

Draft

**Federal Act on producing and placing on the market of tobacco products and related products as well as advertising tobacco products and related products and the protection of non-smokers (Tobacco and Non-Smoker Protection Act – TNRSRG)**

The Nationalrat [Austrian National Council] has decreed the following:

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**Article 1**

**Amendment to the Tobacco and Non-Smoker Protection Act**

The Federal act on producing and placing on the market of tobacco products and related products as well as advertising tobacco products and related products and the protection of non-smokers (Tobacco and Non-Smoker Protection Act – TNRSRG), Federal Law Gazette No 431/1995, last amended by Federal Law GazetteI No 36/2025, is amended as follows:

1. *In § 1(1b), after the word and character sequence ‘be reloaded’ the comma is replaced by a full stop; and the following sentences are added:*  
‘Electronic cigarettes which constitute products are not designed or intended for reuse. An electronic cigarette constitutes a disposable product if it either has a non-rechargeable battery or is not refillable,’.
2. *In §1(1e), after the word ‘liquids,’ the words ‘every refill container, tobacco-free nicotine product and tobacco-free nicotine substitute product,’ is inserted.*
3. *§ 1(3) reads:*  
‘3. ‘Nicotine’ the nicotine alkaloids,’
4. *In § 1(6), after the words ‘tobacco product’ the word sequence ‘or the related product’ is inserted.*
5. *In § 1 Points 7 and 7a, after the words ‘tobacco product’ the word sequence ‘or a related product’ is inserted.*
6. *In § 1(10), after the words ‘tobacco products’, the words ‘or related products’ are inserted.*
7. *§ 1(12) reads:*  
‘12. ‘Mail order’ (distance selling) means the offering for dispatch or delivery, the dispatch or delivery of tobacco products or related products, in particular by manufacturers, importers or traders to consumers,’
8. *The following Points 14 and 15 are added to § 1:*  
‘14. ‘Tobacco-free nicotine product’ means any tobacco-free product containing nicotine and intended for absorption into the human body by inhalation, sniffing, sucking, chewing, oral,

dermal or other absorption, provided that it is not an electronic cigarette, refill container, liquid or a herbal smoking product,

15. ‘Tobacco-free nicotine substitute product’ means a product that contains neither tobacco nor nicotine and can be consumed like a tobacco-free nicotine product, provided that it is not a herbal smoking product, an electronic cigarette or a liquid.’

9. In § 2(1)(1) the character sequence ‘10e’ is replaced by the word and character sequence ‘10f, 10h to 10i’ and the word ‘after’ is preceded by the word ‘the’.

10. In § 2(1)(3), after the word ‘chewing tobacco’ the word ‘or’ is inserted.

11. The following Point 4 is added to § 2(1):

‘4. Electronic cigarettes which constitute disposable products’

12. After § 2(2), the following (2a) is inserted:

‘(2a) A pack of a tobacco-free nicotine product must contain at least 15 consumption units.’

13. *Ta*, the second sentence in § 2a is deleted.

14. After § 2a, the following § 2b is inserted:

‘§ 2b. The sale of tobacco products under § 1(1) and related products under § 1(1e) to persons who have not yet reached the age of 18 is prohibited.’

15. After § 5(4), the following Paras. 4a and 4b are inserted:

‘(4a) For packs of rolling tobacco in the form of rectangular pouches with a flap covering the opening, the general warning and information message must be printed on the two surfaces that become visible when the pack is fully opened. The general warning notice and information message must be placed at the top and must occupy 50% of the respective areas on which they are printed. The general warning notice should be placed at the very top.

(4b) For packs of rolling tobacco in the form of stand-up pouches, the general warning and information message must be placed on the bottom surfaces of the pouch that are visible when the pouch is laid on its back. The general warning notice must be printed on the area above the bottom fold of the packaging, and the information message on the area below the bottom fold. The general warning notice and the information message must each occupy 50% of the area on which they are printed. The areas are to be calculated based on their dimensions after the edges have been sealed.’

16. In § 5(8) as well as § 5a(4) and (5), the word and character sequence ‘in agreement with the Federal Minister of Finance’ is deleted.

17. After § 8c, the following § 8d, including its heading, is inserted:

**‘Notification of ingredients in tobacco-free nicotine products and tobacco-free nicotine substitute products**

§ 8d. (1) Manufacturers or importers of tobacco-free nicotine products or tobacco-free nicotine substitute products must notify the Federal Minister of Health of any such products that they intend to place on the market. The notification must be submitted electronically at least six months before the intended placement on the market. The product may not be placed on the market until at least six months after notification.

(2) The notification referred to in Para. 1 must contain the following information:

1. the name and contact details of the manufacturer, a responsible legal entity or natural person in the European Union and, where applicable, the importer who imports the product into the European Union, in order to enable the competent authorities to carry out their supervisory and control tasks,
2. a list of all ingredients, indicating the quantities contained in the product,
3. toxicological data regarding the ingredients, in particular with reference to their effects on the health of consumers when consumed and taking into account in particular any possible addictive effects,
4. for products containing nicotine, information on the nicotine dose and absorption when consumed under normal or reasonably foreseeable conditions,

5. a declaration that the manufacturer and the importer bear full responsibility for the quality and safety of the product when it is placed on the market and used under normal or reasonably foreseeable conditions.

(3) If ingredients or their quantities are changed, this must be reported by the manufacturers or importers to the Federal Minister of Health six months before the intended placing on the market of the changed product.

(4) In the case of an incomplete or incorrect notification pursuant to Para. 1, the Federal Minister of Health may request the missing documents or corrections, setting a reasonable deadline for submission.

(5) The Federal Minister of Health shall publish on the website of the Federal Ministry the information received pursuant to Paras. 2 to 4 for transparency purposes in such a way as to ensure that trade secrets remain confidential.

(6) The Federal Minister of Health shall publish the data obtained pursuant to Paras. 1 or 3 on the website of the Federal Ministry, while safeguarding the trade secrets contained therein, which must be designated by the manufacturers or importers.

(7) § 10a(6a) and (7) shall apply.'

18. In § 9(1), the word and character sequence '§§ 4 to 4c, 8 to 8c and 10 to 10f' is replaced by the word and character sequences '§§ 4 to 6, 8 to 8d, 10 to 10f and 10h to 10i'.

19. After § 9(8), the following (8a) and (8b) are inserted:

'(8a) Employees of the Office for Tobacco Coordination pursuant to § 6e of the Health and Food Safety Act, Federal Law Gazette I No 63/2002 authorises them to acquire product samples under a false identity, particularly through distance selling, to analyse them and to determine their non-conformity.

(8b) If, during an inspection, the Federal Minister of Health is informed or otherwise becomes aware that a product under this Federal Act could pose a serious risk to human health, he or she shall take appropriate provisional measures. Suitable provisional measures include temporary bans on placing on the market and seizure. If the protection of human health cannot be ensured by less restrictive measures, the goods may be declared invalid.'

20. In § 9(9), the last sentence is deleted.

21. In § 10(1)(3), the word and character sequence '§§ 8a to 8c, as well as 10a to 10f' is replaced by the words and character sequence '§§ 8a to 8d, 10a to 10f and 10h to 10i'.

22. In § 10(1)(4), after the word and character sequence '§§ 5 to 6', the word and character sequence ', 10c, 10f and 10h to 10i' is inserted.

23. In § 10a, after Para. 6, the following Para. 6a is inserted:

'(6a) Manufacturers and importers of novel tobacco products shall submit the following information to the Federal Minister of Health on an annual basis by no later than 31 May of the following year:

1. Comprehensive data on sales volumes, broken down by brand name and type of product,
2. Information on the preferences of different consumer groups, including young people, non-smokers and the main categories of current users,
3. Summaries of all market studies conducted in this regard, including an English translation.'

24. In § 10b(7)(1) the word sequence 'liquids containing nicotine' is replaced by the word 'liquids' and the word sequences 'or in electronic disposable cigarettes' as well as 'or tanks' are deleted.

25. In § 10b(7)(2), the word sequence 'the nicotine-containing liquid' is replaced by the word sequence 'liquids containing nicotine' and the word 'may' (sing.) is replaced by the word 'may' (pl.).

26. In § 10b(7)(3) the word sequence 'nicotine-containing liquid' is replaced by the word 'liquids' and the word 'may' (sing.) is replaced by the word 'may' (pl.).

27. In § 10b(7)(4) the words 'nicotine-containing and nicotine-free liquid' are replaced by the word 'liquids'.

28. In § 10b(7)(5), the word 'liquids' is replaced by the word 'liquids'.

29. *The following Para. 8 is added to § 10b:*

(8) Refillable electronic cigarettes and refill containers may only be placed on the market if they have a mechanism for refilling the electronic cigarette which

1. has a securely attached mouthpiece of at least 9 mm in length, which is thinner than the opening of the tank of the electronic cigarette for which it is used and fits comfortably inside it, and which has a flow limiting mechanism which, in a vertical position and at atmospheric pressure of 20 °C ± 5 °C, dispenses a maximum of 20 drops of refill liquid per minute, or
2. has a docking system that only dispenses refill liquid into the electronic cigarette when the electronic cigarette and the refill container are connected.'

30. *In § 10c(1), after the words 'package leaflet', the words 'in German' are inserted.*

31. *§ 10c(1)(1) reads:*

'1. Instructions for use and storage of the product, including a statement that the product is not recommended for use by children, adolescents, and non-smokers. The instructions for use must include appropriate refill instructions and diagrams. For refillable electronic cigarettes and for refill containers with a refilling mechanism in accordance with § 10b(8)(1), the width of the mouthpiece or the tank opening must be specified in the instructions for use in such a way that consumers can determine whether the refill container and the electronic cigarette are compatible. For refillable electronic cigarettes and refill containers with a refilling mechanism in accordance with § 10b(8)(2), requires that the instructions for use specify which docking systems are compatible with these electronic cigarettes and these refill containers.'

32. *After § 10g, the following §§ 10h and 10i, including their headings, are inserted:*

#### **'Tobacco-free nicotine products**

**§ 10h.** (1) Every tobacco-free nicotine product must be placed on the market in a package.

(2) Every package and each outer packaging must bear the health warning 'This product contains nicotine, a highly addictive substance. It is not recommended for use by non-smokers.' and it must include the information message 'This product is not intended for consumption by minors.'

(3) The health warning and information message must be permanently affixed to the side or bottom of each package and outer packaging and must be clearly and prominently visible.

(4) Each package and each outer packaging must include:

1. a list of all ingredients of the product in descending order of their weight, whereby ingredients with a proportion of more than 0.1% of the finished formulation must in any case be indicated,
2. the weight of each individual consumption unit,
3. the indication of the nicotine content in milligrams per gram of a consumption unit,
4. the production batch number and
5. the contact information of the manufacturer,

(5) The package and outer packaging of tobacco-free nicotine products may not contain any of the elements or features mentioned in § 5d, but information on the nicotine content – § 5d(1)(1) notwithstanding – must be provided in accordance with Para. 4(3).

(6) Flavourings may only be listed in the list of ingredients.

(7) Tobacco-free nicotine products must not exceed a total mass of 1.6 grams per unit of consumption and must contain a maximum of 16.6 milligrams of nicotine per gram.

(8) It is prohibited to place tobacco-free nicotine products containing the additives listed in § 8b(2) (5) on the market.

#### **Tobacco-free nicotine substitute products**

**§ 10i.** (1) Every tobacco-free nicotine substitute product must be placed on the market in a package.

(2) Each package and each outer packaging must contain the health warning 'The use of this product may cause health problems.' and it must include the information message 'This product is not intended for consumption by minors.'

(3) The health warning and information message must be permanently affixed to the side or bottom of each package and outer packaging and must be clearly and prominently visible.

(4) Each package and each outer packaging must include:

1. a list of all ingredients of the product in descending order of their weight, whereby ingredients with a proportion of more than 0.1% of the finished formulation must in any case be indicated,
2. the weight of each individual consumption unit,
3. the production batch number and
4. the contact information of the manufacturer,

(5) The packaging and outer packaging of tobacco-free nicotine substitute products may not contain any of the elements or features referred to in § 5d.

(6) Flavourings may only be listed in the list of ingredients.'

33. In § 11(8), after the words 'tobacco products', the word sequence 'and related products' is inserted.

34. In § 12(5), after the word 'products' the word and character sequence ', which are consumed by means of combustion or inhalation,' is inserted.

35. The following (7) is added to § 12:

'(7) The disposal of tobacco products and related products, including their accessories and waste products, is prohibited on public outdoor playgrounds that are intended for the recreational activities of minors and are permanently demarcated and marked as such.'

36. In § 13(4), after the word 'products' the words ', which are consumed by means of combustion or inhalation,' are inserted.

37. In § 13b(1), the words 'rooms and facilities' are replaced by the words 'rooms, facilities and open spaces'.

38. After § 13b(3), the following (3a) is inserted:

'(3a) The prohibition on throwing away waste pursuant to § 12(7) must be indicated by a clearly perceptible symbol.'

39. In § 14(1)(3), after the character sequence '8c,' the character sequence '8d,' is inserted.

40. In § 14(1)(5) the character sequence '§§ 5 to 6, 10c and 10f' is replaced by the character sequence '§§ 5 to 6, 10c, 10f, 10h or 10i' and in Point 7 the character sequence '§ 2a' is replaced by the character sequence '§ 2b'.

41. The following Point 8 is added to § 14(1):

8. hinders or fails to properly cooperate with the market surveillance authority in exercising the powers conferred upon it pursuant to Article 14 of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and conformity of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011,'

42. In § 14(2), after the word and character sequence '§§ 10d and 10e are' the word 'accordingly' is inserted.

43. In § 14(3), the character sequence '§§ 2, 2a, 4 to 10f' is replaced by the character sequence '§§ 2 to 10i'.

44. The following Para. 6 is added to § 14:

'(6) Anyone who violates § 12(7) shall, provided that the public playground is marked in accordance with § 13b(3a) and the act does not constitute an offence falling under the jurisdiction of the courts or is subject to a stricter penalty under another administrative penalty provision, commit an administrative offence and shall be punished with a fine of up to EUR 500, or up to EUR 2 000 in the case of repeated offences.'

45. The following Para. 17 is added to § 18:

'(17) § 1 Points 1, 1b, 1d, 1e, 1k, 3, 6, 7, 7a, 10, 12, 13, 14 and 15, § 2(1) Points 1, 3, 4 and Para. 2a, § 2a, § 2b, § 4 Paras. 2, 3 and 4, § 4b Paras. 1 and 4, § 4c(1) and(2), § 5(4)a,(4)b and Para. 8, § 5a(4) and Para. 5, § 7a(2), § 8 Paras 1, 1a, 2, 4a, 4b, 4c, 6, 7, 8, 9 and 10, § 8a Paras. 1, 3 and 4, § 8b Paras. 1, 3, 5,

7, 8 and 9, § 8c Paras. 1, 2 and 4, § 8d, § 9 Paras. 1, 8a and 9, § 10(1) Points 3 and 4, Para. 2, § 10b Paras. 2, 4, 5, 6, 7 Points 1, 2, 3, 4, 5 and Para. 8, § 10c(1), § 10c(1)(1), § 10d Paras. 1, 2, 3, 5, 6, 7, 8, 9 and 10, § 10e Paras. 1, 2 and 3, § 10h, § 10i, § 12 Paras. 5 and 7, § 13(4), § 13b Paras. 1 and 3a, § 14 Para. 1 Points 3, 5, 7 and 8, Paras. 2, 3 and 6, § 14b(1), § 18(17), § 19 as well as § 20 as amended by Federal Law Gazette I No XX/2026 shall enter into force on 1 July 2026. Electronic cigarettes or refill containers that do not comply with the provisions of § 10b(8)(1), 2 and § 10c(1)(1), and packs of roll-your-own tobacco that do not comply with the provisions of § 5(4a) and (4b), as well as tobacco-free nicotine products and tobacco-free nicotine replacement products that do not comply with this Federal Act in the version of Federal Law Gazette I No XX/2026, may be sold by manufacturers or wholesalers to retailers until no later than 31 December 2026, and by retailers to consumers until no later than 30 June 2027, as long as they were manufactured or placed on the market before the entry into force of this Federal Act in the version of Federal Law Gazette I No XX/2026. Electronic cigarettes which constitute disposable products and do not comply with this Federal Act in the version published in the Federal Law Gazette I XX/2026 may be sold by manufacturers or wholesalers to retailers until no later than 31 August 2026, and by retailers to consumers until no later than 31 December 2026, as long as they were manufactured or placed on the market before the entry into force of this Federal Act in the version of Federal Law Gazette I No XX/2026. Notifications pursuant to § 8d must be made by no later than 31 December 2026. Contractual obligations relating to tobacco-free nicotine products and tobacco-free nicotine replacement products that were legally concluded before the entry into force of this Federal Act in the version of Federal Law Gazette I No XX/2026 shall not be subject to § 11 until 29 February 2028.

46. § 19 reads:

‘§ 19. The Federal Minister of Health is charged with implementing this Federal Act with regard to § 7a(2) and § 9(9) in agreement with the Federal Minister of Finance. The Federal Minister of Finance is charged with enforcing §§ 2a and 7. With regard to the provisions of § 4(2) and (3), the Federal Minister of Health must obtain the approval of the Main Committee of the National Council. The Federal Minister of Health, in agreement with the Federal Minister for Transport, Innovation and Technology, is charged with implementing § 12(4).’

46. In § 20, after the words ‘as well as’ the word and character sequence ‘of the Commission Implementing Decision (EU) 2015/1735 of 24 September 2015 ‘on the precise arrangement of the general warning and information message on rolling tobacco your own cigarettes sold in pouches’, Commission Implementing Decision (EU) 2016/586 of 14 April 2016 ‘on the technical standards for the refilling mechanism of electronic cigarettes’ and’ is inserted.