



**Australian  
BORDER FORCE**

# Australian Customs Notice No. 2023/51

## New Import Control on Vaping Goods

In 2024, using a phased approach, all vaping goods will become prohibited imports under new regulation 5A of the *Customs (Prohibited Imports) Regulations 1956* (Prohibited Imports Regulations). From 1 January 2024, disposable vapes will be prohibited imports. From 1 March 2024, all other vaping goods will become prohibited imports.

### Vaping Goods

Vaping goods are defined in regulation 5A to include vapes, vape substances and vape accessories. All nicotine in a solution is controlled regardless of whether it is intended for vaping.

A good may fall within more than one category of vaping goods. A filled vape cartridge that incorporates a heating element but is not attached to a battery and is not capable of use as a vape in its present form would meet the definition of a vape because it is an incomplete, unfinished or temporarily inoperable vape device. It is also a vape accessory because it is a cartridge, and it includes a vape substance because it is filled with a substance intended for use in a vape.

### Vapes

Vapes are devices (whether filled with a vape substance or not) that generate or release, or are designed or intended to generate or release, using a heating element and by electronic means, an aerosol, vapour or mist for direct inhalation by its user.

Vapes include devices that are incomplete, damaged, temporarily or permanently inoperable, or unfinished. This means vaping goods that are not yet in full working order, but which could be converted to full working order with some additional parts or by assembly of the parts.

Devices that are vapes include:

- heat not burn devices which heat processed tobacco without combustion and produce a vapour for direct inhalation; and
- e-shisha/e-hookah devices that vaporise vape substances for direct inhalation.

Devices that are not vapes include:

- Devices that release vapour or mist into the air, including devices such as humidifiers, diffusers and some steam inhalers, because the vapour or mist is not for direct inhalation by the user.
- Devices that release vapour, aerosol or mist into the air, and direct that air towards the user through a mask, such as some inhalers and nebulisers;
- Devices that do not produce vapour or mist using a heating element, such as nebulisers and most inhalers;
- Devices that are not electronic such as traditional shishas/hookahs.

## Vape accessories

Vape accessories are cartridges, capsules, pods, vials, dropper bottles, drip bottles or other vessels that contain or that are designed or intended to contain, a vape substance. A vape accessory can be integrated with other vape components. For example, a vape cartridge that is integrated into a heating element is a vape accessory.

## Liquid nicotine and vape substances

All liquid nicotine is controlled under regulation 5A regardless of whether it is intended for vaping. The liquid nicotine controlled is nicotine in a solution in any concentration, including in salt or base form and includes:

- Raw materials or finished goods.
- Nicotine in trace elements in highly diluted amounts.

A vape substance is a liquid or other substance designed or intended for use in a vape, and includes substances:

- In any state including liquids, gels, solids.
- Made from dried plants, including, but not limited to, heatsticks made of tobacco intended for use in a heat not burn device.
- For use with e-shisha/e-hookah devices.
- That do not include nicotine.

Vape substances do not include:

- Finished goods that contain nicotine as an ingredient and that are not intended or designed to be used with a vape, such as nicotine patches and nicotine gum, because they are not considered nicotine in solution.
- Shisha tobacco which is not generally considered to be for use with an electronic shisha device.

## Goods presenting as vapes, vape substances and vape accessories

A good will meet the definition of a vaping good if the goods are presented in a way that expressly represents, or implies that the goods are vaping goods.

Relevant matters in considering the presentation of the goods include the name, labelling, packaging, and advertising or informational material associated with the importation of the good. A good can be presented as a vaping good even if the way the good is presented is capable of being misleading or confusing as to the content, proper use or identification of the vaping good, or if the presentation suggests the goods have ingredients, components or characteristics it does not have.

## Disposable vapes

A disposable vape is a vape that:

- is pre-filled with a vape substance; or is designed or intended to be supplied pre-filled with a vape substance; and is not designed or intended to be refilled; and
- is fully assembled with all the constituent components fixed permanently in place and that is not designed or intended to be disassembled; and
- generates or releases, or is designed or intended to generate or release, using a heating element and by electronic means, an aerosol, vapour or mist for direct inhalation by its user.

## Heat not burn devices and heatsticks

Heatsticks made of tobacco intended for use with a heat not burn device are vaping goods and require an import permit under regulation 5A. Heatsticks also require a permit under regulation 4DA of the Prohibited Imports Regulations as tobacco products.

Heat not burn devices require a permit under regulation 5A. Heat not burn devices do not require a permit under regulation 4DA.

## Regulation 5 (importation of drugs) substances

Goods may fall under more than one control in the Prohibited Imports Regulations, for example, cannabis oil that is presented for vaping meets both the definition of regulation 5 (drugs) and regulation 5A (vaping goods).

If a regulation 5 substance is contained within a disposable vape or vape accessory, and there is a permit for the regulation 5 substance, a permit is not required for the disposable vape or the vape accessory.

If a regulation 5 substance is contained within a reusable vape, the regulation 5 substance requires an import permit under regulation 5 and the reusable vape requires a permit under regulation 5A.

## Importers

Under the new control only importers who hold both a license to be an importer of vaping goods, and a permit for vaping goods, issued by the Office of Drug Control will be able to import vaping goods.

Permits and licenses will be restricted to those importing the goods for:

- the purposes of manufacture and supply (effectively to the supply chain that provides goods to pharmacies); or
- scientific and medical research such as clinical trials.

Australian patients will not be able to import vaping products from overseas regardless of whether they have a prescription.

## Traveller exemption

Travellers who arrive in Australia at an airport or seaport with vaping goods in their accompanied baggage will be able to retain their vaping goods as long as the goods are for use in connection with the treatment of the traveller or of another traveller under their care.

There are limits on the quantities each traveller may import, being:

- 2 vapes; and
- 20 vape accessories that are cartridges, capsules or pods; and
- 200ml of vape substances in liquid form.

Travellers who arrive with disposable vapes that contain regulation 5 drugs in their accompanied baggage will be eligible for the existing traveller concession under regulation 5. Disposable vapes that contain regulation 5 drugs are not counted in the regulation 5A limit.

Travellers with reusable vapes for use with regulation 5 drugs will have the reusable vapes assessed under the regulation 5A traveller exemption and the reusable vapes will be counted under the regulation 5A limit.

## Imports through the post

From 1 January 2024, imports of disposable vapes through the post (mail) will be prohibited absolutely. From 1 March 2024, imports of all vaping goods through the post will be prohibited absolutely.

An absolute prohibition for goods in the post means that goods that arrive via the post are prohibited imports even if the importer has an import permit. Vaping goods that arrive via post after the commencement of the import control will be seized as prohibited imports.

## Further information

Australian Government reforms for vaping goods can be found at: [Reforms to the regulation of vapes | Therapeutic Goods Administration \(TGA\)](#).

New regulation 5A, please refer to the legislation including the explanatory statement: [Customs Legislation Amendment \(Vaping Goods\) Regulations 2023](#).

License and permit requirements for vaping goods can be found at: <https://www.odc.gov.au/>.

[signed]

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