

Attachment C - How smoking and vaping is regulated in New Zealand

1. Smoking and vaping products are regulated by way of the Smokefree Environments and Regulated Products Act 1990 (**the SERP Act**). The SERP Act contains provisions relating to the following matters:
 - a) The sale and supply of tobacco and vaping products which are restricted to those over 18 years old,
 - b) Controls on the marketing, advertising, and promotion of vaping and tobacco products,
 - c) Discouraging children, young people, and non-smokers from taking up smoking and vaping,
 - d) reducing smoke exposure to people who do not themselves smoke,
 - e) regulating the safety of vaping products and smokeless tobacco products, and
 - f) monitoring and regulating the presence of harmful constituents found in regulated products and their emission.
2. As outlined in **Table 1** of the Committee report, central government has engaged in the process of various legislative and regulatory changes to manage the adverse effects of smoking and vaping in New Zealand.
3. Key amendments made by way of the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act (which came into force on 1 January 2023) include:
 - a) decreasing the number of retailers able to sell smoked tobacco products,
 - b) reducing the amount of nicotine that is allowed in smoked tobacco products, and
 - c) prohibiting the sale of smoked tobacco products to anyone born on or after 1 January 2009.
4. These changes are intended to achieve the Smokefree Aotearoa 2025 goal – the Government’s goal to ensure fewer than 5% of New Zealanders will be smokers by 2025. The Ministry for Health have developed the Smokefree Aotearoa 2025 Action Plan - Auahi Kore Aotearoa Mahere Rautaki 2025¹ (**the Action Plan**) to set out the actions that will be taken to achieve Smokefree Aotearoa 2025. The Action Plan identifies six focus areas that prioritise efforts to reduce the harm of smoking:
 1. Ensure Māori leadership and decision-making at all levels
 2. Increase health promotion and community mobilisation
 3. Increase evidence-based stop smoking services
 4. Reduce the addictiveness and appeal of smoked tobacco products
 5. Reduce the availability of smoked tobacco products
 6. Ensure manufacturers, importers and retailers meet their legal obligations
5. Focus area 4² strongly links to the scope and intent of local level smoke-free efforts. It highlights the need to apply local knowledge and leadership in creating programmes that

¹ https://www.health.govt.nz/system/files/documents/publications/hp7801_-_smoke_free_action_plan_v15_web.pdf

² Page 18, Aotearoa 2025 Action Plan - Auahi Kore Aotearoa Mahere Rautaki 2025

reflect the needs, priorities and voices of communities to create supportive environments that encourage population-level change, strengthen smoke-free norms and communicate law changes. The Action Plan sets out that *'strategies and efforts designed and implemented by community members will increase the likelihood of achieving the smokefree goal'*² and that funding will be available to support these efforts.

6. The Action Plan also addresses the matter of vaping, acknowledging it as an alternative to smoking with much less cost and risk to health³. Nonetheless, it notes that vaping is not without risk and many vaping products are regulated in the same way as smoked tobacco products.
7. Earlier amendments were also made to the SERP Act in relation to vaping products by way of the Smokefree Environments and Regulated Products (Vaping) Amendment Act 2020 (which came into force on 11 November 2020). The intention of this amendment was to balance the benefits that vaping has as an alternative to smoking, making them available for smokers who want to switch and ensuring vaping products aren't marketed or sold to young people.
8. On 21 August 2023 Health Minister Ayesha Verrall announced further controls relating to 'youth' vaping. These controls will come into effect on 21 September 2023 and include:
 - a) All vaping devices sold in New Zealand will need to have removable batteries,
 - b) Any locations within 300 metres of schools and marae will be off-limits for new specialist vape shops,
 - c) Vapes will need child safety mechanisms, and names like 'cotton candy' and 'strawberry jelly donut' will be prohibited. Only generic names which accurately describe the flavours can be used, such as 'orange' or 'berry, and
 - d) Reducing the maximum concentration of nicotine allowed in vapes in line with the latest evidence and to balance the need for sufficient nicotine to be an effective smoking cessation device.

³ Page 12, Aotearoa 2025 Action Plan - Auahi Kore Aotearoa Mahere Rautaki 2025