

Questions and Answers

What is an e-cigarette?

E-cigarettes are electrical devices that mimic smoked tobacco products but produce a vapour (rather than smoke) by heating a solution (e-liquid) which the user then inhales or vapes.

What does the current law cover regarding e-cigarettes?

The Medicines Act 1981 and the Smoke-free Environments Act 1990 regulate the sale, advertising and use of e-cigarettes and the nicotine liquids used in e-cigarettes. Under the Medicines Act 1981, it is illegal to sell and supply:

- A product containing nicotine, which has not been approved by Medsafe (this is a breach of the Medicines Act, which controls nicotine as a scheduled medicine)
- An e-cigarette (with or without nicotine) while making a therapeutic claim (e.g. claims to help smokers quit).

Under the Smoke-free Environments Act 1990 there are two provisions that capture e-cigarettes. It is unlawful to sell an e-cigarette:

- If it contains nicotine that is manufactured from tobacco
- To a person under 18 if it looks like a tobacco product or smoking pipe and can be used to simulate smoking.

What has the Government decided to do?

The Government has decided to legalise nicotine e-cigarettes as a consumer product.

At the same time, changes will be made to regulate e-cigarettes and e-liquid (with and without nicotine) as follows:

- Sale, and supply in a public place, to under 18-year-olds is prohibited
- Sale via vending machines is restricted to R18 settings
- All retailers will be allowed to display e-cigarettes and e-liquid at the point-of-sale
- Retailers that restrict entry to people aged 18 and over will be allowed to display e-cigarettes and e-liquid in-store (including window display) and promote products on the outside of their store, as well as offer discounts, free-samples, loyalty rewards and co-packaging
- Broader advertising, e.g. billboards, radio, TV and Internet advertising will be prohibited
- Vaping will be prohibited in workplaces and other areas where smoking is not allowed under the Smoke-free Environments Act 1990
- Product safety requirements (e.g. for nicotine concentration) will be set.

Why has the Government made these decisions?

E-cigarettes are less harmful for smokers than ordinary tobacco cigarettes. Smokers should be able to legally buy nicotine e-cigarettes.

However, nicotine is an addictive substance and the long-term risks associated with the use of e-cigarettes are not yet known. Some restrictions are needed to discourage non-smokers, including children and young people, from becoming regular e-cigarette users.

What about younger people who smoke? Can't they benefit from using an e-cigarette?

The legal age for sale, and supply in a public place, will be 18. This is consistent with rules for other addictive products such as tobacco and alcohol.

Whānau can still give younger smokers an e-cigarette if they think it would be better for them or may help them stop smoking.

If an e-cigarette were to be approved under the Medicines Act 1981 as a stop-smoking medicine, it could be accessed by smokers as young as 12-years-old. So far, no company has applied to have an e-cigarette approved as a medicine in New Zealand.

Why doesn't the Government subsidise e-cigarettes like it does with Nicotine Replacement Therapy?

E-cigarettes are consumer products. If one gets approved under the Medicines Act 1981 as a stop-smoking medicine, then the Government may consider subsidising it. While the Ministry of Health does not subsidise consumer products, it does fund stop-smoking services that can provide advice and guidance to people using e-cigarettes to help them quit smoking.

What will the product safety requirements look like?

The Government considers that product safety requirements should cover manufacturing standards, ingredients (including nicotine concentration), packaging (including child-resistant containers) and labelling (e.g. that nicotine is addictive). There will also be a register of products so that if something goes wrong (e.g. a product is found to be causing health problems), the Ministry of Health will know who is responsible for fixing the problem.

How will the detailed requirements for product safety be decided?

The Ministry of Health will bring together a small group of industry and other stakeholders to consider the detailed requirements for product safety. There will be a public call for nominations to this group.

There will also be wider consultation on proposals for detailed product safety regulations.

Will product safety requirements increase costs?

It is important that products are safe to use; however, the Government wants to keep any costs on business to a minimum. The register of products will be designed to have a minimal impact on businesses costs, including compliance costs.

The advisory group is expected to take costs into consideration when making its recommendations.

There is to be a change in the way emerging tobacco and nicotine-delivery products are regulated. What are these?

A range of products are marketed internationally as less harmful alternatives to smoking ordinary tobacco. Some of these are new, for example, heat-not-burn cigarettes and vaporisers. Other products, such as snus, are not new but are unlawful in New Zealand.

What will change in the way these products are regulated?

At present, new tobacco and nicotine-delivery products are likely to be prohibited by the Smoke-free Environments Act 1990. In future, there will be a regulatory regime that could see these regulated as consumer products if they meet specified criteria.

What will the criteria be?

The Ministry of Health will be doing further work on the details of whether and how emerging tobacco and nicotine-delivery products should be regulated as consumer products. This will include discussions with stakeholders. Cabinet will make the final decision.

When will all these changes happen and how can I have some input?

The Smoke-free Environments Act will need to be amended before any changes can take effect. This is likely to be completed in 2018 but we are working toward getting it done sooner, if possible.