

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE VAPING PRODUCTS (GUERNSEY) ORDINANCE, 2025

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Vaping Products (Guernsey) Ordinance, 2025" and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance, made under the Vaping Products (Enabling Provisions) (Guernsey) Law, 2024 ("the Law"), enacts wide-ranging controls on vaping products.

Part I sets out the object of these controls.

Part II sets out the licensing regime for the sale of vaping products, including a prohibition of unlicensed sales, the types of licences that may be issued, and the grounds for refusing, suspending, revoking or varying a licence. It also sets out the duties of licensees and responsible persons (who are to manage the conduct of corporate licences). Provision is made for reviews and appeals relating to licensing decisions. General conditions of licences are set out in Schedule 1.

Part III prohibits the display of vaping products, their prices and advertisements, but the Committee for Health & Social Care ("the Committee") can create exceptions, exemptions and defences by regulations. The sale or supply of vaping products to children is prohibited. The sale, supply or commercial importation of disposable vapes is also prohibited, subject to any exceptions, exemptions and defences established by regulations made by the Committee.

Part IV gives authorised officers enforcement powers, such as entry, search and seizure, subject to a requirement for search warrants in relation to dwellings and other safeguards. This part also creates offences relating to obstruction and the provision of false, deceptive or misleading information. Penalties for offences under this Ordinance are specified in Schedule 3.

Part V sets out general provisions. To establish an exception, exemption or defence involving the taking of reasonable steps to establish the age of a person (for example in relation to the offence of sale or supply to children), a defendant would have to prove that the defendant was shown a document purporting to be of a kind prescribed by regulations, and that the document was sufficient to convince a reasonable person.

Part V also provides for confidentiality and protection from self-incrimination, and defines "disposable vapes". This Part exempts cruise vessels, passenger vessels sheltering in an emergency and vessels not carrying passengers for reward, from the provisions of this Ordinance. Finally, this Part makes a few amendments to the Tobacco Products (Guernsey) Ordinance, 2014 to align its provisions with this Ordinance.

The Vaping Products (Guernsey) Ordinance, 2025

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The Vaping Products (Guernsey) Ordinance, 2025

THE STATES, in pursuance of their Resolution of the 22nd May, 2024^a, and in exercise of the powers conferred upon them by sections 1, 3 and 4 of the Vaping Products (Enabling Provisions) (Guernsey) Law, 2024^b, sections 1, 2 and 3 of the Tobacco Products (Guernsey) Ordinance, 2014^c and all other powers enabling them in that behalf, hereby order:-

PART I PRELIMINARY

Object of this Ordinance.

1. (1) The object of this Ordinance is to reduce the exposure and availability of vaping products, and the consumption of vaping products, especially in relation to children.

(2) The object of this Ordinance is to be attained by means including the following -

- (a) licensing the sale of vaping products,
- (b) prohibiting or restricting the display of vaping products, and prices and advertisements of vaping products, in vape-licensed premises,

^a Article VIII of Billet d'État No. VII of 2024.

^b Order in Council No. __ of 2025.

^c Ordinance No. LI of 2014; this enactment has been amended.

- (c) prohibiting the sale and supply of vaping products to children,
- (d) prohibiting the commercial importation and sale of disposable vapes.

PART II LICENSING

Prohibition of unlicensed sales

Sale of vaping products to be licensed.

2. A person who sells a vaping product, except under the authority of, and in accordance with -

- (a) a retail licence,
- (b) a wholesale licence, or
- (c) an indirect sale licence,

is guilty of an offence.

Licences and renewals

Applications for licences or renewals.

3. (1) Any individual or body corporate may apply to the licensing officer for a licence or renewal of a licence.

(2) An application -

- (a) must include the prescribed fee to be paid to the Committee,

- (b) in the case of an application by a body corporate, must include an application under section 9 (applications for approval) for the approval of a responsible person, and
 - (c) must be made in the form and manner and include any information prescribed by regulations made by the Committee or specified by the licensing officer.
- (3) An application for renewal of a licence must be made -
 - (a) no later than 28 days before the day on which the licence is due to expire, or
 - (b) within any further period allowed by the licensing officer in that officer's discretion.

Grant of licences.

4. (1) Subject to a refusal under section 7 (circumstances in which applications must be refused), on receipt of an application for a licence made in accordance with section 3 (applications for licences or renewals), the licensing officer must grant a licence to the applicant authorising the applicant, and any employee or agent of that applicant acting on that applicant's behalf, to sell vaping products at or from premises specified on the licence ("**vape-licensed premises**") -

- (a) by way of retail sale (a "**retail licence**"),
- (b) by way of wholesale (a "**wholesale licence**"), or
- (c) by way of indirect sale (an "**indirect sale licence**").

(2) A licence may be granted which consists of a combination of more than one type of licence mentioned in subsection (1), but no more than one of

each type of licence mentioned in subsection (1) may be granted in respect of the same premises.

(3) If the licensing officer grants a licence subject to special conditions, the licensing officer must give the applicant -

- (a) written notice of the reasons for those conditions, and
- (b) a copy of section 20 (review of licensing decisions).

(4) In this section, "**indirect sale**", in relation to a vaping product -

- (a) means sale of the product to a person who buys it otherwise than for the purpose of selling or supplying it in the course of a business carried on by that person, where the seller (or the seller's employee or agent) and the buyer are not in the same place at the time of the sale, and
- (b) includes a sale made by way of internet, electronic mail, telephone, facsimile or mail order.

Features of licences.

5. (1) A licence -

- (a) must specify the name (if any) and address of the premises (or location, if mobile premises) to which it applies,
- (b) in the case of a licence granted to a body corporate, must be endorsed with the name and date of birth of the responsible person, and

- (c) must be in the form and include any information prescribed by regulations made by the Committee or specified by the licensing officer.
- (2) A licence is at all times subject to the conditions specified in Schedule 1.
- (3) A licence cannot be transferred to another person.
- (4) Unless renewed in accordance with this Ordinance, a licence expires on the anniversary of the date on which it is granted.
- (5) In subsection (1)(a), the reference to location in relation to mobile premises is a reference to –
 - (a) the location where those premises are normally kept when not in use, and
 - (b) the locations where those premises will be stationed when used for the sale of vaping products.

Renewals.

6. (1) Subject to a refusal under section 7 (circumstances in which applications must be refused), on receipt of an application for renewal made in accordance with section 3 (applications for licences or renewals), the licensing officer must -
- (a) renew the licence, and
 - (b) endorse the date of renewal on the licence.
- (2) If the licensing officer renews a licence subject to special conditions, the licensing officer must give the applicant -

- (a) written notice of the reasons for those conditions, and
- (b) a copy of section 20 (review of licensing decisions).

(3) A renewed licence expires on the anniversary of the date of its last renewal, unless further renewed in accordance with this Ordinance.

Refusal of licences, etc.

Circumstances in which applications must be refused.

7. (1) An application for a licence or renewal must be refused if the licensing officer is satisfied that any of the following disqualifications apply -

- (a) the applicant is a child,
- (b) the applicant holds a licence that is currently suspended,
- (c) at any time within the previous 24 months, the applicant was convicted of a disqualifying offence,
- (d) the applicant is not a fit and proper person to be granted the licence or renewal, or
- (e) the applicant does not meet any prescribed criteria.

(2) An application for a licence or renewal must also be refused if-

- (a) the information provided is insufficient to satisfy the licensing officer that the applicant's operations would comply with the provisions of this Ordinance,
- (b) in the case of an applicant that is a body corporate, the licensing officer does not approve the individual

designated by the body corporate to manage the conduct of its licence, or

- (c) the application does not meet any prescribed criteria.

(3) For the purpose of determining whether subsection (1) or (2) applies in any particular case for the purposes of any provision of this Ordinance, the licensing officer may -

- (a) seek and receive any information from any person (whether in Guernsey or elsewhere) as the officer considers appropriate, and
- (b) take into account any information obtained from any source.

(4) In this section -

"disqualifying offence" means -

- (a) an offence under a relevant enactment,
- (b) an offence under the law of any country or territory relating to the sale, supply, advertising, importation, exportation or licensing of tobacco products or vaping products, or
- (c) an offence involving fraud or dishonesty under the law of any country or territory, and

"relevant enactment" means -

- (a) this Ordinance,

- (b) the Tobacco Advertising (Guernsey) Law, 1997^d,
- (c) the Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law, 2005^e,
- (d) the Smoking (Prohibited Buildings and Vehicles) Ordinance, 1971^f,
- (e) the Notice of Smoking in Public Places Ordinance, 2004^g,
- (f) the Liquor Licensing Ordinance, 2006^h, or
- (g) the Tobacco Products (Guernsey) Ordinance, 2014,
- (h) any Ordinance or subordinate legislation made under an enactment mentioned in any of paragraphs (a) to (g).

Procedure for refusals.

8. (1) Where the licensing officer proposes to refuse an application for a licence or renewal, the officer must give the applicant written notice of -

- (a) the grounds for the proposed refusal, and

^d Ordres en Conseil Vol. XXXVII, p. 313; this enactment has been amended.

^e Order in Council No. V of 2006.

^f Recueil d'Ordonnances Tome XVII, p. 337.

^g Ordinance No. IX of 2004.

^h Ordinance No. V of 2006; this enactment has been amended.

- (b) the date (being 14 days or more after the date of the notice) by which a written submission may be made to the licensing officer in respect of the proposed refusal.

(2) A person given notice under subsection (1) may write to the licensing officer with any submission the person wishes to make (including any additional information) -

- (a) on or before the date specified in the notice under subsection 1(b), or
- (b) within any further period allowed by the licensing officer in that officer's discretion.

(3) In determining whether to proceed with the refusal, the licensing officer -

- (a) must consider any submission made in accordance with subsection (2), and
- (b) may consider any other information the officer considers relevant.

(4) On determining the application, the licensing officer must give the applicant -

- (a) written notice of that officer's decision, and
- (b) if the licensing officer decides to refuse the application -
 - (i) written notice of that officer's reasons, and

- (ii) a copy of section 20 (review of licensing decisions).

Responsible persons

Applications for approval.

9. (1) A body corporate may apply to the licensing officer in accordance with subsection (2) for the approval of an individual to manage the conduct of -

- (a) a licence for which the body corporate is applying, or applying to renew, or
- (b) a licence which the body corporate holds (where the individual is to substitute the responsible person endorsed on the licence).

(2) An application for approval -

- (a) must include the prescribed fee to be paid to the Committee, and
- (b) must be made in the form and manner and include any information prescribed by regulations made by the Committee or specified by the licensing officer.

Approval of responsible person.

10. Subject to a refusal under the provisions given effect by section 11 (refusal of approval), on an application made in accordance with section 9 (applications for approval), the licensing officer must -

- (a) approve the person designated by the body corporate to manage the conduct of the licence, and

- (b) endorse the licence with the name and date of birth of the responsible person.

Refusal of approval.

11. (1) Section 7(1), (3) and (4) (circumstances in which applications must be refused) has effect in relation to an application for approval as if -

- (a) the application for approval were an application for a licence or renewal, and
- (b) the individual designated by the body corporate to manage the conduct of the licence were the applicant.

(2) Section 8 (procedure for refusals) has effect in relation to any refusal of an application for approval as if -

- (a) the application for approval were an application for a licence or renewal, and
- (b) the body corporate applying for the approval is the applicant to be given notice under section 8(1) and (4) (procedure for refusals).

Application of this Ordinance to responsible persons.

12. (1) Subject to section 13 (procedure where responsible person ceases to act), where a responsible person is endorsed upon a corporate licence -

- (a) the provisions of this Ordinance apply to the responsible person as if that person is the corporate licensee, and
- (b) the responsible person is to be treated as if that responsible person is the corporate licensee for the

purposes of any proceedings taken and penalties enforced against that responsible person.

(2) Nothing in subsection (1) limits or affects the application of any provision of this Ordinance to the corporate licensee, and proceedings may be taken and penalties enforced against that corporate licensee whether or not taken or enforced against the responsible person.

Procedure where responsible person ceases to act.

13. (1) This section applies where a person endorsed as the responsible person ("**person concerned**") on a corporate licence ceases, or proposes to cease, to manage the conduct of the licence.

(2) The person concerned must give the licensing officer written notice of that person ceasing to manage the conduct of the licence either before the event or no later than 14 days following that event.

(3) Upon receipt of a written notice given under subsection (2) (whether or not given within the time specified in that subsection) or under section 14(1)(d) (general duties of licensee) of a responsible person ceasing to manage the conduct of a licence -

- (a) the person concerned ceases to be the responsible person for the licence, and
- (b) the licensing officer must endorse the licence accordingly.

However, this Ordinance continues to apply, for the purpose of enabling the person concerned to be investigated or otherwise dealt with in relation to a matter arising before the receipt of the written notice, as if the person concerned were still the responsible person for the licence.

(4) On application by a corporate licensee, the licensing officer may grant to an individual designated by the licensee temporary permission to manage the conduct of the licence for such period, not exceeding two months, as the licensing officer considers necessary to enable an application for substitution of the responsible person to be made and determined in accordance with sections 9 (applications for approval), 10 (approval of responsible person), 11 (refusal of approval) and 12 (application of this Ordinance to responsible persons).

(5) A person granted temporary permission under subsection (4) is to be regarded as the responsible person for the licence during the period for which the temporary permission was granted.

Duties of licensees

General duties of licensee.

14. (1) A licensee must -
- (a) comply with the conditions of the licence held by the licensee,
 - (b) keep prescribed records in the prescribed form and manner for the prescribed period,
 - (c) on request by an authorised officer, produce the licence and any such records for inspection, and
 - (d) promptly give written notice to the licensing officer of any material change in the conduct of the licence, and where appropriate, apply for a variation of that licence.
- (2) A person who contravenes subsection (1) is guilty of an offence.

(3) In subsection (1)(d), "**material change in the conduct of the licence**" includes -

- (a) in the case of a corporate licensee, the responsible person for the licence ceasing to manage the conduct of the licence,
- (b) any other change that affects or might affect the ability of the licensee to comply with the licence conditions, and
- (c) any other prescribed change or event.

Replacement licences.

15. (1) A licensee must give written notice to the licensing officer of any loss or destruction of a licence held by the licensee within 14 days of the licensee becoming aware of it.

(2) If the licensing officer is satisfied that the licence has been lost or destroyed, that officer may issue a duplicate licence upon payment of a prescribed fee.

Return of licences.

16. (1) A licensee must return to the licensing officer the licence held by the licensee within 14 days of the occurrence of any of the following -

- (a) the licensee ceasing to carry out the activities authorised under that licence,
- (b) expiry of the licence,
- (c) the licensee receiving written notice of revocation of the licence by the licensing officer,

- (d) the licensee receiving a written request from the licensing officer to return the licence for the purposes of endorsement or variation under this Ordinance,
 - (e) the licensee receiving a varied licence from the licensing officer.
- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) A licensee may at any time return to the licensing officer the licence held by the licensee.
- (4) Upon return of a licence -
 - (a) the licence (other than a licence returned for the purposes of endorsement or variation) ceases to have effect when received by the licensing officer, but
 - (b) this Ordinance continues to apply for the purpose of enabling the licensee to be investigated or otherwise dealt with in relation to a matter arising before the return, as if the licence had not been returned.

Suspension, revocation, variation, etc.

Suspension, revocation or variation of licence.

17. (1) This section applies in respect of a licence where the licensing officer has reasonable grounds to suspect that -
- (a) the licence was granted or renewed on the basis of false, deceptive, misleading or incomplete information,
 - (b) the licensee has breached any condition of the licence,

- (c) one or more of the disqualifications specified in section 7(1) (circumstances in which applications must be refused) applies to the licensee, or
- (d) unless the licence were promptly suspended, revoked or varied, the conduct by the licensee of activities authorised under the licence would be likely to contravene a provision of this Ordinance.

(2) For the avoidance of doubt, in the case of a corporate licence, **"licensee"** in subsection (1) includes the responsible person.

(3) Where this section applies, the licensing officer may suspend, revoke or vary the licence in accordance with subsections (4) to (7).

(4) Where the licensing officer proposes to suspend, revoke or vary a licence, that officer must give the licensee written notice of -

- (a) the proposed action and the reasons for it, and
- (b) the date (being 14 days or more after the date of the notice) by which a written submission may be made to the licensing officer in respect of the proposed action.

(5) The licensee may write to the licensing officer with any submission that the licensee wishes to make (including any additional information) -

- (a) on or before the date specified in that notice under subsection (4)(b), or
- (b) within any further period allowed by the licensing officer in that officer's discretion.

(6) Following consideration of any submission made in accordance with subsection (5) and any other information the licensing officer considers relevant, that officer must decide whether or not to suspend, revoke or vary the licence and, for the avoidance of doubt, may take any of those actions regardless of whether the particular action has been notified to the licensee under subsection (4).

(7) The licensing officer must give the licensee -

- (a) written notice of that officer's decision, and
- (b) if the licensing officer decides to suspend, revoke or vary the licence -
 - (i) written notice of the suspension, revocation or variation and the reasons for it, and
 - (ii) a copy of section 20 (review of licensing decisions).

Licensee may apply for variation.

18. (1) The licensing officer may at any time vary a licence on the application of the licensee made in accordance with subsection (2).

(2) An application must -

- (a) include the prescribed fee to be paid to the Committee, and
- (b) be made in the form and manner and include any information prescribed by regulations made by the Committee or specified by the licensing officer.

Licensing officer to maintain register of licences.

19. (1) The licensing officer must maintain and make available to the public a register of licences, including any prescribed particulars, kept in such manner and form as that officer considers appropriate.

(2) Upon payment of a reasonable charge, the licensing officer may provide to any person a copy of the register.

Reviews and appeals

Review of licensing decisions.

20. (1) This section applies to the following decisions of the licensing officer ("**original decisions**") -

- (a) a decision to refuse an application for a licence or renewal,
- (b) a decision to refuse an application for approval of a responsible person,
- (c) a decision to refuse an application to vary a licence,
- (d) a decision to grant a licence or renewal subject to any special conditions, and
- (e) a decision to suspend, revoke or vary a licence.

(2) An interested person may apply to the Committee to review an original decision under this section.

(3) An application for review must -

- (a) be made within 14 days of the applicant receiving written notice of the original decision,

- (b) be made in the form and manner specified by the Committee and must include any information which the applicant believes would assist that applicant's case, and
- (c) be served by giving written notice of it to the licensing officer.

(4) Within 14 days of being served with an application for review, or within any further period allowed by the Committee in its discretion, the licensing officer must respond in writing to the Committee with any information which that officer believes the Committee should consider.

(5) Within 28 days of receiving the written response from the licensing officer, the Committee must -

- (a) consider any information submitted under subsection (3) or (4) and take into account any other information the Committee considers relevant,
- (b) hear any oral submissions that the applicant or the licensing officer wishes to make to the Committee,
- (c) determine the application by -
 - (i) confirming or varying the original decision under review, or
 - (ii) revoking the original decision and substituting the Committee's decision for it,
- (d) give the applicant, any other interested person and the licensing officer written notice of the Committee's

decision under paragraph (c) and the reasons for it, and

- (e) give the applicant and any other interested person a copy of section 21 (appeal to Royal Court).

(6) In determining an application for review, the Committee may -

- (a) make any decision that the licensing officer is authorised to make under this Ordinance in relation to the matter, and
- (b) give any direction it considers appropriate to the licensing officer in order to give effect to the Committee's decision.

(7) On request by the applicant, the Committee may in exceptional circumstances and on such terms as it considers appropriate, suspend or modify the effect of the original decision pending determination of a review of that decision, by giving written notice and directions to the licensing officer.

(8) A decision of the Committee under this section has effect as if it were a decision of the licensing officer, but for the avoidance of doubt -

- (a) the Committee's decision is not reviewable under this section, and
- (b) neither the procedures for refusing an application under sections 8 (procedure for refusals) and 11(2) (refusal of approval) nor the procedures for suspending, revoking or varying a licence under section 17 (suspension, revocation or variation of licence) apply to the Committee's decision.

(9) In this section and section 21 (appeal to Royal Court) -

"**interested person**", in relation to an original decision, means any person given written notice of the original decision under this Ordinance, and

"**original decision**" means a decision to which this section applies.

Appeal to Royal Court.

21. (1) A review decision may be appealed to the Royal Court under this section by -

- (a) the person who applied for the review, or
- (b) any other interested person.

(2) The grounds of an appeal are that -

- (a) the review decision was *ultra vires* or there was some other error of law,
- (b) the review decision was unreasonable,
- (c) the review decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal must be made -

- (a) within the period of 28 days immediately following the date of the notice of the review decision under section 20(5)(d) (review of licensing decisions), and

- (b) by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(4) Where an appeal has been made, the Committee may apply to the Court, by summons served on the appellant, for an order to dismiss the appeal for want of prosecution; and on hearing the application the Court may -

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

(5) The provisions of subsection (4) are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007ⁱ.

- (6) On an appeal, the Court may –
 - (a) set the review decision aside in whole or in part and remit the appealed review decision to the Committee with such directions as the Court thinks fit,
 - (b) substitute the Court's own decision for the review decision, or
 - (c) confirm the review decision, in whole or in part.

ⁱ O. R. C. No. IV of 2007; this enactment has been amended.

(7) On the application of the appellant, the Court may, on such terms as the Court thinks just, suspend or modify the effect of the review decision under appeal pending the determination of the appeal.

(8) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

(9) In this section -

"the Court" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it, and

"review decision" means a decision of the Committee under section 20(5)(c) (review of licensing decisions) following a review of an original decision.

Miscellaneous

Delegations by Committee or licensing officer.

22. Section 4 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^j has effect in relation to the functions of the Committee and the licensing officer under this Ordinance as if -

- (a) the reference to "any officer responsible to that Committee" in section 4(1)(a) of that Law includes a reference to any employee of the States of Guernsey (whether or not that employee is responsible to the

^j Ordres en Conseil Vol. XXXIII, p. 478; this enactment has been amended.

Committee), and

- (b) the office of licensing officer is a public office for the purposes of section 4(1)(b) of that Law.

Regulations may amend licence conditions and period for notices, applications, etc.

23. (1) The Committee may at any time by regulations amend, repeal or replace all or any part of Schedule 1.

(2) The Committee may at any time by regulations amend any period for the giving of notices, making of applications, submissions or appeals, or the doing of any other thing, specified in any of the following provisions -

- (a) section 3(3)(a) (applications for licences or renewals),
- (b) section 8(1)(b) (procedure for refusals),
- (c) section 13(2) (procedure where responsible person ceases to act),
- (d) section 15(1) (replacement licences),
- (e) section 16(1) (return of licences),
- (f) section 17(4)(b) (suspension, revocation or variation of licence),
- (g) section 20(3)(a), (4) or (5) (review of licensing decisions).

PART III
FURTHER PROHIBITIONS AND CONTROLS

Prohibition of display of vaping products, prices and advertisements.

24. (1) Subject to subsection (3), a person who, in the course of business, displays anything specified in subsection (2) -

- (a) in or on any vape-licensed premises, or
- (b) within three metres of any vape-licensed premises,

is guilty of an offence.

(2) Subsection (1) refers to the following -

- (a) a vaping product,
- (b) a price of a vaping product, or
- (c) an advertisement for a vaping product.

(3) The Committee may make regulations -

- (a) authorising any displays, and
- (b) providing for exceptions and defences to, and exemptions from, the offence under subsection (1).

Prohibition of sale or supply to children.

25. (1) A person who sells or supplies a vaping product to a person who is under 18 years of age is guilty of an offence.

(2) In any proceedings for an offence under subsection (1) it is a defence to prove that the defendant -

- (a) believed the person to whom that defendant sold or supplied the vaping product to be of or over 18 years of age, and
- (b) had taken reasonable steps to establish the age of the person concerned.

Prohibition of sale or supply of disposable vapes.

26. (1) Subject to subsection (2), a person who sells or supplies a disposable vape to another person is guilty of an offence.

(2) The Committee may make regulations -

- (a) authorising any person to sell or supply disposable vapes, and
- (b) providing for exceptions and defences to, and exemptions from, the offence under subsection (1).

(3) In this section and section 27 (prohibition of importation of disposable vapes), "**disposable vape**" has the meaning given by section 51 (meaning of "disposable vape").

Prohibition of importation of disposable vapes.

27. (1) Subject to subsection (2), a person who, in the course of business, imports a disposable vape is guilty of an offence.

(2) The Committee may make regulations -

- (a) authorising any person to import disposable vapes in the course of a business, and

- (b) providing for exceptions and defences to, and exemptions from, the offence under subsection (1).

PART IV ENFORCEMENT AND PENALTIES

Authorised officers and licensing officer

Licensing officer and authorised officers.

28. (1) The Committee may in writing appoint an officer to be the licensing officer.

(2) The licensing officer -

- (a) is an authorised officer, and
- (b) may appoint other officers as authorised officers.

(3) In this section (1), "**officer**" means an employee of the States.

Powers of entry, search, etc.

General powers of entry, search, etc.

29. (1) Subject to section 31 (entry to dwellings restricted), an authorised officer may at any reasonable time -

- (a) enter any premises specified in subsection (2) for a purpose specified in subsection (3), and
- (b) exercise the power specified in subsection (4) on or in relation to those premises.

(2) Subsection (1)(a) refers to the following premises -

- (a) vape-licensed premises,

- (b) premises at which the authorised officer has reasonable grounds for believing that -
 - (i) any trade, business or activity connected with the importation, sale, supply or advertisement of vaping products is or has been carried on,
 - (ii) any document, product or other thing relating to any such trade, business or activity is kept, or
 - (iii) an offence under this Ordinance is about to be committed, is being committed or has been committed.
- (3) Subsection (1)(a) refers to the following purposes -
 - (a) establishing whether any prohibition, restriction, requirement or condition imposed under this Ordinance is being, or has been, complied with,
 - (b) ascertaining whether there is or has been, on or in connection with those premises, a contravention of this Ordinance, and
 - (c) detecting or investigating an alleged offence under this Ordinance.
- (4) Subsection (1)(b) refers to the power to do all or any of the following -
 - (a) search the premises and examine anything at the premises, opening it (or breaking it open) as the officer considers necessary,

- (b) photograph, film or otherwise record anything at the premises,
- (c) measure or cause to be measured anything at the premises,
- (d) require the production of any document, product or other thing, and inspect it,
- (e) take copies of or extracts from any document,
- (f) if anything at the premises cannot be conveniently removed, secure it against interference,
- (g) require any person to give the officer such information, or afford the officer such facilities and assistance, as the officer considers necessary, and
- (h) seize any document, product or other thing, which is at the premises and retain it for as long as the officer considers necessary.

(5) Subsection (4) does not apply to, or in relation to, any items subject to legal professional privilege.

Safeguards for general powers of entry, search, etc.

30. (1) An authorised officer entering any premises under section 29 (general powers of entry, search, etc.) must, if the occupier or any person who appears to be in charge of those premises is present -

- (a) identify himself to the occupier or that person, and

- (b) produce to the occupier or that person documentary evidence that that officer is an authorised officer.

(2) If neither the occupier nor any person who appears to be in charge of those premises is present at the time the authorised officer leaves those premises, the authorised officer must -

- (a) leave the premises as effectively secured against trespassers as that officer found them, and
- (b) leave in a prominent place on those premises written notice that those premises have been entered and searched under section 29, including that officer's name and an address at which that officer may be contacted and a copy of the documentary evidence referred to in subsection (1)(b).

(3) An authorised officer who seizes anything under section 29 must leave with the occupier or person in charge of the premises (if present) or on the premises (if the occupier or person in charge is not present), a statement stating -

- (a) particulars of what has been taken, and
- (b) that the officer has seized it.

Entry to dwellings restricted.

31. An authorised officer must not enter a dwelling under section 29 (general powers of entry, search, etc.), except -

- (a) with the consent of the occupier or a person who appears to the authorised officer to be in charge of those premises, or

- (b) under and in accordance with a warrant issued under section 32 (warrants for entry, etc.).

Warrant to enter dwellings, etc.

Warrants for entry, etc.

32. (1) On application by an authorised officer in accordance with section 33 (procedure for search warrants), the Bailiff may, in accordance with sections 33 and 34 (requirements of search warrants), issue a warrant authorising an authorised officer to enter and search any premises (including a dwelling), if the Bailiff is satisfied that there are reasonable grounds for believing -

- (a) that an offence under this Ordinance is about to be committed, is being committed or has been committed on or in relation to those premises,
- (b) that there is material on those premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
- (c) that the material is likely to be relevant evidence,
- (d) that the material does not consist of or include items subject to legal professional privilege, and
- (e) that at least one of the conditions specified in subsection (2) is satisfied.

(2) The conditions referred to in subsection (1)(e) are as follows -

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises,

- (b) that it is not practicable to communicate with any person entitled to grant access to the evidence,
- (c) that entry to the premises will not be granted unless a warrant is produced,
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless an authorised officer arriving at the premises can secure immediate entry to them.

(3) In this section, "**relevant evidence**", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

Procedure for search warrants.

33. (1) An application for a warrant must -
- (a) be made in writing,
 - (b) be supported by information in writing, and
 - (c) state -
 - (i) that the warrant would be issued under section 32 (warrants for entry, etc.) of this Ordinance,
 - (ii) the grounds on which the authorised officer makes the application,
 - (iii) the premises which it is desired to enter and search, and
 - (iv) so far as is practicable, the things to be sought.

(2) The Bailiff must hear the application in private and ex parte.

(3) The authorised officer making the application must answer on oath any question that that officer is asked by the person hearing the application.

Requirements of search warrants.

34. (1) A warrant authorises entry only on one occasion.

(2) A warrant must -

(a) state the name of the person who applied for it, the date on which it is issued, and the premises to be searched,

(b) state that it is issued under section 32 (warrants for entry, etc.) of this Ordinance, and

(c) so far as is practicable, identify the things to be sought.

(3) His Majesty's Greffier must ensure that two copies are made of each warrant, and that those copies are clearly certified as copies.

Execution of warrants.

35. (1) Any authorised officer may execute a warrant to enter premises.

(2) An authorised officer executing a warrant may exercise all or any of the powers specified in section 29(4) (general powers of entry, search, etc.), on or in relation to those premises (subject to section 29(5)), if the officer considers it reasonably necessary for the purpose for which the warrant was issued.

(3) An authorised officer executing a warrant must -

(a) be accompanied by a police officer,

(b) do so at a reasonable hour, and

(c) do so within one month from the date of its issue.

(4) Subsection (3)(b) does not apply if it appears to the authorised officer executing the warrant that the purpose of the search may be frustrated by making an entry at a reasonable hour.

Safeguards for warranted entry, search, etc.

36. (1) An authorised officer executing a warrant to enter any premises under section 35 (execution of warrants), must, if the occupier or any person who appears to be in charge of those premises is present -

(a) provide identification to the occupier or that person,
and

(b) produce the warrant to the occupier or that person.

(2) If neither the occupier nor any person who appears to be in charge of those premises is present at the time the authorised officer leaves those premises, the authorised officer must -

(a) leave the premises as effectively secured against trespassers as that officer found them, and

(b) leave in a prominent place on those premises written notice that those premises have been entered and searched under section 35 of this Ordinance, including that officer's name and an address at which that officer may be contacted and a copy of the warrant.

(3) An authorised officer who seizes anything under section 35(2) must leave with the occupier or person in charge of the premises (if present) or on the premises (if the occupier or person in charge is not present), a statement stating -

- (a) particulars of what has been taken, and
- (b) that the officer has seized it.

Endorsement, return and inspection of warrants.

37. (1) After executing a warrant, an authorised officer must make an endorsement on it stating -

- (a) whether the things sought were found, and
- (b) whether any things, other than things which were sought, were seized.

(2) A warrant which has been executed, or which has not been executed within the time allowed for its execution, must be returned to His Majesty's Greffier.

(3) His Majesty's Greffier must retain a warrant which is returned for 12 months beginning on the date of its return.

(4) If, during the period for which a warrant is to be retained under subsection (3), the occupier of the premises to which it relates asks to inspect it, His Majesty's Greffier must allow that occupier to do so.

Miscellaneous powers

Persons exercising powers may bring other persons.

38. An authorised officer entering any premises under section 29 (general powers of entry, search, etc.), or 35 (execution of warrants) may bring onto the premises any person or thing that the officer considers necessary.

Storage and disposal of seized property.

39. (1) An authorised officer may store any seized property subject to the provisions of Schedule 2.

(2) Schedule 2 has effect in relation to any seized property.

(3) On the application of an authorised officer or any person who claims the seized property, the Magistrate's Court may, notwithstanding any provision to the contrary in Schedule 2 -

- (a) make an order for the delivery of the property to the person appearing to the court to be the owner of it, or
- (b) make any other order that the court thinks fit in respect of the property.

Other powers not limited.

40. For the avoidance of doubt, the powers conferred by sections 29 (general powers of entry, search, etc.), 32 (warrants for entry, etc.), 35 (execution of warrants) and 38 (persons exercising powers may bring other persons) are in addition to any other powers conferred by or under any other enactment or any rule of customary or common law.

Obstruction, etc. or provision of false, deceptive or misleading information.

41. (1) A person who -
- (a) intentionally obstructs an authorised officer acting in the exercise of the officer's functions under this Ordinance,
 - (b) without reasonable cause fails to comply with any requirement made by an authorised officer acting in the exercise of the officer's functions under this Ordinance, or
 - (c) removes, tampers or otherwise interferes with a thing secured against interference under section 29 (general powers of entry, search, etc.) or 35(2) (execution of warrants),

is guilty of an offence.

- (2) A person is guilty of an offence if -
- (a) for the purposes of or in connection with an application made under this Ordinance,
 - (b) in purported compliance with any condition of a licence granted under this Ordinance,
 - (c) in purported compliance with any requirement imposed under, or otherwise for the purposes of, this Ordinance, or

- (d) otherwise than as mentioned in paragraphs (a) to (c) but in circumstances in which the person intends, or could reasonably be expected to know, that the information would or might be used by any person for the purpose of exercising that person's functions under this Ordinance,

the person does any of the following -

- (i) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) produces or furnishes, or causes or permits to be produced or furnished, any information which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information which is false, deceptive or misleading in a material particular.

Penalties for offences.

- 42. A person guilty of an offence under this Ordinance is liable -

- (a) in the case of an offence under regulations made under section 46 (Committee may further regulate vaping products), to the penalties specified for the offence in those regulations, and
- (b) in the case of any other offence, to the penalties specified for the offence in Schedule 3.

Criminal liability of directors etc. for offences.

43. (1) Where an offence under this Ordinance is committed by a body corporate, a limited partnership with legal personality or a foundation and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a body corporate, any director, manager, secretary or other similar officer,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a foundation, any foundation official, or
- (d) any person purporting to act in any capacity described in any of paragraphs (a) to (c),

that person as well as the body corporate, limited partnership or foundation is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with the member's functions of management as if the member were a director.

(3) In this section -

"foundation" means -

- (a) a foundation created under the Foundations (Guernsey) Law, 2012^k, or
- (b) an equivalent or similar body created or established under the law of another jurisdiction (however named),

"foundation official" means -

- (a) in relation to a foundation created under the Foundations (Guernsey) Law, 2012, a foundation official within the meaning of that Law, and
- (b) in relation to an equivalent or similar body created or established under the law of another jurisdiction, a person with functions corresponding to those of a foundation official described in paragraph (a) of this definition, and

"general partner" means -

- (a) in relation to a limited partnership falling within paragraph (a) of the definition in this section of **"limited partnership"**, a general partner within the meaning of the Limited Partnerships (Guernsey) Law, 1995^l, and

^k Order in Council No. I of 2013; this enactment has been amended.

^l Ordres en Conseil Vol. XXXVI, p. 264; this enactment has been amended.

- (b) in relation to a limited partnership falling within paragraph (b) of the definition in this section of "**limited partnership**", a person whose liability for, and functions in relation to, the partnership correspond to that of a general partner described in paragraph (a) of this definition.

(4) In this section and in section 44 (criminal proceedings against unincorporated bodies), "**limited partnership**" means -

- (a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or
- (b) an arrangement entered into under the laws of a jurisdiction outside Guernsey between two or more persons, under which -
 - (i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and
 - (ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations (unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified

circumstances) beyond the amount contributed
or agreed to be contributed,

whether with or without legal personality.

Criminal proceedings against unincorporated bodies.

44. (1) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of-

- (a) in the case of-
 - (i) a limited partnership without legal personality, any general partner thereof,
 - (ii) any other partnership (not being a limited partnership with legal personality or a limited liability partnership), any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty of which the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence must, without prejudice to subsection (1), be brought in the name of the body and not in the name of any of its members, officers or partners.

(3) A fine imposed on an unincorporated body on its conviction for an offence under this Ordinance must be paid from the funds of the body.

(4) In this section, a "**limited liability partnership**" means -

- (a) a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013^m, or
- (b) an entity formed under the laws of a jurisdiction outside Guernsey, being an entity corresponding to a limited liability partnership described in paragraph (a).

Court may order forfeitures or suspension.

45. (1) Where a person is convicted of an offence under this Ordinance, the court may, in addition to imposing the penalties specified under section 42 (penalties for offences), order the forfeiture to the States of anything that was used in, was the subject of or was otherwise involved in the commission of the offence.

(2) Where a licensee is convicted of an offence under this Ordinance, the court may order any licence held by the person to be suspended -

- (a) in the case of a person convicted summarily of an offence, for a period not exceeding three months, and

^m Order in Council No. VI of 2014; this enactment has been amended.

- (b) in the case of a person convicted of an offence on indictment, for a period not exceeding one year,

and the licence ceases to have effect during that period.

- (3) The court may make a forfeiture order under subsection (1) -

- (a) regardless of whether the thing to be forfeited is seized property, and

- (b) in the case of seized property, regardless of whether the property has been returned to the person entitled to possession of that property.

- (4) The court may make any order it considers appropriate to give effect to a forfeiture order made under subsection (1).

PART V

GENERAL

Committee may further regulate vaping products.

- 46. (1) The Committee may make regulations prohibiting or regulating -

- (a) the importation, advertisement, sale or supply of vaping products, and
- (b) any activity, practice, act or omission, related to or in any way associated with the importation, advertisement, sale or supply of vaping products.

- (2) Regulations under subsection (1) -

- (a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences, and
 - (b) may empower the Committee, any other committee of the States, any other body or authority (including, without limitation, any court in Guernsey), or any person to issue codes or guidance in relation to any matter for which regulations may be made under that subsection.
- (3) Regulations under subsection (1) may not -
- (a) provide for offences to be triable only on indictment,
 - (b) authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9(1)(a) or (2) of the Magistrate's Court (Guernsey) Law, 2008ⁿ, or
 - (c) authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.

What constitutes reasonable steps to establish age.

47. (1) This section applies where any provision of this Ordinance requires a person ("A") to take, or to establish that the person has taken, reasonable

ⁿ Order in Council No. XVIII of 2009; this enactment has been amended.

steps to establish the age of another person ("B"), in order to establish an exception or a defence to, or an exemption from, an offence.

(2) Where this section applies, A is to be treated as having taken such steps in relation to B if, and only if -

- (a) A was shown a document purporting to be a document of a prescribed kind, and
- (b) that document would have convinced a reasonable person as to B's age.

(3) This section is subject to any express provision to the contrary in regulations made under this Ordinance.

(4) For the avoidance of doubt, in subsection (1), "**this Ordinance**" includes any regulations made under this Ordinance.

Confidentiality.

48. (1) This section applies to any information from which an individual or body may be identified and which is acquired by a person in carrying out the person's functions under this Ordinance.

(2) A person mentioned in subsection (1) must not disclose any information to which this section applies without the consent of every individual who, and every body which, can be identified from that information, except to the extent that its disclosure -

- (a) is expressly authorised or required by or under this Ordinance or any other enactment, or
- (b) appears to that person to be necessary -

- (i) to enable functions under this Ordinance to be carried out,
- (ii) in the interests of -
 - (A) the investigation, detection or prevention of offences, or
 - (B) the apprehension or prosecution of offenders, or
- (iii) to comply with an order of a court of Guernsey.

(3) A person who contravenes subsection (2) is guilty of an offence.

Protection from self-incrimination.

49. A statement made by a person in response to a requirement imposed by or under this Ordinance ("**the statement concerned**") -

- (a) may be used in evidence against the person in proceedings other than criminal proceedings, and
- (b) may not be used in evidence against the person in criminal proceedings except -
 - (i) where evidence relating to the statement concerned is adduced, or a question relating to the statement concerned is asked, in the proceedings by or on behalf of that person,
 - (ii) in proceedings for an offence under section 41(2) (obstruction, etc. or provision of false, deceptive or misleading information),

- (iii) in proceedings for perjury or perverting the course of justice, or
- (iv) in proceedings where, in giving evidence, that person makes a statement inconsistent with the statement concerned, but in this case the statement concerned is only admissible to the extent necessary to establish the inconsistency.

Regulations and Orders.

50. Regulations and orders made under this Ordinance must be laid before a meeting of the States as soon as possible and, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations or (as the case may be) orders.

Meaning of "disposable vape".

51. (1) In this Ordinance, "**disposable vape**" means any device that satisfies -

- (a) condition 1 or 2, and
 - (b) condition 3.
- (2) Condition 1 is that the device -
- (a) is intended to enable a person to inhale any vapour through a mouthpiece, or
 - (b) otherwise vaporises any substance for the purpose of inhalation by a person through a mouthpiece,

where the vapour or (as the case may be) substance is not exclusively a tobacco product or medicinal product.

(3) Condition 2 is that the device is presented, or represented, expressly or implicitly, as a device of a kind described in condition 1.

(4) Condition 3 is that the device is not designed or intended to be re-used.

(5) A device is deemed to satisfy condition 3 if it is -

- (a) not refillable,
- (b) not rechargeable, or
- (c) not refillable and not rechargeable.

(6) For the purposes of subsection (5), a device is not refillable unless it is designed to include -

- (a) a single-use container which is separately available and can be replaced by an individual user in the normal course of use, or
- (b) a container which can be refilled by an individual user in the normal course of use.

(7) For the purposes of subsection (5), a device is not rechargeable if it is designed to contain -

- (a) a battery which cannot be recharged, or
- (b) a coil which is not separately available and intended to be replaced by an individual user in the normal course of use, including any coil which is contained in a single-use cartridge or pod which is not separately

available and cannot be replaced by an individual user in the normal course of use.

(8) The Committee may by regulation amend or repeal all or any part of subsections (1) to (7).

Interpretation.

52. In this Ordinance, unless the context requires otherwise -

"**adult**" means an individual who is of or over the age of 18 years,

"**advertisement**" has the meaning given to it by section 5 of the Vaping Products (Enabling Provisions) (Guernsey) Law, 2024,

"**approval**" means approval of an individual under Part II to manage the conduct of a corporate licence,

"**authorised officer**" means the licensing officer and any other officer appointed as an authorised officer under section 28 (licensing officer and authorised officers),

"**buyer**" means a person to or with whom a sale is made,

"**child**" means an individual below the age of 18 years,

"**the Committee**" means the Committee for Health & Social Care,

"**corporate licence**" means a licence held by a body corporate,

"**corporate licensee**" means a body corporate that holds a licence,

"**display**" includes cause to be displayed,

"**disposable vape**": see section 51 (meaning of "disposable vape"),

"Guernsey" means the islands of Guernsey, Herm and Jethou,

"indirect sale licence" means a licence authorising indirect sale of vaping products within the meaning of section 4(4) (grant of licences),

"information" includes any document, statement or evidence, regardless of the manner or form in which it is kept or given,

"items subject to legal professional privilege" has the meaning given by section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^o,

"licence" means a licence granted or renewed under Part II,

"licensee" means any person holding a licence,

"licensing officer" means the officer appointed to be the licensing officer under section 28(1) (licensing officer and authorised officers),

"this Ordinance" includes any regulations made under this Ordinance,

"prescribed" means prescribed by regulations made by the Committee,

"reasonable steps", in relation to one person establishing the age of another, has the meaning given by section 47 (what constitutes reasonable steps to establish age),

"renewal" means renewal of a licence under Part II,

^o Order in Council No. XXIII of 200; this enactment has been amended.

"responsible person", subject to section 13 (procedure where responsible person ceases to act), means an individual approved under Part II to manage the conduct of a corporate licence,

"retail licence" means a licence authorising retail sale of vaping products,

"retail licensee" means a person who holds a retail licence,

"retail sale", in relation to a vaping product, means sale of the product -

- (a) to a person who buys it otherwise than for the purpose of selling or supplying it in the course of a business carried on by that person, and
- (b) where the seller (or the seller's employee or agent) and the buyer are in the same place at the time of the sale,

"sale" includes -

- (a) selling for resale (including as a constituent part of another article),
- (b) offering or attempting to sell,
- (c) receiving for sale,
- (d) displaying or otherwise exposing for sale,
- (e) having in possession for sale,
- (f) agreeing for sale,
- (g) sending or delivering for sale,

- (h) causing or permitting to be sold, offered, or exposed for sale,
- (i) barter,
- (j) supplying the article concerned under an agreement, together with other articles or services or both, in consideration of an inclusive charge for the article and the other articles or services,
- (k) offering as a public prize or reward, or giving away for the purpose of advertisement or in the furtherance of any trade or business, and
- (l) every other method of disposition for valuable consideration,

"seized property" means any thing seized by an authorised officer under section 29 (general powers of entry, search, etc.) or 35(2) (execution of warrants),

"special conditions" means any conditions specified on a licence by the licensing officer under paragraph 10 of Schedule 1,

"specified" means specified by the licensing officer and notified in any manner that the licensing officer considers appropriate,

"the States" means the States of Guernsey,

"supply" includes -

- (a) sell, give, exchange, distribute, convey, consign, deliver, furnish, or transfer possession of or title to, or

arrange, offer, or agree to do so, whether for a fee or other consideration or without charge,

- (b) have in one's possession for the purpose of doing any of the things specified in paragraph (a), and
- (c) doing any of the things specified in paragraph (a) by way or by use of a vending machine or other device,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^P,

"vape-licensed premises" means premises licensed under Part II,

"vaping product" has the meaning given by section 2 of the Vaping Products (Enabling Provisions) (Guernsey) Law, 2024,

"vessel" means anything for the conveyance by water of human beings or of property,

"warrant" means a warrant issued under section 32 (warrants for entry, etc.),

"wholesale", in relation to a vaping product, means sale of the product to a person who buys it for the purpose of selling or supplying it in the course of a business carried on by that person, and

"wholesale licence" means a licence authorising wholesale of vaping products.

^P Ordres en Conseil Vol. XXXI, p. 278; this enactment has been amended.

Index of defined expressions.

53. Schedule 4 sets out an index of the expressions defined or given meaning by this Ordinance.

Amendments to Tobacco Products (Guernsey) Ordinance, 2014.

54. The Tobacco Products (Guernsey) Ordinance, 2014 is amended as follows -

- (a) in section 6 (features of licences) of that Ordinance–
 - (i) in subsection (1)(a), immediately after "premises", insert "(or location, if mobile premises)", and
 - (ii) after subsection (4), insert the following subsection-

"(5) In subsection (1)(a), the reference to location in relation to mobile premises is a reference to –

- (a) the location where those premises are normally kept when not in use, and
 - (b) the locations where those premises will be stationed when used for the sale of tobacco products.",
 - (b) in section 8 (circumstances in which applications must be refused) of that Ordinance,
 - (i) in subsection (1), delete paragraphs (c) and (d)(ii), and

- (ii) in subsection (4)(b), immediately after "tobacco products", insert "or vaping products",
- (c) in section 22(4) (appeal to Royal Court) of that Ordinance, at the end of subparagraph (a), delete "or" and insert the following paragraph –
 - "(aa) substitute the Court's own decision for the review decision, or",
- (d) in section 24(2) (regulations may amend licence conditions and period for notices, applications, etc.) of that Ordinance, delete paragraph (h),
- (e) in section 32 (Committee to authorise officers and appoint licensing officer) of that Ordinance –
 - (i) for the heading of that section, substitute **"Licensing officer and authorised officers"**, and
 - (ii) for subsection (1), substitute the following subsections –
 - "(1) The Committee may in writing appoint an officer to be the licensing officer.
 - (1A) The licensing officer -
 - (a) is an authorised officer, and
 - (b) may appoint other officers as authorised officers.",

- (f) in section 43(3)(b) (storage and disposal of seized property) of that Ordinance, delete ", for example an order for the forfeiture or destruction of the property",
- (g) in section 46 (penalties and proceedings) of that Ordinance, for subsections (2) and (3), substitute the following subsection –

"(2) Sections 43 (criminal liability of directors etc. for offences) and 44 (criminal proceedings against unincorporated bodies) of the Vaping Products (Guernsey) Ordinance, 2025 (**"the Vaping Ordinance"**) has effect in relation to an offence under this Ordinance as if a reference in those sections to an offence under the Vaping Ordinance were a reference to an offence under this Ordinance."

- (h) in section 55(1) (interpretation) of that Ordinance –
 - (i) in the definition of "authorised officer", for "32(1)", substitute "32(1A)", and
 - (ii) in the definition of "relevant enactment", immediately after paragraph (a), insert the following paragraphs -
 - "(aa) the Vaping Products (Guernsey) Ordinance, 2025,
 - (ab) the Liquor Licensing Ordinance, 2006,"
- (i) in Schedule 2 (provisions for storage and disposal of seized property) to that Ordinance, in paragraph 4 –

- (i) immediately after "storage" insert "and disposal", and
- (ii) at the end of subparagraph (b), insert ", except expenses for disposal of that property.", and
- (j) in Schedule 3 (penalties for offences) to that Ordinance, in the "Penalties" column of the entry relating to the offence under section 25(1) of that Ordinance, immediately after "uniform scale, and", insert "in the case of a conviction on indictment,".

Extent.

55. Subject to section 56 (exemption for certain vessels in territorial waters), this Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

Exemption for certain vessels in territorial waters.

56. (1) Nothing in this Ordinance prohibits or restricts -
- (a) the sale, supply or possession of vaping products,
 - (b) the display of vaping products, prices of vaping products or advertisements of vaping products, or
 - (c) the importation of vaping products in connection with the sale or supply of vaping products,

aboard any vessel described in subsection (2).

- (2) Subsection (1) refers to the following vessels -
- (a) a cruise vessel within the territorial waters adjacent to the Islands of Guernsey, Herm and Jethou which enters

those territorial waters from a place outside those territorial waters,

(b) a vessel carrying passengers for reward which is sheltering in the territorial waters adjacent to the Island of Guernsey, Herm and Jethou due to any emergency whatsoever, or

(c) a vessel which is not carrying any passengers for reward within the territorial waters adjacent to Islands of Guernsey, Herm and Jethou on passage from or to a place in any of the Islands of Guernsey, Herm or Jethou or in those territorial waters, to or from a place outside the Islands or outside those territorial waters.

(3) In subsection (2) -

"**cruise vessel**" means a vessel which enters a port or the territorial waters adjacent to the Islands of Guernsey, Herm and Jethou solely for the purpose of enabling passengers thereon to visit any of the said Islands as part of the itinerary of a cruise or for the purpose of embarking or disembarking passengers beginning or ending a cruise in the vessel, and

"**passenger**" means any person carried on a vessel but does not include a member of the crew of the vessel.

Citation.

57. This Ordinance may be cited as the Vaping Products (Guernsey) Ordinance, 2025.

Commencement of the Vaping Products (Enabling Provisions) (Guernsey) Law, 2024.

58. The Vaping Products (Enabling Provisions) (Guernsey) Law, 2024 shall come into force immediately.

Commencement of this Ordinance.

59. (1) Subject to subsection (2), this Ordinance shall come into force on a date appointed by Order of the Committee for Health & Social Care; and different dates may be appointed for different provisions and for different purposes.

(2) Section 58 shall come into force immediately.

SCHEDULE 1

Section 5(2)

CONDITIONS OF LICENCES

1. A licensee must at all times comply with, and ensure that the licensee's employees and agents comply with -
 - (a) the conditions of the licence, and
 - (b) this Ordinance.
2. A licensee is responsible for all sales of vaping products from the premises specified in the licence.
3. A corporate licensee must ensure that a responsible person for the licence manages the general conduct of that licence.
4. A licensee is authorised to sell vaping products under the licence only -
 - (a) at or from premises specified in the licence, and
 - (b) in accordance with the conditions of the licence.
5. No child may sell vaping products at or from vape-licensed premises unless the child is acting under the supervision of -
 - (a) the licensee (if an individual), or
 - (b) an adult employee or adult agent of the licensee.
6. A retail licence authorises the sale of vaping products only in the area where vaping products are held, as specified in the licence.
7. A wholesale licence authorises the sale of vaping products only to a retail

licensee or a holder of an indirect sale licence.

8. A retail licensee must display the licence or a true copy of it at the point-of-sale for vaping products in the vape-licensed premises, so that these are clearly visible to members of the public.
9. A licensee must pay any fee payable under this Ordinance.
10. A licensee must comply with any other conditions specified by the licensing officer on the licence.

SCHEDULE 2

Section 39

PROVISIONS FOR STORAGE AND DISPOSAL OF SEIZED PROPERTY

1. An authorised officer may store seized property in any manner and place the officer considers appropriate, before the seized property is disposed of in accordance with this Ordinance.
2. Any person who appears to an authorised officer to be the person who would, but for the seizure, be entitled to possession of the seized property must be given reasonable access to that property.
3. Where the seized property is perishable or its storage involves unreasonable expense or inconvenience, and -
 - (a) the Committee is unaware of any person who would, but for the seizure, be entitled to possession of the seized property,
 - (b) no person has claimed the property within the period of three months after it was seized under this Ordinance, and
 - (c) there is no order to the contrary by a competent court,the Committee may, in the case of a vaping product, destroy that property, and in any other case, destroy, sell or otherwise dispose of that property in any manner the Committee considers appropriate.
4. A person convicted of an offence under this Ordinance is liable to pay to the States (through the Committee) all expenses reasonably incurred in relation to the storage and disposal of any seized property that was used in, was the subject of, or was otherwise involved in, the commission of the offence; and -

- (a) the States may recover the expenses for which that person is liable as a civil debt owed by that person to the States, and
- (b) this paragraph applies whether or not the seized property is forfeited to the States under any enactment, but a person is not liable to pay expenses incurred on and from the day on which the thing is so forfeited, except expenses for disposal of that property.

SCHEDULE 3

Section 42(b)

PENALTIES FOR OFFENCES

Provision creating offence	General summary of offence	Penalty
Section 2 (sale of vaping products to be licensed)	Unlicensed sale of vaping products	Upon summary conviction or conviction on indictment, imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the uniform scale, or both.
Section 14(2) (general duties of licensee)	Failure of licensee to comply with conditions, keep prescribed records, produce licence or records, or give written notice of material change in conduct of licence, etc.	Upon summary conviction or conviction on indictment, a fine not exceeding level 4 on the uniform scale.
Section 16(2) (return of licences)	Failure to return licence to licensing officer as required by section 16(1)	Upon summary conviction or conviction on indictment, a fine not exceeding level 4 on the uniform scale.

Provision creating offence	General summary of offence	Penalty
Section 24(1) (prohibition of display of vaping products, prices and advertisements)	Displaying vaping products, prices of vaping products or advertisements for vaping products in vape-licensed premises	Upon summary conviction or conviction on indictment, a fine not exceeding level 5 on the uniform scale, and in the case of a conviction on indictment, a further fine of such amount, not exceeding level 2 on the uniform scale, as the Court may impose on convicting the person, in respect of each day on which the offence continues to be committed by that person, whether before or after the date of conviction.
Section 25(1) (prohibition of sale or supply to children)	Sale or supply of a vaping product to a child	Upon summary conviction or conviction on indictment, imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the uniform scale, or both.
Section 26(1) (prohibition of sale)	Sale or supply of disposable vapes	Upon summary conviction or conviction on indictment, imprisonment for a term not exceeding three months, or a

Provision creating offence	General summary of offence	Penalty
or supply of disposable vapes)		fine not exceeding level 5 on the uniform scale, or both.
Section 27(1) (prohibition of importation of disposable vapes)	Importation of disposable vapes	Upon summary conviction or conviction on indictment, imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the uniform scale, or both.
Section 41(1) (obstruction, etc. or provision of false, deceptive or misleading information)	Obstruction, failure to comply with requirement, or tampering, etc.	Upon summary conviction or conviction on indictment, a fine not exceeding level 4 on the uniform scale.
Section 41(2) (obstruction, etc. or provision of false, deceptive or misleading information)	Provision of false, deceptive or misleading information	Upon summary conviction or conviction on indictment, a fine not exceeding level 4 on the uniform scale.
Section 48(3) (confidentiality)	Breach of duty of confidentiality	Upon summary conviction or conviction on indictment,

Provision creating offence	General summary of offence	Penalty
		a fine not exceeding level 4 on the uniform scale.

SCHEDULE 4

Section 53

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