heavy smoker) requiring the 20mg/ml nicotine content to quit.

3. Do you agree with the proposal to restrict where specialist vape retailers can be located?

- Yes
 No

If you have any further comments on where Specialist Vape Retailers are located (including any particular locations that are important to you), please write them here.

We support the proposal to restrict the location of future specialist vape retailers (SVRs). However, with more than 1000 SVRs currently operating in New Zealand, in addition to generic retailers, vaping products are already close to many schools, community centres and sports grounds. We want to see a significant reduction in SVRs, in line with the planned reduction in tobacco retailers ~ 600. We also would like the sale of vaping products from generic retailers (e.g., convenience stores, petrol stations and supermarkets) to be banned. If vapes are to be used as a smoking cessation tool, then they need to be available from R18 SVRs who can provide appropriate cessation advice and resources. We also believe it should be a mandatory requirement that at least one member of staff is trained in smoking cessation and that at least one trained member of staff is on duty at any time. The smoking cessation training must be by an approved Ministry of Health provider at the retailer's cost and that all SVRs provide resources on smoking cessation. Generic retailers are not resourced to do this. The Foundation is particularly concerned with SVRs that operate as a 'store within a store'. The current legislation allows for dairies and other convenience stores to partition off part of their premises creating a SVR. There is often only one employee manning both the convenience store and the SVR that is partitioned off, which means there is little oversight. This practice has led to the proliferation of SVRs throughout New Zealand. The current proposals do not address this issue. The Foundation would like to see changes to the rules around SVRs. We would like clarification around what constitutes a 'fixed, permanent structure' as described by the 2020 Smokefree Environments and Regulated Products (Vaping) Amendment Bill. We also want to see the total sales threshold of vaping products by SVRs lifted to 85%. We also want to see stronger enforcement of the current legislation in regard to SVRs. Harsher penalties are needed to stop the sale of vape

products to minors, much like the current liquor outlets have. These could include vape sale restrictions for the retailer, a stand-down period of service, and a ban on vape sales for repeat offenders with a retraction of their classification as an SVR.