

Legal Alert

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Changes in the disposable e-cigarette market

As we informed in a last [SK&S report](#), electronic cigarettes, particularly disposable ones, have been the subject of public debate recently, primarily due to the Polish Ministry of Health's announcement of restrictions on their sale.

According to the Ministry's signalled intentions, the restriction of the abovementioned sales was to be achieved, among other things, through the **coverage of e-cigarettes without nicotine by the provisions of the Tobacco Act**¹ - as the Act's current wording does not cover such products.

On 10th July 2024, a [draft act on amendments to the Tobacco Act](#) was published; the new regulations are designed to bring so-called "*nicotine-free liquids*" within the scope of the Act's provisions, and will result in, among other things:

1. banning their sale to persons under 18 years old;
2. limiting the places where their use will be possible, analogous to electronic cigarettes with nicotine-containing liquid;
3. the introduction of a ban on vending machines and remote sales (including over the Internet);
4. the introduction of composition and construction requirements for such products;
5. the introduction of a ban on advertising and promotion;
6. the necessity of their notification to the Bureau of Chemical Substances (according to the draft, in the case of electronic cigarettes and spare containers containing nicotine-free liquid placed on the market before the date of entry into force of the law, notification will have to be made within six months of the date of entry into force of the law).

What is more, the draft act provides for new definitions:

- i. *electronic cigarette* - a **product that can be used for consumption of either nicotine-containing or nicotine-free vapour** via a mouthpiece, or any component of the product, including a cartridge, a tank and device without cartridge or tank; electronic cigarettes can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges;
- ii. *refill container* - a receptacle that contains a nicotine containing liquid, which can be used to refill an electronic cigarette, or a **receptacle that contains a nicotine-free liquid**, which can be used to refill an electronic cigarette.

The updated definitions will allow the nicotine-free versions to be covered by regulations, including the abovementioned prohibitions and restrictions, that have previously applied to electronic cigarettes containing nicotine.

A conspicuous, legible and permanent health warning will need to be placed on the unit packaging and collective packaging of electronic cigarettes that can only be used to consume nicotine-free vapor and refill containers containing nicotine-free liquid: "**Product harmful to health**".

In view of the leaks raised, among others, at the sessions of the parliamentary and senate committees, in the division of competencies between the various authorities in the supervision of the e-cigarette market, the proposed draft act provides that control of compliance with the provisions of the Tobacco Act to the extent not reserved for other authorities will be carried out by the Polish Trade Inspectorate.

The act is expected to enter into force **three months after the date of publication**. Before that it must **go through the legislative procedure and be notified to the European Commission**, which, according to the procedure, as a rule has three months (the deadline can be extended to six months) to analyse the notified provisions.

The draft is currently in the public consultation stage, so interested entities can submit their comments on the draft - the deadline for sending proposals for changes is 14 days.

Contact us!



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