STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE TOBACCO AND VAPES ACT 2026 (DISPLAY OF TOBACCO PRODUCTS) (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2026

1. This statutory instrument consent memorandum is laid under Standing Order ("SO") 30A.2. SO30A provides that a statutory instrument consent memorandum must be laid and a statutory instrument consent motion may be tabled before Senedd Cymru if a UK statutory instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.

2. The Tobacco and Vapes Act 2026 (Display of Tobacco Products) (Consequential Amendments) Regulations 2026 ("the Regulations") are subject to the affirmative resolution procedure, were laid in draft before the UK Parliament on 14 September 2026 and can be found at: The Tobacco and Vapes Act 2026 (Display of Tobacco Products) (Consequential Amendments) Regulations 2026

3. Copies of the Regulations and associated documentation have today been laid before the Senedd alongside this memorandum.

4. There is a political commitment for the UK Government to seek the consent of the Welsh Government when making legislation that applies to Wales in an area of devolved competence. Dame Diana Johnson, the UK Minister of State for Public Health and Patient Safety at the Department of Health and Social Care, has written to seek the consent of the Welsh Ministers to the application of the Regulations to Wales. As the Regulations engage Standing Order 30A (consent in relation to statutory instruments made by UK Ministers), the agreement of the Senedd is also sought.

Summary of the Instrument and its objective *(SO30A.4(i) requirement)*

5. The Regulations make consequential amendments to the Tobacco Advertising and Promotion Act 2002, and specifically the provisions governing the display of tobacco products, following the introduction in the Tobacco and Vapes Act 2026 of an age of sale requirement based on date of birth.

6. The Tobacco Advertising and Promotion Act 2002, and regulations made under it, make provision restricting the display of tobacco products in premises where they are offered for sale in the course of a business. Section 7B of the Tobacco Advertising and Promotion Act 2002 provides that no offence is committed if the display is a requested display to an individual aged 18 or over, because tobacco products could be sold legally only to individuals aged 18 or over. The Tobacco and Vapes Act 2026 prohibits the sale of tobacco products to people born on or after 1 January 2009. The objective of these Regulations is to replace references to an individual being "aged 18 or over" or "aged under 18" with references to their date of birth.

7. The Regulations extend to England and Wales, Scotland and Northern Ireland, but will only apply in Wales, England and Northern Ireland.

Provision to be made by the Instrument for which consent is sought *(SO30A.4(ii) requirement)*

8. The Regulations amend section 7B of the Tobacco Advertising and Promotion Act 2002 and are within the legislative competence of the Senedd (save for their application beyond Wales and extent beyond England and Wales). Although the amendments are minor, technical, and uncontentious in nature, the overarching purpose of the change in the age of sale requirement for tobacco products, so that it is based on date of birth, concerns the devolved matter of the protection of public health (which is not a matter reserved by Schedule 7A to the Government of Wales Act 2006).

Why is it appropriate for the SI to make this provision *(SO30A.4(iii) requirement)*

9. The Regulations are made in exercise of powers in section 168(1) and (2) of the Tobacco and Vapes Act 2026. The objective of the Regulations is to replace references to an individual being “aged 18 or over” or “aged under 18” with references to their date of birth in consequence of the change in the age of sale requirement for tobacco products introduced by the Tobacco and Vapes Act 2026. The amendments are therefore minor, technical, and uncontentious in nature and are a necessary consequence of the introduction of the Tobacco and Vapes Act 2026.

10. It is my view that it is appropriate to make these amendments through the Regulations as they represent the most practicable and proportionate legislative vehicle to enable their application to Wales. The provision that the Regulations amend in the Tobacco Advertising and Promotion Act 2002 extends to England and Wales, Scotland and Northern Ireland (although does not apply in Scotland), the policy underpinning the change in the age of sale requirement for tobacco products is aligned across the respective governments and this method of amendment ensures the timely alignment of the consequential amendments which flow from the introduction of the Tobacco and Vapes Act 2026 across the relevant territories.

11. Though the Regulations will not be made bilingually, I note the Tobacco Advertising and Promotion Act 2002 itself was not made bilingually.

Financial implications

12. There are no financial implications in Wales in consenting to the provisions in the Regulations.

Nerys Evans MS
Deputy Minister for Public and Preventative Health
15 September 2026