

# DRAFT

## Draft

of

Act amending the Act on sunbeds, the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, and various other Acts<sup>1</sup> (18 years' age limit for sunbed use and stricter age verification and efforts against nicotine)

## Section 1

Act No 718 of 25 June 2014 on sunbeds, amended as follows:

1. Throughout the Act, 'tanning centre' [solcenter] is replaced with: 'sunbed centre', 'the tanning center' is replaced with: 'the sunbed centre' and 'Tanning centres' is replaced with: 'Sunbed centres'.
2. Throughout the Act, 'Minister of Health and Prevention' is replaced with: 'The Minister for the Interior and Health' .
3. Throughout the Act 'The Danish Minister for Business and Growth' is changed to: 'the Minister for Industry, Business and Financial Affairs' .
4. Throughout the Act, 'Danish Safety Technology Authority' is replaced with: 'The Danish Business Authority'.
5. In § 2, the following is inserted as No 9:  
'9) Age verification system: A verification system which unambiguously confirms that sunbed user's age meets the age limit.'
6. The following is inserted after § 2:  
**'Section 2a.** A sunbed shall not be made available to persons under the age of 18.  
(2) An lease-holder or tenant who makes a sunbed available shall operate an age verification system which ensures that only persons who are at least 18 years of age have access to the sunbed.  
(3) The Minister for the Interior and Health lays down more detailed regulations on the age verification systems referred to in paragraph 2, including more detailed requirements for the systems, and on the

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<sup>1</sup> [A draft of this order has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).]

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obligation of the proprietors to provide the Danish Business Authority with information on the content and use of the systems.’

7. In § 3(1), ‘UV type 1, UV type 2, or’ and ‘without prejudice to paragraph 2’ are deleted.

8. § 3, *paragraph 2*, is repealed.

Paragraphs 3 and 4 are then renumbered 2 and 3.

9. In § 3(3), which becomes (2), the following is inserted after ‘Sunbeds of’: ‘UV type 1, UV type 2 and”.

10. In § 3, (4), which becomes (3), ‘(1-3)’ is changed to: ‘(1) and (2)’.

11. § 4 is deleted.

12. In § 5, *paragraph 1*, the following is inserted as a new number after No 1:

‘(2) The radiation in the wavelength ranges 250-320 nm and 320-400 nm shall each be less than 0.15 W/m<sup>2</sup>’.

Nos 2-5 shall henceforth be paragraphs 3-6.

13. In *Section 5(2)*, the following shall be inserted after ‘shall ensure that the user of the sunbed has access to’: ‘or can easily access’;

14. In *Section 5(4)*, the following shall be inserted after ‘shall ensure that an easily understandable’: ‘in writing’.

15. In § 6(1), ‘reasonable time’ is changed to: ‘30 days’.

16. In § 7, the following shall be inserted as a new paragraph after (2):

‘(3) As part of the control obligations under paragraph 1, the representatives of the Danish Business Authority may require the owner or a representative of the sunbed centre to meet with them in order to give the representatives of the Danish Business Authority access to the sunbed centre.’

Paragraphs 3-5 shall henceforth be paragraphs 4-6.

17. The following is inserted after § 7:

‘§ 7 a. The Danish Business Authority may order an lease-holder or tenant who provides a sunbed that does not meet the requirements of § 5,

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paragraph 1, Nos 3-6 and § 5, paragraphs 2-5, to rectify the situation within a specified timeframe.’

**18.** In *Section 9(1)*, the following shall be inserted after ‘violations of’: ‘§ 2a(1)-(2),’

**19.** In § 9(1), the following is inserted after ‘§ 6(1),’: ‘Section 7(3)’ and ‘Section 3(1)-(3)’ shall be changed to: ‘§ 3(1-2)’

**20.** In § 9, the following is inserted as a new paragraph after paragraph 1:

‘*Paragraph 2.* Unless a higher penalty is imposed under other legislation, anyone who violates or fails to comply with an order issued by the Danish Business Authority pursuant to Section 7a shall be punished by a fine.

Paragraphs 2-3 shall subsequently become paragraphs 3-4.

**21.** Section 10(2) shall be repealed.

## Section 2

The Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 1088 of 10 October 2024, as amended by Section 3 of Act No 1669 of 30 December 2024, shall be amended as follows:

**1.** Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ to: the ‘Danish Business Authority’s’.

**2.** § 1, paragraphs 2-4 are repealed.

**3.** Inserted after § 1;

‘**Section 1 a.** The following definitions apply for the purposes of this statute:

1) Tobacco products: Products that can be used and which consist wholly or partly of tobacco, regardless of whether the tobacco is genetically modified, as well as goods intended for use with these products.

2) Tobacco surrogate: Products containing nicotine that are not a tobacco product, cf. § 2(2) of the Act on tobacco products etc. or electronic cigarettes, cf. § 2(1) of the Act on electronic cigarettes etc. and which are not approved by a marketing authorisation in accordance with the Act on

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medicinal products or EU legislative regulations laying down Community procedures for the authorisation of medicinal products for human use and equipment intended to be used in conjunction with the product.

3) Herbal product for smoking: A product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process.

4) Unattended shop: A physical self-service shop where there is generally no physical presence of an employee and where the customer shops without being in contact with shop staff. If there is an employee present in the shop, it is not for the purpose of serving customers.

5) Distance selling: Situations where the customer and the person placing the product on the market do not meet physically at the time of the order. In the case of cross-border distance sales, the product is deemed to be placed on the market in the country where the consumer is located

6) Age verification system: An IT system that unambiguously confirms electronically that the consumer's age falls within the age limit.'

4. *Section 2 a (1)* is to be worded as follows:

'For the purpose of enforcing the age limit laid down in § 1, anyone who commercially sells tobacco products, tobacco substitutes or herbal products for smoking at physical points of sale may require the presentation of a valid photo identification or use an age verification system.'

5. *Section 2 a (2)* is to be worded as follows:

'For the purposes of enforcing the age limit specified in Section 2(1), anyone who commercially sells alcoholic beverages with an alcohol strength by volume of 1.2 % or more at physical points of sale may require the presentation of valid photo ID or use an age verification system.'

6. *Section 2 a (4)* is to be worded as follows:

'(4) 'For the purposes of enforcing the age limit specified in Section 2(2), anyone who commercially sells alcoholic beverages with an alcohol strength by volume of more than 6 % or more at physical points of sale may require the presentation of valid photo ID or use an age verification system.'

7. In *Section 2a*, the following is inserted as a new paragraph after (5):

(6) The Minister for the Interior and Health can lay down more detailed regulations on the age verification systems referred to in paragraphs 1-5, including more detailed requirements for the systems, age verification

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solutions, and on the obligation of the sellers to provide the Danish Business Authority with information on the content and use of the systems.’

Paragraphs 6-8 shall then become paragraphs 7-9.

**8.** In § 2a(6), which becomes (7), ‘Shops’ is replaced by: ‘Physical shops’.

**9.** *Section 2a (7)* (, which becomes (8), is repealed.

**10.** In § 2a(8), which becomes (9), ‘see (6)’ is replaced by: ‘see (7)’.

**11.** In § 2 b(1) and (2) , ‘§§ 1-2a and rules issued pursuant to § 2a(8)’ is changed to: ‘Sections 1, 2 and 2a, (1-5), and rules issued pursuant to Section 2a (6).’

**12.** In *Section 2b(4)*, ‘30 June 2026’ shall be replaced by: ‘30 June 2028’, and ‘and rules issued pursuant to Section 2a(8)’ are deleted.

**13.** In § 2b, the following is inserted as (6):

(6) As part of the control of compliance with the requirements laid down in § 2a(3) and (5) in unattended shops, representatives of the Danish Business Authority may, upon showing proper identification, require the owner or a representative of the unattended shop to meet them at the unattended shop in order to give the representatives of the Danish Business Authority access to the retail premises of the unattended shop, etc.’

**14.** *Section 5(1)* is to be worded as follows:

‘For violation of Sections 1 and 2 and Section 2a(1-5) , and rules issued pursuant to Section 2a(6), the shopkeeper, restaurateur, hotelier, or canteen owner who commercially as a professional distance seller, etc. shall be punished with a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1 and 2 and 2a , paragraphs 1-5, and regulations issued pursuant to Section 2a(6) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.’

**15.** In § 5(3)(1), the following is inserted after ‘§ 2b(2)’ : ‘and 6.’

## **Section 3.**

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The Act on tobacco products, etc. (see Consolidation Act No 1161 of 4 November 2024), as amended by § 2 of Act No 2071 of 21 December 2021 and § 1 of Act No 1669 of 30 December 2024) is amended as follows:

1. Throughout the Act, 'Danish Safety Technology Authority' is replaced with: 'Danish Business Authority', and the 'Danish Safety Technology Authority's' is changed to: the 'Danish Business Authority's'.
2. *Section 3a* is to be worded as follows:  
    '**3a.** Tobacco surrogates may only be marketed in Denmark if they have been notified to the Danish Business Authority. The notification lapses if the notifier fails to maintain the notification.  
    (2) The notification under paragraph 1 must be submitted by every manufacturer and importer who wishes to market a tobacco substitute, no later than 6 months prior to the proposed marketing.  
    (3) The Minister for Industry, Business and Financial Affairs lay down rules on  
        1) the information and statements, etc. that are to accompany a notification under paragraph 1;  
        2) The Danish Business Authority's processing of the notification; and  
        3) which product changes require a new notification to be submitted.'
3. In Section 6, the following is inserted as (2):  
    '*Paragraph 2.* The Danish Business Authority may remove information, statements, and reports received pursuant to Section 3a, including pursuant to Section 3a(3), from its website if the notification is not upheld or if, on the basis of an inspection, the product as a whole is assessed as not complying with applicable legislation.'
4. In Section 19a(1), 'a health warning' is changed to: 'one or more health warnings in Danish'.
5. In Section 19a(2), the following shall be inserted after 'rules on': 'the number and type of health warnings and if', and the words 'the health warning' are replaced by: 'the health warnings'.
6. In Section 32, the following is inserted as (6):  
    (6) As part of their controls of tobacco products, tobacco substitutes, and herbal products for smoking as marketed through distance selling, representatives of the Danish Business Authority may demand access to the point of sale.'

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7. In § 43(1), the following is inserted after ‘§ 3(1), and’: ‘notifications under’.

8. In § 43(2), the following is inserted after ‘§ 3(1), and’: ‘the notification obligation under’.

9. § 45(1), No 1, is to be worded as follows:

‘1) infringes §§ 4(1), 5(1), §§ 10 and 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),’.

10. § 45(1), No 1, is to be worded as follows:

‘1) infringes §§ 4(1), 5(1), §§ 10 and 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),’

11. In Section 45(1)(2), the following is inserted after ‘legal basis in’: ‘§ 3a(1), and’.

12. In Section 45(1)(5), ‘Section 3a(1),’ is deleted.

13. In Section 45(1)(12), after ‘access pursuant to’, the following is added: ‘§ 32(6) and’.

14. Section 45(2) is to be worded as follows:

‘*Paragraph 2.* In rules laid down pursuant to § 8, § 9,(1) and (2), 10a(2), 19(2), 19a(2), 21, 21a(3), 22c, 22d(2), 24(2), 30(2) or 30a(2), fines may be imposed for infringement of the provisions of the rules.’

## **§ 4.**

The Act on electronic cigarettes etc. (see Consolidation Act No 1166 of 04 November 2024 as amended by § 2 of Act No 1669 of 30 December 2024) is amended as follows:

1. Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.

2. Section 15(2) is to be worded as follows:

‘*Paragraph 2.* For the purpose of enforcing the age limit laid down in paragraph 1, anyone who commercially sells electronic cigarettes or refill

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containers with or without nicotine at physical points of sale may require the presentation of a valid photo ID or make use of an age verification system.’

3. In Section 15(4), the words ‘lays down rules on the age verification system’ shall be changed to: ‘may lay down rules on age verification systems, see (2) and (3)’, and ‘and on the retailer’s obligation to provide the Danish Safety Technology Authority with information on the content and use of the system’ is amended to: ‘, age verification solutions, and the retailer’s obligation to provide the Danish Business Authority with information on content and use’.

4. In § 18a, the following shall be inserted as new paragraphs after (3):

(4) Points of sale, including online, may, in connection with the selection of products, show the buyer a sign indicating the age limit for the sale of electronic cigarettes and refill containers with and without nicotine, see Section 15(1). The sign referred to in the first paragraph shall be created by the Danish Health Authority.

(5) When selling on the internet, at the request of a purchaser, a single neutral image of one electronic cigarette or refill container with or without nicotine may be displayed in connection with and on the same page where the point of sale indicates the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d).’

Paragraph 4 subsequently becomes paragraph 6.

5. In § 19(3), ‘30 June 2026’ is changed to: ‘30 June 2028’.

6. In Section 19, the following is inserted as (5):

‘(5) As part of their controls of electronic cigarettes and refill containers, with and without nicotine, as marketed through distance selling, representatives of the Danish Business Authority may demand access to the point of sale.’

7. Section 33(1)(1) is to be worded as follows:

‘(1) infringes §§ 9(1), 9a(1) and (2), 10(1), 11 (1), 15(1)–(3), 16(1), 17, 18a(1), 18b(1) or 25a(1) and (2),’.

8. In § 33(1)(5) ‘that’ is replaced by: ‘which’.

9. In section 33(1)(7), the following is inserted after ‘product pursuant’: ‘to § 19(5), and’.

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**10.** Section 33(2) is to be worded as follows:

‘(2) In rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed.’

### **§ 5**

The Act banning tobacco advertising, etc. (see Act No 586 of 26 March 2021 as amended by § 4 of Act No 1669 of 30 December 2024) is amended as follows:

**1.** In Section 5a, the following are inserted as new paragraphs after 3):

‘(4) Sales outlets, including on the internet, may, in connection with the product choice being made, show the purchaser a sign containing the age limit requirements for the sale of tobacco products, tobacco substitutes and herbal products for smoking, cf. Section 1 of the Act on the prohibition of the sale of tobacco and alcohol to persons under 18 years of age. The signs referred to in paragraph 1 shall be designed by the Danish Health Authority.

(5) When selling online, a single neutral image of one tobacco product, one tobacco substitute or one herbal smoking product may, at the request of the buyer, be displayed in connection with and on the same page as the point of sale provides the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a)-(d) and Article 22(9)(a)-(d).

Paragraph 4 subsequently becomes paragraph 6.

### **§ 6**

Act No 1669 of 30 December 2024 amending the Act on tobacco products, etc. and various other Acts (the Third and last part of implementing the prevention plan targeted at children and young people – tobacco, nicotine, and alcohol), are amended as follows:

**1.** *Section 1, No 28* is repealed.

**2.** *Section 12(5)* is repealed.

Paragraphs 6-10 shall then become paragraphs 5-9.

### **§ 7**

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The Health Act, see Consolidation Act No 275 of 12 March 2025, as amended by L 2024-12-30 No 1670, L 2024-12-30 No 1672, and L 2024-12-30 No 1673, is amended as follows:

1. In *Section 88(2)(1)*, ‘8 working days’ is changed to: ‘10 calendar days’.

### *Entry into force*

## **§ 8**

(1) The Act enters into force on 1 May 2026, except as provided for in paragraphs 2-5.

(2) Section 2(12) and Section 4(5) shall enter into force on 1 July 2026.

(3) Sections 1(6) and (19) and Section 3(2), (3), (7), (8), (11) and (12) shall enter into force on 1 January 2027.

(4) The Minister for the Interior and Health lays down the effective date of Section 3(10).

(5) The ban on UV type 1 and UV type 2 sunbeds, pursuant to Section 1, Nos 8-9, does not apply to sunbeds that are made available to the public in staffed sunbed centres and which were acquired before the Act came into force. The lease-holder or tenant who makes the sunbed available is obliged to inform the user of the sunbed that it is not advisable to use a UV type 1 or UV type 2 sunbed without first consulting a doctor.

## **§ 9**

(1) This Act does not apply to the Faeroe Islands or Greenland, except as provided for in (2).

(2) Section 1 may be put into effect in whole or in part for the Faeroe Islands by Royal Decree, subject to the changes required by Faroese circumstances. The provisions of the Act may be brought into force on different dates.

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## *Comments on the draft act*

### *General comments*

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### 1. Introduction

According to WHO, between 30 and 50 per cent of all cancer cases can be prevented, and it is well documented that our everyday behaviour and habits play a significant role. For example, it matters whether we smoke, what we eat and drink, whether we exercise, and how often we sunbathe and use sunbeds.

Using sunbeds significantly increases the risk of both common skin cancer and melanoma, and sunbed use is particularly dangerous for children and young people. The risk of developing melanoma increases every time you use a sunbed, and if you start using sunbeds at a young age, the risk increases, partly because the damage caused by UV radiation has more time to develop into melanoma later in life.

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The latest figures from the Danish Cancer Society (Young People's Sunbed Habits 2023) show that while sunbed use has generally been declining among the Danish population, the trend among children and young people has not been unequivocally downward. From 2019 to 2023, there has been a slight increase in use from 10 per cent to 14 per cent among 15 to 25-year-olds.

Figures from the Danish Cancer Society also show a young age for first-time sunbed use. Almost 60 per cent of current and former sunbed users aged 15-25 were 14- 17 years old when they first used a sunbed, and 9 per cent were between 9 and 13 years old.

Smoking is the preventable factor responsible for the most cases of cancer, and tobacco is the most significant preventable cause of illness and death in Denmark. At the same time, nicotine itself is harmful to health. Figures show that around one third of 15–29 year-olds use at least one tobacco or nicotine product. And those are products that often have a high nicotine content and which affect the developing brains of children and young people in particular. Children and young people are at greater risk of becoming addicted than adults, and nicotine use can be a stepping stone to cigarettes.

With the 2023 prevention plan, the government (the Social Democrats, the Liberals and the Moderates) and the parties to the agreement (the Socialist People's Party, the Danish Democrats, the Conservative People's Party and the Alternative) took an important step towards improving the health and well-being of children and young people. The parties to the agreement agreed to work on a wide range of preventive initiatives to reduce the use of alcohol, tobacco and nicotine products by children and young people, including, inter alia, in the form of stricter age verification, where they introduced a two-year trial period with young mystery shoppers and also launched an analysis of electronic age verification.

On 23 May 2025, the government presented a new 'Kræftplan V' (Cancer Plan V), which aims to, inter alia, further strengthen prevention efforts by creating better frameworks on children and young people's health, in relation to the use of tobacco, nicotine, sunbeds and alcohol.

This legislative proposal sets out the preventative initiatives of Kræftplan V which require legislation. In addition, the draft act implements two political agreements concluded between the government and the parties to the agreement on the prevention plan for electronic age verification in

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physical shops, as well as an extension of the pilot scheme with young mystery shoppers.

The draft act proposes introducing an age limit for the use of sunbeds, so that publicly accessible sunbeds may not be made available to persons under the age of 18, and, as an extension of this, it proposes introducing a requirement for an age verification system at all sunbed centres.

The draft act also implements a revision of the Sunbeds Act in order to ensure the highest possible level of consumer protection.

The draft Act also proposes to strengthen age verification for the sale of tobacco, nicotine and alcoholic beverages by, inter alia, making electronic age verification possible in physical retail stores. At the same time, it is proposed to extend the pilot scheme with young mystery shoppers until 30 June 2028.

The draft act also proposes reducing the expected level of fines for the illegal sale of tobacco and nicotine products and alcoholic beverages to persons below the applicable age limits, and in first-time cases, the proposed fine is halved compared to the current amount.

Furthermore, the draft act proposes to strengthen the control of tobacco substitutes on the Danish market through a new notification requirement for the products, and it is proposed to tighten the regulation of health warnings on tobacco substitutes so that all users of the products are informed about the harmful effects of the products on health.

In addition, the draft act proposes to relax the requirements for signage with age limits when selling alcohol and tobacco and nicotine products, as well as to adjust the requirements concerning the ban on displays of tobacco and nicotine products when selling online, in order to ensure compliance with the Product Safety Regulation.

The draft act also contains a proposal to amend the deadline for a residential regional council to give patients suffering from a life-threatening disease information about the region's possible treatment options within the established maximum waiting period pursuant to § 88(2) of the Health Act.

In addition, the draft act aims to strengthen patient rights and eliminate the inconsistency that arises with the current deadline, where public holidays may, for example, mean that the information deadline indicated in working days is not consistent with the maximum waiting times indicated in

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calendar days. It is therefore proposed to change the deadline in Section 88(2) of the Health Act from 8 working days to 10 calendar days.

It should be noted that the Danish Safety Technology Authority, which is the supervisory authority for the Act on sunbeds, the Act banning the sale of tobacco and alcohol to persons under 18 years of age, the Act on tobacco products, etc., and the Act on electronic cigarettes, etc., will be merged with the Danish Business Authority as of 1 January 2026, and that the tasks under the Act banning the sale of tobacco and alcohol to persons under 18 years of age, the Act on tobacco products, etc., and the Act on electronic cigarettes, etc. will thus be transferred to the Danish Business Authority.

## **2. Main points of the draft act**

### **2.1. Age limit for sunbed use**

#### **2.1.1. Legislation currently in force**

The legislation currently in force does not lay down any requirements for the age of sunbed users.

Public sunbeds are defined in the comments on the legislation concerned as sunbeds that are made available to sunbed users in publicly accessible locations and which are used for cosmetic purposes. In this context, it is not decisive whether the location is a private company, association-owned, or a public location, but rather whether there is direct access for the public – whether free of charge or for a fee. The scope also covers cases where access to a sunbed is included as part of an overall purchase or membership in an association or club, including as part of membership of an amateur sports association or leisure club, where access is open to the public. This may be, for example, in connection with overnight accommodation in a hotel, a holiday centre or similar places, or may be in connection with the use of a fitness centre, wellness centre, swimming pool, etc. The examples mentioned are not exhaustive. The decisive factor is therefore whether a lease-holder or tenant makes a sunbed available to the public, either free of charge or for a fee.

Sunbeds in rental properties or private holiday homes that are rented out with a sunbed as part of the furnishings are not covered by the law. Sunbeds in private homes are only covered if they are made available to the public, as private individuals' own use of private sunbeds is not covered by the law.

#### **2.1.2. The Ministry of the Interior and Health's considerations and the proposed scheme**

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Currently, there is no age limit for using a sunbed in Denmark. When the Sunbed Act was passed in 2014, an interministerial committee recommended that the Act introduce an age limit for the use of sunbeds. The recommendation was not implemented in the Sunbed Act, partly due to a downward trend in young people's use of sunbeds, at that time. The explanatory notes on said Act cite 'Children and young people's sunbed habits 2012 – a survey' conducted by the Sun Campaign's evaluation unit CEDS (Centre of Excellence for Evaluation and Monitoring under the Danish Sun Campaign) for the Danish Cancer Society and Trygfonden, which shows that the proportion of 15-25-year-olds who use sunbeds fell from 41 per cent in 2008 to 15 per cent in 2012.

Recent studies show a different pattern than the ministry expected when the Sunbed Act was drafted in 2014. According to the Danish Cancer Society's report 'Young People's Tanning Habits 2023', there has been a slight increase – from 10 per cent to 14 per cent – in young people's use of tanning beds between 2019 and 2023. Since 2019, the proportion of female sunbed users has risen from 12 to 20 per cent, while the proportion of 15-19-year-old sunbed users in 2022 was just under 25 per cent.

The Danish Health Authority, together with the Solgruppen (Sun Group), recommends an age limit of 18 for the use of sunbeds in Denmark. Solgruppen (Sun Group) consists of Dansk Dermatologisk Selskab, Danmarks Meteorologiske Institut, Kræftens Bekæmpelse, Miljø- og Ligestillingsministeriet, Sikkerhedsstyrelsen, Sundhedsstyrelsen og Videncenter for Hudkræft (the Danish Dermatological Company, the Danish Meteorological Institute, the Danish Cancer Society, the Danish Ministry of Environment and Gender Equality, the Danish Safety Technology Authority, the Danish Health Authority, and the Knowledge Centre for Skin Cancer).

The WHO also recommends an age limit of 18 years for sunbed use.

According to the Danish Cancer Society, Denmark is one of the only countries in Europe that does not have an age limit.

Section 1(6) of the draft act bill proposes introducing an age limit of 18 for the use of sunbeds, so that publicly accessible sunbeds may not be made available to persons under the age of 18. In addition, it is proposed that a lease-holder or tenant who makes a sunbed available shall operate an age verification system which ensures that only persons who are at least 18 years of age have access to the sunbed.

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It is the person who owns the sunbed centre who is responsible for ensuring that the age limit is met. The owner has methodological freedom to ensure compliance with the age limit, taking into account the requirements that are in force. An age verification system can thus be established by, for example, staff requesting valid photo ID, or in the form of an electronic age verification system. Valid photo identification may, for example, be a passport, a physical or digital driving licence, proof of identity via the national digital identity wallet, or an identity card with a photo issued by the municipality to persons over the age of 15, see Order No 1220 of 21 November 2017 on the issuing of identity cards.

If one chooses to use electronic age verification, it will be up to the owner to ensure that the age verification system complies with all current applicable regulations on security and data protection at all times. In order to ensure methodological freedom, there is therefore no requirement for a specific electronic age verification system.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which users will be able to use, among other things, to verify their age to an electronic age verification system. The national digital identity wallet will ensure a high level of both data and privacy protection and is also considered difficult to circumvent.

Electronic age verification does not require confirmation of the exact age of the citizen, but merely confirms that the citizen is above the age limit in question.

See Section 8(3) of the draft act, the age limit and the requirement to operate an age verification system will not enter into force until 1 January 2027. The intention is therefore to give the sunbed centres the time and the opportunity to transition to the new requirements.

The Minister for the Interior and Health shall lay down detailed rules on the age verification system in an Executive Order.

## **2.2. Requirements on sunbed centres**

### **2.2.1. Legislation currently in force**

Section 3 of the Act on Sunbeds sets out provisions governing the types of sunbeds that a lease-holder or tenant may use in staffed and unattended sunbed centres, respectively. Section 3(1)-(2) states that it is permitted to use UV type 3 sunbeds in both staffed and unattended sunbed centres,

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while section 3(2) of the Act stipulates that only UV type 1 and UV type 2 sunbeds may be used in staffed sunbed centres, as these types of sunbed carry a higher risk of incorrect operation.

Section 4 of the Act on sunbeds stipulates that one or more employees in staffed sunbed centres must have undergone education and training, and that the Minister for the Interior and Health shall lay down rules and requirements for the education and training of employees in staffed sunbed centres that use UV type 1 and UV type 2 sunbeds, and for the advice given by employees to users of sunbeds.

Section 5(1) of the Act on sunbeds states that a lease-holder or tenant who makes a sunbed available shall ensure that the effective radiation does not exceed 0.3 W/m<sup>2</sup> weighted according to the range of redness effects listed in the table in Annex 1 to the Act on sunbeds, which indicates a weighting factor for each wavelength of the erythematous spectrum. The maximum limit value applies regardless of the type of UV used, see Folketingstidende 2013-14, Appendix A, L 163 as submitted, page 17.

When determining in practice whether the radiation from a sunbed complies with the maximum limit value of 0.3 W/m<sup>2</sup>, a measurement of the sunbed's radiation intensity (measured in W/m<sup>2</sup>) is taken for each individual wavelength (in the range 250-400 nm). The measurement results for each individual wavelength are then multiplied by the weighting factor specified for the relevant wavelength in the erythematous spectrum in the table in Annex 1 to the Act on sunbeds. The weighted value of the radiation of all the wavelengths (in the range 250-400 nm) is then added together and the total sum indicates the weighted value of the sunbed's radiation, which may not exceed the limit value of 0.3 W/m<sup>2</sup>. In addition, the distribution between UV-A and UV-B radiation determines the type of sunbed in question. For a sunbed to be UV-type 3 and thus legally be made available in a sunbed centre, both UV-A and UV-B radiation shall be less than 0.15 Wm<sup>2</sup>, see Folketingstidende 2013-14, Appendix A, L 163, as submitted, page 17.

To ensure that sunbed users have the opportunity to protect their eyes from UV radiation, Section 5(2) of the Act stipulates that users must have access to protective eyewear at all times. According to the explanatory notes on the Act, the requirement is considered to be met if the sunbed centre either provides protective eyewear for free or sells them to users of the sunbed centre for a fee.

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Section 5(4) of the Sunbed Act requires that easy-to-understand operating instructions for the sunbed be displayed in a visible location.

Section 9(1) of the Sunbed Act states that violations of Section 3(1)-(3) of the Act on the use of UV types in staffed and unattended sunbed centres, respectively, Section 5(1)(1) on maximum radiation limits, Section 6(1) on the registration obligation for sunbed centres, and Section 10(4)(2) on the duty of the lease-holder or tenant of staffed sunbed centres providing a UV type 4 sunbed to provide information, shall be punished by a fine, unless a more severe penalty is imposed under other legislation. The violations will normally be punished for a first-time offence with a fine of DKK 15 000, and DKK 20 000 for a second-time offence and DKK 25 000 for a third-time offence.

Violation of the formal requirements of the Act pursuant to Section 6(1) on the obligation to register is punishable by a fine of DKK 5 000.

Violations of other conditions are described in the section on the relationship to the Act on products and market surveillance.

In determining the financial penalty, emphasis is placed on the fact that the fines must be in appropriate proportion to the dangerous situation that resulted from violation of the regulations. In addition, factors such as the number of incidents, increased health risks, repeated violations of the rules, the company's turnover and other relevant circumstances may be taken into account when determining the specific fine. It is considered an aggravating circumstance when determining an individual fine if a violation has been committed intentionally or with gross negligence.

The setting of the penalty depends on the court's actual assessment in the individual instance of all circumstances in the case and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, see the general rules on setting the penalty in Chapter 10 of the Penal Code.

### **2.2.1.1. Relationship to the Act on products and market surveillance (The Products Act)**

The Danish Safety Technology Authority does not have the power to make decisions on injunctions for all cases of established violations of the Act on sunbeds. Instead, it is stipulated that the authority to make injunction decisions, for example if sunbed centres violate provisions on protective eyewear or on displaying advice on the use of sunbeds, must be issued on

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the basis of the then current Product Safety Act, Sections 19 and 20, now the Act on products and market surveillance, Section 14.

This is because the sunbed itself as a product is regulated by the rules contained therein. It is stated in the comments on the Act on sunbeds that the intervention powers in the Product Safety Act can be used for a supplementary purpose. If, for example, sunbed centres violate provisions on protective eyewear or on displaying advice on the use of sunbeds, the Danish Safety Technology Authority will thus be able to issue injunctions or bans under the Product Safety Act.

Consequently, failure to comply with or adhere to injunctions in the sunbed sector will also be punishable under the Products Act. Pursuant to Section 37(1)(6) of the Products Act, it is possible to penalise the owners or operators of sunbed centres who fail to comply with an injunction issued by virtue of Section 14 of the Act.

It follows from the comments on the Products Act (see Folketingstidende 2019-2020, Appendix A, L 179, as submitted, pages 39 and 97) that the starting point for a violation in this area is a minimum fine of approximately DKK 50 000. The starting point for the fine was maintained through later legislative amendments, but in connection with a 2024 legislative amendment, a reduction has been adopted as regards the general level of penalties. Thereafter, as a general rule, in more serious and severe cases, as well as in cases of repeated violation, a police report will be filed with a recommendation for a fine, see Folketingstidende 2023-2024, Appendix A, L 120 as submitted, page 13. The fine is then determined based on the Danish Business Authority's assessment of the individual and specific circumstances of the case, taking into account the relevant aggravating and mitigating circumstances and relevant case law.

### **2.2.2. The Ministry of the Interior and Health's considerations and the proposed scheme**

#### **2.2.2.1. UV types**

Users of UV type 1 and 2 sunbeds may get the impression that they can use sunbeds for longer durations than users of UV type 3 sunbeds. This is because UV type 1 and UV type 2 sunbeds have a lower level of UV-B radiation than UV type 3 sunbeds and are therefore more likely to cause redness and burns. The user will thereby be exposed to higher overall levels of UV light, which is suspected to be the main cause of skin cancer, among other things.

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It is therefore proposed that the possibility of making UV type 1 and UV type 2 sunbeds available to sunbed users in staffed sunbed centres should be deleted from the Act. Such an amendment to the Act is in line with practice in our neighbouring countries, where in Norway and Sweden it is already only permitted to sell, rent or use UV-type 3 sunbeds for cosmetic purposes.

When the Sunbed Act was enacted in 2014, it was assessed that UV type 1 and UV type 2 sunbeds should only be available for use in staffed sunbed centres with trained personnel who have undergone education and training to ensure consumer protection. Most sunbed centres are currently unattended with sunbeds of UV type 3. Therefore, in practice, there are not many sunbed centres that can offer UV type 1 and UV type 2 sunbeds.

The proposed scheme will also result in the deletion of Section 4 from the Act on Sunbeds, so that there will no longer be a requirement for one or more employees in staffed sunbed centres to have undergone education and training. As the vast majority of sunbed centres are currently unattended, it is the Ministry of the Interior and Health's assessment that the provision is no longer relevant.

See § 8 of the draft act, a transitional provision is laid down for sunbeds of UV types 1 and 2 made available to the public in staffed sunbed centres and procured prior to entry into force of the Act. The lease-holder or tenant who has already acquired a sunbed of UV type 1 or 2 before the entry into force of the Act can therefore make that sunbed available to the public until e.g. the sunbed needs to be replaced. However, it is a requirement that the lease-holder or tenant informs the sunbed user that it is not advisable to use a sunbed of UV type 1 or 2 without first consulting a medical professional.

### 2.2.2.2. Limit values, eyewear, and operating instructions

The Sunbed Act currently only relates to the total effective radiation which a sunbed must not exceed. The Act does not directly specify the distribution of UV-A and UV-B radiation that a sunbed must comply with in order to be made available in a sunbed centre. However, such is clear in the drafting history, where it is described that a sunbed must have an effective radiation of less than  $0.15\text{W/m}^2$  for both UV-A and UV-B radiation in order to comply with the requirements for being UV type 3, which is the type which can legally be made available in an unattended sunbed centre.

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In practice, a sunbed may exceed either the level of UV-A radiation or UV-B radiation without exceeding the total radiation limit. The distinction between UV-A and UV-B radiation is already made clear in the explanatory notes on the Act, but it is considered appropriate to include it directly in the Act so that it is clear to sunbed centres what requirements must be met. There is no intention to change the permitted total radiation from sunbeds.

Today, sunbeds must comply with a number of safety measures regarding protective eyewear and operating instructions. The draft Act specifies how the measures shall be carried out in practice the sunbed centres.

There is currently a requirement for a lease-holder or tenant of a sunbed to ensure that the user has access to protective eyewear. The proposed scheme clarifies that the provision applies in a broad sense. The provision can thus be considered to have been complied with if the sunbed user has access to protective eyewear, e.g. if the lease-holder or tenant of a sunbed centre has placed protective eyewear in the sunbed centre and made them freely available for use, or if the sunbed user can quickly and easily obtain access to protective eyewear, e.g. by purchasing protective eyewear from a vending machine in the sunbed centre. The purpose of the amendment is to clarify the requirements for owners and operators.

The Sunbed Act also requires that easy-to-understand operating instructions for the sunbed be displayed. The amendment clarifies that the instructions must be in writing.

### **2.2.2.3. Supervision**

The Danish Business Authority (formerly the Danish Safety Technology Authority) currently monitors the compliance of sunbed centres with the provisions of the Sunbed Act. The Danish Business Authority's supervision activities are unannounced, and since the vast majority of sunbed centres are now unattended, inspections can take place without the owner or another representative of the sunbed centre being present.

The draft act proposes introducing an age limit of 18 for the use of sunbeds. By extension, it is also proposed that an lease-holder or tenant who makes a sunbed available shall be required to operate an age verification system which ensures in advance that only persons who are at least 18 years of age have access to the sunbed.

It is essential that representatives of the Danish Business Authority continue to have access to sunbed centres, even if this access requires, for

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example, electronic age verification, access to a key box, etc. in order to verify their age. Representatives of the Danish Business Authority must also have access to the payment system in order to turn on the sunbed and inspect it and take readings, etc.

In order to ensure that sunbed centres have methodological freedom in relation to their selection of an age verification system, while at the same time ensuring that representatives of the Danish Business Authority have the best possible opportunities to carry out inspections, the draft act proposes introducing a provision enabling the Danish Business Authority to carry out announced inspections.

In practice, this means that the Danish Business Authority will notify the owner of the sunbed centre as registered in the Danish Business Authority's register, prior to the on-site inspection. The owner is then obliged to either attend in person or send a representative at the agreed time, who can grant the Danish Business Authority representative access to the sunbed centre. If no owner or representative shows up, the Danish Business Authority may report the owner of the sunbed to the police in accordance with Section 9(1) of the Sunbed Act. Such violation is punishable by a fine of DKK 5 000.

### **2.2.2.4. Penal provisions**

Only violations of provisions relating to exceeded radiation levels and failure to register are currently punishable under the Sunbed Act. Violations of other requirements on the configuration of sunbed centres, e.g. violation of provisions on protective eyewear or on displaying advice on the use of sunbeds, are punishable under the Products Act. In the event of such violation, an injunction will initially be issued in accordance with the Products Act. If the injunction is not complied with, non-compliance shall also be punished under the Products Act.

The current penalty for exceeding the permitted radiation level is a fine of DKK 15 000 for a first offence, DKK 20 000 for a second offence and DKK 25 000 for a third offence. A violation of the provision on the obligation to register in Section 6(1)(1), is punishable by a fine of DKK 5 000. By way of comparison, the level of penalties for violations of the Products Act is a minimum fine of DKK 50 000.

The Ministry of the Interior and Health considers it appropriate that violations of the provisions of the Sunbed Act be punished under the same Act. It is therefore proposed that a legal basis for injunctions is inserted

directly in the Sunbed Act, instead of injunctions being issued by virtue of the Product Safety Act, and injunction violations can at the same time be punished directly under the Sunbed Act. In this context, a level of fines is laid down for violations of injunctions. The Ministry of the Interior and Health assesses that the fine for non-compliance with an injunction in the sunbed area should be DKK 5 000, in line with the assumed penalty level for non-registration, which is also a formal violation.

At the same time, there is a need to lay down a level of fines for violations of the age limit and the requirement for an age verification system. At the same time, it is proposed to adjust the level of fines for the substantive provisions of the Act, including compliance with the specified radiation limits and compliance with bans on certain sunbed types so that the levels of fines are consistent.

It is proposed to follow the same level for a first-time violation of the radiation limits, as already stated in the Sunbed Act; currently at DKK 15 000. The level of fines for second-time offences is set at DKK 25 000 and for third-time offences at DKK 40 000.

### **2.3. Strengthened age controls when selling tobacco, nicotine and alcohol**

#### **2.3.1. Legislation currently in force**

The Act banning the sale of tobacco and alcohol to persons under 18 years of age, the Act on tobacco products, etc., and the Act on electronic cigarettes, etc. lay down rules for the sale of tobacco and nicotine products and alcoholic beverages, including age limits, as well as the control powers of the Danish Safety Technology Authority in connection with controls of current age limits for the sale of tobacco and nicotine products and alcoholic beverages.

##### **2.3.1.1. Act banning the sale of tobacco and alcohol to persons under 18 years of age**

Section 1(1) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 1088 of 10 October 2024, as amended, provides that tobacco products, tobacco substitutes and herbal products for smoking may not be sold to persons under the age of 18. The prohibition shall also cover proxy sales.

Under § 2(1) of the Act, alcoholic beverages with an alcoholic strength by volume of 1.2 % or more may not be sold to persons under the age of 16 years. The prohibition shall also cover proxy sales. Paragraph 2 of that provision provides that alcoholic beverages with an alcoholic strength by

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volume of more than 6 % not be sold to persons under the age of 18 years. The prohibition shall also cover proxy sales. Paragraph 3 of that provision states that in night-life zones designated pursuant to § 6b of the Act on police enforcement, alcoholic beverages with an alcoholic strength by volume of 1.2 % or more may not be sold or delivered to persons under 18 years of age from 22.00 to 08.00.

Section 2a(1) of the Act provides that a person who sells tobacco products, tobacco substitutes or herbal products for smoking on a commercial basis at physical points of sale must require the presentation of a valid photo ID if the seller is in doubt that the customer is at least 18 years of age. Paragraph 2 of that provision provides that a person who sells alcoholic beverages commercially with an alcoholic strength by volume of 1.2 % or more at physical points of sale must require the presentation of a valid image identification if the vendor is in doubt that the customer is at least 16 years of age. Paragraph 4 of that provision provides that a person who sells alcoholic beverages commercially with an alcoholic strength by volume of more than 6 % at physical points of sale must require the presentation of a valid image identification if the vendor has doubts that the customer is at least 18 years of age.

The comments on Section 2a(1) and (4), cf. Folketingstidende 2012-13, Appendix A, L 113 as submitted, p. 3, that it is the shopkeeper, restaurateur, hotelier, or canteen owner, etc. and shop staff who must ensure that tobacco and alcohol are not sold to children and young people under the age of 18 in contravention of the rules in Sections 1 and 2. Furthermore, it is stated that the purpose of the provisions is to support Sections 1 and 2 of the Act on the prohibition of the sale of tobacco products and alcoholic beverages to persons under the age of 18, and since it may be difficult to assess a young person's age, i.e. whether the customer is 18 years of age, 16 years of age, or younger, it is proposed to clarify that in case of doubt whether the customer meets the age limits laid down in the Act, the person who commercially sells tobacco products and alcoholic beverages must require to be provided with valid photo identification.

Section 2a(3) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, provides that anyone who commercially markets alcoholic beverages with an alcohol content of 1.2 % or more by volume on a distance basis or in unattended shops must operate an age verification system which, at the time of sale, verifies that the customer is at least 16 years of age. Paragraph 5 of that provision provides that a

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person who markets alcoholic beverages commercially with an alcoholic strength by volume of more than 6 % by volume on a distance basis or in unattended shops must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age.

Pursuant to § 2b(1) of the Act, the Danish Safety Technology Authority monitors compliance with the requirements of §§ 1-2a and rules issued pursuant to § 2 a(8). Paragraph 4 of that provision provides that the Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of verifying compliance with the requirements laid down in Section 1(1), Section 2 and Section 2a(1), (2) and (4), as well as in rules issued pursuant to Section 2a(8), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales. Paragraph 5 of that provision provides that The Danish Safety Technology Authority shall not, during controls in accordance with (4), influence significant circumstances during the control purchase, in particular an increase in the extent or seriousness of the offence.

In the comments on Section 2b(4), cf. Folketingstidende 2024–2025, Appendix A, L 173 as submitted, it is stated that the Danish Safety Technology Authority will be able to use young mystery shoppers for a period of two years. Before the end of the period, an evaluation will be carried out with a view to discussing whether the scheme should be extended, made permanent or discontinued.

Section 5(1) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No. 1088 of 10 October 2024, as amended, states that, for infringement of Sections 1-2(a) and rules issued pursuant to Section 2a(8) of the Act, the shop owner, the restaurateur, the hotel host, the canteen owner, the professional marketing by means of distance selling, etc., is punishable by a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1–2a and regulations issued pursuant to Section 2a(8) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.

### **2.3.1.2. Act on tobacco products, etc.**

Section 24(1) of the Act on tobacco products, etc. provides that retailers of tobacco products, tobacco substitutes, and herbal products for smoking on a distance basis must operate an age verification system which, at the time

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of sale, verifies that the customer is at least 18 years of age. Paragraph 2 of that provision provides that the Minister for the Interior and Health lays down detailed rules on the age verification system referred to in (1), including on the detailed requirements of the system, and on the obligation of retailers to provide the Danish Safety Technology Authority with information on the content and use of the system.

Pursuant to the authorisation provision in section 24(3), Order No. 780 of 13 June 2023 on limit values, health warnings and age control systems, etc. for tobacco products, etc. issued, with subsequent amendments, cf. Order No. 979 of 20 August 2024 amending the Order on limit values, health warnings and age control systems, etc. for tobacco products, etc.

It follows from § 32(1) of the Act on tobacco products etc. that the Danish Safety Technology Authority shall monitor compliance with the requirements laid down in this Act and in rules laid down pursuant thereto.

It is stated in § 45(1) No 1, see Consolidation Act No 1161 of 4 November 2024, as amended, that unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1). It follows from paragraph 2 of that provision that rules laid down pursuant to §§ 8(1) and (2), 9(1) and (2), 10a(2), 19(2), 19a(2), 21, 21a(3), 22c, 22d(2), 24(2), 30(2) or 30a(2), fines may be imposed for infringement of the provisions of the rules.

### 2.3.1.3. Act on electronic cigarettes, etc.

According to § 15(1) of the Act on electronic cigarettes, etc., cf. Consolidation Act No 1166 of 4 November 2024, as amended, it is not permitted to market electronic cigarettes and refill containers with and without nicotine to persons under the age of 18. The prohibition shall also cover proxy sales. Under paragraph 2 of the provision, anyone who commercially sells electronic cigarettes or refill containers with or without nicotine at physical points of sale shall require the presentation of a valid photo ID if the seller is in doubt that the customer is at least 18 years of age. Under paragraph 3 of the provision, retailers of electronic cigarettes or refill containers with and without nicotine on a distance basis must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age., cf. paragraph 4. Under paragraph 4 of the provision, the Minister for the Interior and Health shall lay down rules on the age verification system, including requirements for the system

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and on the retailer's obligation to provide the Danish Safety Technology Authority with information on the content and use of the system.

Pursuant to the enabling provision in Section 15(4), Order No 250 of 4 March 2025 on the quality, labelling and age verification system, etc. of electronic cigarettes and refill containers, etc. has been issued.

It follows from Section 19(1) of the Act on electronic cigarettes, etc. provides that the Danish Safety Technology Authority monitors the compliance with the rules laid down in Chapters 3–6, Sections 7a and 25a and rules laid down pursuant thereto. Under paragraph 4 of the provision the Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of controls for the requirements laid down in Section 15(1) and (2), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales. Under paragraph 4 of that provision, the Danish Safety Technology Authority shall not, during controls in accordance with (3), influence significant circumstances during the control purchase, in particular an increase in the extent or seriousness of the offence.

In the comments on Section 19(3) and (4), cf. Folketingstidende 2024–2025, Appendix A, L 173 as submitted, it is stated that the Danish Safety Technology Authority will be able to use young mystery shoppers for a period of two years. Before the end of the period, an evaluation will be carried out with a view to discussing whether the scheme should be extended, made permanent or discontinued.

It is stated in § 33(1), No 1, cf. Consolidation Act No 1166 of 4 November 2024, as amended, that unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who infringes §§ 9(1), 9a(1) and (2), 10(1), 11(1), 15(1)–(3), 16(1), 17, 18a(1), 18b(1), or 25a(1) or (2). It follows from paragraph of the provision that in rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed.

### 2.3.2. The Ministry of the Interior and Health's considerations and the proposed scheme

The parties behind the prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people agree that the age verification for the sale of tobacco, nicotine and alcoholic beverages

should be strengthened. This applies both to age verification in the case of sales in physical shops and in the case of online sales.

#### 2.3.2.1. Electronic age verification in physical shops

With the prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people, the parties to the agreement also agreed to initiate an analysis of possible solutions for electronic age verification in physical shops. The analysis was completed in December 2024 and showed that implementing electronic age verification is complex, partly because there are many different types of operations among the approximately 7 000 of them in the retail sector.

The analysis concluded that, among other things, there is no single method of electronic age verification that would suit the many different retailers, and that a solution instead calls for methodological freedom for the shops.

On 7 March 2025, the government (the Social Democrats, the Liberals and the Moderates) and the Socialist People's Party, the Danish Democrats, the Conservative People's Party, and the Alternative – the same parties behind the prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people – entered into an agreement on electronic age verification in physical shops.

Since 1998, there have been rules on age limits, and since 2013, the age checking method has been the same: If the cashier in a physical shop is unsure about a customer's age, they must always ask the customer to present valid photo ID, such as a passport or a drivers licence.

The parties to the agreement wish to bring the rules up to date so that retailers have the best possible framework for conducting and enforcing age checks when selling tobacco and nicotine products and alcoholic beverages.

It is therefore proposed that retailers selling tobacco and nicotine products and alcoholic beverages in physical shops should be able to verify the age of their customers electronically if it is deemed, at the local level, that doing so will make age verification more effective and that it is appropriate for the shop and its customer group. Thus, there will be no requirement to use an electronic age verification system in physical shops, but it will be up to individual retailers to choose how to ensure compliance with the rules on the sale of tobacco and nicotine products and alcoholic beverages, so that the products are not sold to persons below the applicable

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age limits. ‘Retailer’ means any natural or legal person who markets tobacco and nicotine products as well as alcoholic beverages.

If, as a retailer, one chooses to use electronic age verification, it will be up to the retailer to ensure that the age verification system complies with all current applicable regulations on security and data protection at all times. In order to ensure methodological freedom, there is therefore no requirement for a specific age verification system.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which users will be able to use, among other things, to verify their age to an age verification system. The national digital identity wallet will ensure a high level of both data and privacy protection and is also considered difficult to circumvent.

In addition, it is proposed that the Minister for the Interior and Health be authorised to lay down rules on the minimum requirements for age verification systems and verification solutions that can be used in physical shops, inter alia in relation to data security.

Electronic age verification does not require confirmation of the exact age of the citizen, but merely confirms that the citizen is above the age limit in question.

It is also proposed that it should not only be in cases of doubt that commercial sellers of tobacco and nicotine products and alcoholic beverages should be able to require the presentation of valid photo ID, but that anyone who sells things commercially which are subject to age restrictions, broadly speaking, can ask to see valid photo ID or use an age verification system to make sure the rules on age limits are followed. The purpose of the proposed amendments is thus to ensure that those who sell tobacco and nicotine products and alcoholic beverages on a commercial basis can always require valid photo ID or electronic age verification to ensure that tobacco and nicotine products or alcoholic beverages are not sold to persons below the applicable age limits.

### 2.3.2.2. Continuation of the pilot scheme with young mystery shoppers

With the prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people, the parties to the agreement agreed to strengthen the age verification under the Danish Safety Technology Authority (hereinafter the Danish Business Authority) and to authorise the

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Danish Business Authority, for a period of two years, to use young mystery shoppers on a trial basis during on-site inspections in physical shops throughout Denmark. Thus, since 1 July 2024, the Danish Business Authority has been able to make use of young mystery shoppers below the age limits for the sale of tobacco, nicotine and alcohol in order to check for compliance with the age limits for the sale of these products.

Furthermore, the parties to the agreement agreed that, before the end of the trial period, an evaluation of the scheme should be carried out with a view to discussing whether the scheme should be extended, made permanent, or discontinued.

As of 3 October 2025 – just over a year after the trial period began – the Danish Business Authority had carried out 2 240 checks with young mystery shoppers and found violations in 34 % of instances.

Before the pilot scheme, a Danish Business Authority (then the Danish Safety Technology Authority) inspector could only observe and wait for a shop to make an illegal sale of alcohol, nicotine or tobacco to a person below the age limits. In practice, this meant that the Danish Business Authority's inspector would be present outside of a shop for around 20 minutes, and thus it was uncertain if any age-restricted goods were sold during that time. At the same time, the young person who made the purchase would have to be willing to subsequently provide information, such as their age, to the Danish Business Authority for further processing of the case. This meant that the Danish Business Authority's inspections rarely led to a finding of a violation of the rules on the sale of age-restricted products that could form the basis for further proceedings by the Authority. In 2023, the Danish Business Authority carried out 1 163 physical age checks but did not observe any cases of sales to minors. In 2022, the Danish Business Authority carried out 1 077 inspections and observed two cases of sales to minors, but in one case the buyer stated that they did not have any ID, and in the other case the buyer stated that they did not wish to show ID.

The experience gained by the Danish Business Authority's use of young mystery shoppers and the extent of violations found show that young mystery shoppers are an effective control tool for enforcing the age limits. However, the fact that there is a violation in approximately one out of three instances also indicates that too many sales of tobacco, nicotine and alcohol to young people are still taking place below the age limits.

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Stakeholders in the retail sector have expressed criticism of the pilot scheme, in particular in relation to the size of the fine, which as of 1 January 2025 was set to generally be DKK 50 000 for the sale of tobacco, nicotine or alcohol to minors, cf. Folketingstidende, 2024–2025, Appendix A, L 53 as submitted. In relation to this, see point 2.4 of the general comments on the present draft Act on the proposal to adjust the level of fines for sales to minors.

However, the parties to the Prevention Agreement agree on the need to extend for two years the pilot scheme with young mystery shoppers. On 10 October 2025, the government (the Social Democrats, the Liberals and the Moderates) and the Socialist People's Party, the Danish Democrats, the Conservative People's Party, and the Alternative – the same parties behind the prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people – as well as the agreement on electronic age verification in physical shops – entered into an agreement to extend for two years the pilot scheme with young mystery shoppers.

The extension of the pilot scheme supports a continued focus in the retail sector on ensuring a culture where age limits are better enforced, while allowing retailers to implement electronic age verification in parallel. Reference is made to the fact that this draft act proposes that the retail sector can, from 1 May 2026, make use of electronic age verification for the sale of tobacco, nicotine and alcoholic beverages in physical shops. Please refer to point 2.3.2.1 of the general comments on the draft act for a more detailed description of the proposal and the political agreement behind it.

The present draft act therefore proposes to extend the pilot scheme with young mystery shoppers until 30 June 2028.

The extension of the pilot scheme with young mystery shoppers is not intended to change the framework for the Danish Business Authority's use of young mystery shoppers. This means, inter alia, that the Danish Business Authority will continue to only be able to make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made by the shop, which operates as a retailer, to persons under the age limit. In cases where the Danish Business Authority has reasonable grounds to suspect that sales are being made by the shop, which operates as a retailer, to persons under the age limit, coercive measures, etc. can only be carried out in accordance with the rules laid down in the Administration of Justice Act, cf. Section 9

of the Act on legal certainty in the administration's use of coercive measures and information obligations. Please also refer to the comments, see Folketingstidende 2024-2025, Appendix A, L 173 as submitted.

Before the expiry of the extended pilot scheme, the parties to the agreement will again take a position on the scheme.

## **2.4. Adjustments to punishments by fines**

### **2.4.1. Legislation currently in force**

The Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on tobacco products, etc., and the Act on electronic cigarettes, etc. set age limits for the sale of alcoholic beverages, tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine, as well as requirements for age verification systems for the distance selling of alcoholic beverages, tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine.

§ 5(1) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No. 1088 of 10 October 2024, as amended, states that, for infringement of a number of provisions of the Act and rules issued pursuant to the Act, the shop owner, the restaurateur, the hotel host, the canteen owner, the professional marketing by means of distance selling, etc., is punishable by a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1–2a of the Act and regulations issued pursuant to Section 2a(8) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.

The expected fine level in the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 for violation of the rules on the sale of tobacco products, tobacco substitutes, herbal products for smoking, and alcoholic beverages to persons below the applicable age limits are initially set at DKK 50 000 for first-time offences and DKK 65 000 for repeat offences.

§ 45(1) of the Act on tobacco products etc., cf. Consolidation Act No. 1161 of 4 November 2024, as amended, states that, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who infringes or fails to comply with a number of provisions of the Act. In accordance with (2) of the provision, fines for infringements of rules issued pursuant to a number of provisions may be imposed.

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Expectations regarding the level of fines in the Act on tobacco products, etc. for infringements of the rules on distance sales of tobacco products, tobacco substitutes, and herbal products for smoking are generally DKK 50 000 for a first-time offence and DKK 65 000 for a second-time offence.

§ 33 (1) of the Act on electronic cigarettes etc., cf. Consolidation Act No. 1166 of 4 November 2024, as amended, states that, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who infringes or fails to comply with a number of provisions of the Act. In accordance with (2) of the provision, fines for infringements of rules issued pursuant to a number of provisions may be imposed.

Expectations regarding the level of fines under the Act on Electronic Cigarettes, etc. for violations of the rules relating to the marketing and distance selling of electronic cigarettes and refill containers with and without nicotine to persons under the age of 18, are DKK 50 000 for a first-time offence and DKK 65 000 for a second-time offence.

The notes on the expected fine levels, both in relation to the fine levels for violations under the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on Tobacco Products, etc. and the Act on Electronic Cigarettes, etc., describe, among other things, what should be taken into account when determining the size of the fine for the various provisions, including, for example, low turnover and aggravating or mitigating circumstances in accordance with the general rules in Chapter 10 of the Criminal Code, cf. Folketingstidende 2024-25, Appendix A, L 53 as submitted.

For both the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on Tobacco Products, etc. and the Act on Electronic Cigarettes, etc., it is described in the notes, cf. Folketingstidende 2024-2025, Appendix A, L 53 as submitted, that if several offences are to be adjudicated at the same time, a fine calculation formula must be used, according to which the moderated fine is calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

2.4.2. The Ministry of the Interior and Health's considerations and the proposed scheme

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As of 1 January 2025, the level of fines for the unlawful sale of tobacco and nicotine products and alcoholic beverages to persons below the applicable age limits was raised to a starting point of DKK 50 000 for first-time offences. With the prevention agreement, it was agreed that the size of the fine could vary upwards or downwards depending on the specific case, including taking low turnover into account. The parties to the prevention agreement have noted that, despite the political intention, the calculation and imposition of fines does not take into account potential turnover and the consequences of high fines, especially for small businesses.

It is therefore proposed that the level of fines for first-time offences for the unlawful sale of tobacco and nicotine products and alcoholic beverages to persons below the current age limits be halved, so that the level of fines for first-time offences will start at DKK 25 000. For second and third infringements, the expectation of the level of fines is that they will generally start at DKK 40 000 and DKK 65 000 respectively.

The courts will continue to determine the amount of the penalty on a case-by-case basis considering the specific circumstances of the case, and the amount of the fine indicated may be varied upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

If several violations are subject to simultaneous adjudication, the fine calculation formula currently used by the Danish Business Authority for moderate accumulation will continue to apply, cf. Folketingstidende 2024-25, Appendix A, L 53 as submitted. The moderated fine is calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach continues to be one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

## 2.5. Strengthened regulation of tobacco substitutes

### 2.5.1. Legislation currently in force

Under current legislation, tobacco substitutes are regulated in the Act on tobacco products, etc., the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on the prohibition of tobacco advertising, etc., and the Act on smoke-free environments. Tobacco

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substitutes are regulated, inter alia, in line with tobacco products as regards advertising regulations, sponsorship, prohibition of visible placement and display, age limit, smoke- and nicotine-free school kitchens and smoke- and nicotine-free school hours, reporting requirements, requirements for standardised packaging and requirements on additives. In addition, tobacco substitutes are regulated in the form of, among other things, nicotine content requirements and a ban on characterising flavours, with the exception of tobacco and menthol.

Under current law, tobacco substitutes are not subject to the requirement for multiple types of health warnings that currently applies to some tobacco products, cf. Section 19 of the Act on tobacco products, etc. Similarly, tobacco substitutes are not subject to the same requirement for notification prior to marketing in Denmark as currently applies to new categories of tobacco products and electronic cigarettes and refill containers with and without nicotine that are marketed in Denmark, cf. Section 26 of the Act on tobacco products, etc. and Sections 5 and 5b of the Act on electronic cigarettes, etc.

A tobacco substitute is defined as a product containing nicotine that is not a tobacco product, cf. No 2 of the Act on tobacco products etc. or an electronic cigarette, cf. § 2(1) of the Act on electronic cigarettes etc. and which is not approved by marketing permission in accordance with the Act on medications or EU legislative regulations laying down common procedures for approval of medicinal products for human use and equipment intended to be used in conjunction with this product.

A tobacco substitute is thus a collective term that can encompass a range of different nicotine products. For example, nicotine pouches are a tobacco substitute that is currently marketed on the Danish market.

It is stated in § 3a(1) of the Act on tobacco products, etc. that manufacturers and importers of tobacco substitutes that are placed on the market in this country shall for each tobacco substitute report information on the product, including its ingredients, sorted by trade name. It follows from paragraph 2 of that provision that the Minister for Industry, Business and Financial Affairs lays down more detailed regulations on reports under paragraph 1, including on the information to be reported, when and in what form reporting shall be made and information on changes in the composition and content of tobacco substitutes.

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Pursuant to the aforementioned enabling provision, Order No 243 of 22 February 2021 on the reporting of tobacco substitutes was issued, as subsequently amended by Order No 276 of 28 February 2022.

The notes on Section 3a of the Act state that a tobacco substitute may only be marketed in Denmark if the product has been reported to the Danish Safety Technology Authority, cf. Folketingstidende 2020-21, Appendix A, L 61 as submitted, page 37. Based on the reported information, the Danish Safety Technology Authority has been able to, inter alia, plan market surveillance and select products for testing.

Under legislation currently in force, there is a requirement to notify new categories of tobacco products, electronic cigarettes and refill containers with or without nicotine. Section 26(1) of the Act on tobacco products, etc. states that new categories of tobacco products may only be placed on the market in Denmark if they have been notified to the Danish Safety Technology Authority. The notification lapses if the notifier fails to maintain the notification and does not pay a fee, cf. § 44(1) of the Act. Under paragraph 2 of the provision, the notification mentioned in paragraph 1 must be submitted by every manufacturer and importer who wishes to market a new category of tobacco products, no later than 6 months prior to the proposed marketing. Pursuant to paragraph 3 of the provision, the Minister for Industry, Business and Financial Affairs lays down detailed rules on the notification.

Pursuant to the enabling provision in question, Order No 611 of 7 June 2016 on the reporting of tobacco products and herbal products for smoking and the notification of new categories of tobacco products, etc. has been issued. In Chapter 6 of the Order, the Minister for Industry, Business and Financial Affairs has laid down detailed rules on the notification of new categories of tobacco products.

It follows from § 5(1) of the Act on electronic cigarettes etc. that electronic cigarettes and refill containers with nicotine may only be placed on the market in this country if they have been notified to the Danish Safety Technology Authority. The notification lapses if the notifier fails to maintain the notification and does not pay a fee, cf. § 32(1) of the Act. Under paragraph 2 of the provision, the notification must be submitted by manufacturers and importers who wish to market an electronic cigarette or a refill container containing nicotine no later than six months before the intended marketing. Under paragraph 3 of the provision, the Minister for Industry, Business and Financial Affairs lays down rules for the

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information and statements that must accompany notification under paragraph 1, the Danish Safety Technology Authority's handling of the notification and what product changes require that a new notification is submitted.

Pursuant to the aforementioned enabling provision, Order No 599 of 3 June 2016 on the notification of electronic cigarettes and refill containers, etc. was issued. The Order on the notification of electronic cigarettes and refill containers, etc., has subsequently been amended by Order No 273 of 28 February 2022 and Order No 1193 of 21 November 2024. In Chapter 2 of the Order, the Minister for Industry, Business and Financial Affairs has laid down detailed rules on the notification of electronic cigarettes containing nicotine and refill containers containing nicotine.

It follows from § 5b(1) of the Act on electronic cigarettes etc. that electronic cigarettes and refill containers without nicotine may only be placed on the market here in Denmark if they have been notified to the Danish Safety Technology Authority. The notification lapses if the notifier fails to maintain the notification and does not pay a fee, cf. § 32(1) of the Act. Under paragraph 2 of the provision, the notification must be submitted by manufacturers and importers who wish to market electronic cigarettes and refill containers without nicotine no later than six months before the intended marketing. The placement on the market may only be commenced when the Danish Safety Technology Authority has confirmed that a correct notification has been made. Under paragraph 3 of the provision, the Minister for Industry, Business and Financial Affairs lays down rules for the information and statements that must accompany notification under paragraph 2, the Danish Safety Technology Authority's handling of the notification and what product changes require that a new notification is submitted.

Pursuant to the aforementioned enabling provision, Order No 770 of 12 June 2023 on the notification of electronic cigarettes without nicotine and refill containers without nicotine, etc. was issued. The Order on the notification of electronic cigarettes without nicotine and refill containers without nicotine, etc., has subsequently been amended by Order No 1198 of 21 November 2024.

The provisions on the notification of new categories of tobacco products, electronic cigarettes and refill containers containing nicotine have been implemented as a result of the Tobacco Products Directive (2014/40/EU).

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It follows from Section 19a(1) of the Act on tobacco products, etc. that manufacturers and importers of tobacco substitutes shall ensure that tobacco substitutes which they place on the market display a health warning, cf. paragraph 2. Under paragraph 2 of the provision, the Minister for the Interior and Health lays down rules on the wording, form and placement of the health warning.

Pursuant to the enabling provision in question, Order No 484 of 13 May 2025 on labelling and health warnings on tobacco substitutes was issued.

Section 6 of the Order on on labelling and health warnings on tobacco substitutes states that each unit packet and any outside packaging of tobacco substitutes must bear the following health warning in Danish: ‘This product contains nicotine, which is a highly addictive substance’.

It follows from Section 19 of the Act on tobacco products etc. that a person who places a tobacco product on the market here in Denmark shall ensure that each unit packet and any outside packaging has health warnings in Danish. Under paragraph 2 of the provision, the Minister for the Interior and Health lays down rules on the number and type of health warnings that each individual category of tobacco product shall bear;

- 1) the form, wording, layout, placement, and size of the health warnings; and
- 2) a prohibition against wholly or partly obscuring or breaching health warnings when the tobacco product is placed on the market.

Pursuant to the aforementioned enabling provision, Order No 780 of 13 June 2023 on limit values, health warnings and age verification systems, etc. of tobacco products, etc. was issued. The Order was later amended by Order No 979 of 20 August 2024 on amendments to the Order on limit values, health warnings, and age verification systems, etc. for tobacco products, etc.

In Section 10 of the Order on limit values, health warnings and an age verification system etc. of tobacco products etc. it is among other things stated that each unit packet and any outer packaging of cigarettes, roll-your-own tobacco, water pipe tobacco, and heated tobacco products that are tobacco products for smoking shall have a general warning, a statement of information and a combined health warning. In accordance with paragraph 2 of that provision, the general warning shall read as follows: ‘Smoking kills’. According to paragraph 3 of the provision, the information message must have the following wording: ‘Tobacco smoke

contains over 70 substances known to cause cancer.’ According to paragraph 4 of the provision, the combined health warning shall contain one of the text warnings listed in Annex 1 and a corresponding colour photograph as specified in the picture library in Annex 2.

The requirements for health warnings on tobacco products have been implemented as a result of the Tobacco Products Directive (2014/40/EU).

#### 2.5.2. The Ministry of the Interior and Health’s considerations and the proposed scheme

The Danish Health Authority states that nicotine is a highly addictive toxicant that has a strong impact on the brain and the nervous system. The immature brains of children and young people are particularly sensitive to nicotine, and children and young people are at greater risk of becoming addicted than adults, and nicotine use can be a stepping stone to cigarettes.

For example, nicotine can have serious consequences for children's ability to learn, concentrate and pay attention, and can have a detrimental effect on mental health and increase the risk of mental illness, such as anxiety and depression. Furthermore, nicotine can damage the gums, oral mucosa and teeth, and nicotine can have a harmful effect on the heart and blood vessels.

In order to prevent children and young people from starting to use tobacco and nicotine products and to ensure that everyone who uses nicotine products is informed about the harmful effects of these products on health, the government wishes, as part of its Cancer Plan V, to initiate efforts to introduce new supplementary health warnings on tobacco substitutes.

There are few studies on health warnings on nicotine products. However, there is evidence of the effectiveness of warnings on packages containing smoking tobacco, e.g. cigarettes.

The WHO calls for health warnings on tobacco products and deems them to be an effective element of tobacco control. Studies on smoking tobacco show that combined warnings (a combination of text and image warnings) on tobacco packaging make smoking less attractive to children and young people. Studies find that pictorial warnings are considered more effective and the packages less attractive compared, to packages with text warnings only. Furthermore, one study shows that large picture warnings on tobacco packaging are associated with increased knowledge about health risks, as well as increased motivation to quit smoking and more attempts to quit.

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The effect has been mostly studied with adults, but the effect also appears to be similar among children and young people.

Based on existing knowledge about the significance of pictorial warnings on smoking tobacco and smokeless tobacco, the Danish Health Authority assesses that pictorial warnings will raise awareness of health risks and reduce the likelihood of positive perceptions of tobacco substitutes.

Overall, the Danish Health Authority assesses that combined health warnings are more effective than text warnings alone or no warnings at all, and that it is reasonable to assume that this also applies to tobacco substitutes.

It is therefore proposed that tobacco substitutes should in future carry one or more health warnings and that the current authorisation of the Minister for the Interior and Health to lay down rules on the wording, form and placement of health warnings on tobacco substitutes be extended to include, among other things, laying down rules on the number and type of health warnings on tobacco substitutes. In this context, image warnings can be a type of health warning, for which requirements can be laid down.

In addition, in order to ensure a better overview of different types of tobacco substitutes on the Danish market, it is proposed to introduce a new notification obligation for tobacco substitutes, according to which a tobacco substitute may only be placed on the market in Denmark if it has been notified to the Danish Business Authority and the marketing may only commence 6 months after the notification.

The proposal to introduce a notification requirement for tobacco substitutes should be seen in the context of the definition of a tobacco substitute and the rapid development of new products. Tobacco substitutes is thus a collective term can only encompass a product containing nicotine that is not a tobacco product, cf. No 2, or an electronic cigarette, cf. Section 2(1) of the Act on electronic cigarettes etc. and which is not approved by marketing permission in accordance with the Act on medicinal products or EU law laying down common procedures for approval of medicinal products for human use and equipment intended to be used in conjunction with this product. For example, nicotine pouches are a type of a tobacco substitute that is currently marketed on the Danish market and which is subject to product requirements in the Act on tobacco products etc. and rules issued by virtue thereof.

In addition to the objective of ensuring a better overview of the types of tobacco substitutes on the Danish market, the proposal also aims to support any new legislation concerning product requirements for new tobacco substitutes. This may, for example, concern the setting of a nicotine limit for a type of tobacco substitute which, at the time of notification, is not regulated by the applicable rules, but for which the Minister for the Interior and Health may lay down rules pursuant to Section 10a(2) of the Act on tobacco products, etc.

## **2.6. Adjusted requirements for signage with age limits and banning displays online**

### **2.6.1. Legislation currently in force**

The Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on Electronic Cigarettes, etc. and the Act on the Prohibition of Tobacco Advertising lay down a number of rules on visibility and signage in connection with the sale of tobacco and nicotine products and alcoholic beverages, including the Danish Safety Technology Authority's supervisory obligation with regard to the requirements for visible signage.

#### **2.6.1.1. Act banning the sale of tobacco and alcohol to persons under 18 years of age**

It is stated in § 2a(6) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 years, cf. Consolidation Act No 1088 of 10 October 2024, that shops where alcoholic beverages are sold at retail outlets shall, by means of visible signs drawn up by the Danish Health Authority, inform about the age limit requirements for the sale of alcoholic beverages, cf. paragraphs 2-5 and § 2. It follows from paragraph 7 of the provision that signs indicating that the sale of tobacco products, tobacco substitutes and herbal products for smoking can take place only by complying with the age limit requirements for the sale of tobacco products, tobacco substitutes and herbal products for smoking, cf. paragraph 1 and § 1, shall be drawn up by the Danish Health Authority. It follows from paragraph 8 of the provision that the Minister for Health shall lay down detailed rules on the design, installation, etc. of signs, cf. paragraph 6.

Pursuant to the aforementioned enabling provision, Order No 782 of 13 June 2023 on the installation and placement of signage was issued.

In the comments on the provisions, cf. Folketingstidende, 2012-13, Appendix A, L 113 as submitted, page 3, it is stated that, in order to further assist shops where retail sales take place, in ensuring that the sale

of tobacco and alcohol to young people takes place in accordance with the legislation, it is proposed that mandatory signage be required so that shops with retail sales shall in future inform by visible signage that the sale of tobacco and alcohol can only take place if the customer shows valid photo identification if the seller has doubts that the customer meets the age limits of the Act. It also appears from the comments, cf. Folketingstidende 2012-23, Appendix A, L 113 as submitted, page 7, that ‘shops’ also include sales on the internet.

In addition, it is clear from the comments, cf. the Folketingstidende 2021-21, Appendix A, L 61, as submitted, pages 58-59, that the provision on visible signage in future will only apply in connection with the sale of alcoholic beverages and that if a sales outlet would like to be able to display a sign with the age limit for the purchase of tobacco products, this is possible in cases where a purchaser has requested a purchase and, in such cases, there shall be age limit signs drawn up by the Danish Health Authority, cf. § 4, No 7, of the draft Act.

#### 2.6.1.2. Act banning tobacco advertising, etc.

Under § 5a(1) of the Act on the prohibition of tobacco advertising, etc., the visible placing and display of tobacco products, tobacco substitutes and herbal products for smoking, including on the internet, are prohibited. According to paragraph 2 of the provision, the prohibition does not apply to the sale of pipes on the internet and to the sale of pipes, pipe tobacco and cigars at physical outlets specialised in the sale of those products. According to paragraph 3 of the provision, points of sale, including on the internet, may, at the request of the purchaser, provide the purchaser with a list of neutral information on which tobacco products, tobacco substitutes and herbal products for smoking are sold at the point of sale and the price of the products. At physical points of sale, the list of neutral information can be set up by a sales counter operated by a clerk. According to paragraph 4 of the provision, the Minister for Health may lay down rules on the prohibition under paragraph 1, on which products and sales outlets are covered by paragraph 2, on advertising at those points of sale and on the presentation by the point of sale of neutral information under paragraph 3.

By virtue of the enabling provision in Section 5a(4), Order No 570 of 11 February 2021 prohibiting the visible location and display, etc. of tobacco products, tobacco substitutes and herbal products for smoking was issued.

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It follows from § 4(1) of the Order, that the prohibition on visible placement and display in online sales and via digital solutions also covers products intended to be used with tobacco products, tobacco substitutes, or herbal products for smoking, cf. § 2(3). This applies, for example, to filters, hardware, paper or packaging, but not to products that have a more general purpose, cf. Section 2(3). The ban on online sales and through digital solutions does not apply to pipes. ‘Online sales and via digital solutions’ means, inter alia, retailer websites, internet shops, company home pages, company pages on social media, and apps which sell to or are aimed at consumers.

Section 4(3) of the Order states that points of sale may provide buyers with neutral information about the products sold at the point of sale, including the price of the goods. Information may also be provided on the packaging of the products, as well as technical information enabling the customer to assess which other products the item is compatible with. However, the information may not be indicated with or accompanied by illustrations, pictures, colours, logos, symbols or other text, cf. Section 6 of the provision.

Section 4(9) of the Order states that sales outlets covered by paragraph 1 shall ensure that the customer, before the product choice can be made, is met by an illustration prepared by the Danish Health Authority on the age limit for the sale of tobacco products, tobacco substitutes and herbal smoke products, cf. section 1(1) of the Act on the prohibition of the sale of tobacco and alcohol to persons under 18 years of age.

### 2.6.1.3. Act on electronic cigarettes, etc.

It follows from Section 18a(1) of the Act on Electronic Cigarettes, etc. that the visible display and presentation of electronic cigarettes and refill containers with and without nicotine in sales outlets, including on the internet, is prohibited. The same applies to goods intended to be used with those products. Paragraph 3 of the provision states that points of sale, including on the internet, may, at the request of the purchaser, provide the purchaser with a list of neutral information on which electronic cigarettes and refill containers with and without nicotine are sold at the point of sale and the price of the goods. At physical points of sale, the list of neutral information can be set up by a sales counter operated by a clerk. According to paragraph 4 of the provision, the Minister for the Interior and Health may lay down rules on the prohibition under paragraph 1, on which products and sales outlets are covered by paragraph 2, on advertising at

those points of sale and on the presentation by the point of sale of neutral information under paragraph 3.

By virtue of the aforementioned enabling provision, Order No 65 of 15 January 2021 prohibiting the advertising, visible placement and display, etc. of electronic cigarettes and refill containers with and without nicotine was issued.

It follows from Section 5(1) of the Order that the prohibition on visible placement and display in online sales and via digital solutions also covers products intended to be used with electronic cigarettes and refill containers with and without nicotine, such as chargers, empty refill containers, packaging, batteries or flavourings, but not products that have a more general use, cf. § 3(2). ‘Online sales and via digital solutions’ means, inter alia, retailer websites, internet shops, company home pages, company pages on social media, and apps which sell to or are aimed at consumers.

Section 5(2) of the Order states that points of sale may provide buyers with neutral information about the products sold at the point of sale, including the price of the goods. Information may also be provided on the packaging of the products, as well as technical information enabling the customer to assess which other products the item is compatible with. However, the information may not be indicated with or accompanied by illustrations, pictures, colours, logos, symbols or other text, cf. Section 5 of the provision.

Section 5(8) of the Order states that sales outlets covered by paragraph 1 must ensure that, before the choice of product can be made, the customer is presented with a graphical image prepared by the Danish Health and Medicines Authority showing the age limit for the sale of electronic cigarettes and refill containers, see § 15(1) of the Act on electronic cigarettes etc.

#### 2.6.1.4. Relationship with the Product Safety Regulation and the Tobacco Products Directive

Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety (the Product Safety Regulation) requires that certain information about consumer products be provided in distance selling and when offering products on online marketplaces. The purpose of the Regulation is, inter alia, to protect the health and safety of consumers and to ensure the functioning of the internal market with regard to products intended for consumers, as set out in preamble recital No 5.

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The Product Safety Regulation entered into force on 12 June 2023 with an 18-month deadline for implementation of the Regulation.

It follows from Article 2(1) of the Product Safety Regulation that the Regulation applies to products placed on the market or made available on the market, unless there is EU legislation with specific provisions with the same objective for the safety of the products in question.

It follows from Article 19 of the Product Safety Regulation that economic operators who make products available on the market online or by other means of distance selling must indicate a number of items of information clearly and prominently when offering the product. This includes, inter alia, information enabling the product to be identified, including a picture of it, its type and any other product identifier referred to in paragraph 1(c) of the article.

The same obligation applies to the offering of consumer products on online marketplaces (see Article 22(9)(c)).

Preamble recital No 42 states that ‘A picture should be considered as a photograph, illustration or other pictographic element, which easily allows the identification of a product or potential product’.

The Tobacco Products Directive (2014/40/EU) establishes harmonised legislation for a number of aspects relating to the marketing of tobacco products, herbal products for smoking, electronic cigarettes and nicotine refill containers. However, the Directive does not regulate the display of the products in the case of distance selling or offering on online marketplaces. At the same time, the Directive does not regulate the placing on the market of tobacco substitutes or electronic cigarettes and refill containers without nicotine.

### **2.6.2. The Ministry of the Interior and Health’s considerations and the proposed scheme**

The requirement regarding information in distance selling and in offers on online marketplaces in the Product Safety Regulation is considered to apply to products that are subject to the display ban in the Act on Tobacco Advertising and the Act on Electronic Cigarettes, etc. and rules laid down pursuant thereto.

In order to ensure that economic operators and traders marketing tobacco and nicotine products through online sales and digital solutions can comply with the obligations arising from Article 19(1)(c) and Article 22(1)

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(c) of the Product Safety Regulation, to make available information that enables the product to be identified, including a picture of the product, its type and any other product identifier, it is proposed to insert an exception to the prohibition on visible placement and display on the internet in Section 5a(1) of the Act on Tobacco Advertising, etc. and Section 18a(1) of the Act on Electronic Cigarettes, etc.

It is proposed when selling on the internet, at the request of a purchaser, a single neutral picture of one tobacco product, one tobacco substitute, or one herbal product for smoking may be displayed in connection with and on the same page where the point of sale indicates the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d). The same adaptation is proposed to apply to electronic cigarettes and refill containers with and without nicotine.

The ban on the visible display and presentation of tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine was introduced by Act No 2071 of 21 December 2020 with a view to preventing children and young people from being tempted to start smoking or relapse after quitting smoking as a result of the visible display and presentation of these products. The ban was also introduced for sales on the internet.

The proposed adjustment maintains the prohibition against visible placement and display. However, an exemption will be introduced for the sale of the products on the internet, so that the product can be displayed at the request of a purchaser. The display will only be possible at the request of the buyer, and only a neutral picture of one product, e.g. a tobacco product, may be displayed.

The amendment does not change the existing advertising bans under the Act on Tobacco Advertising, etc. and Chapter 7 of the Act on Electronic Cigarettes, etc.

In addition, the draft Act proposes to remove, simplify and clarify a number of requirements concerning signage with the age limit requirements for tobacco, nicotine and alcohol when selling these products.

The rules on signage requirements were introduced to assist shops to ensure that the sale of tobacco and alcohol to young people is carried out in accordance with the legislation, cf. Folketingstidende 2012-2013,

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Appendix A, L 113 as submitted, page 3. Since then, the market and possibilities for age verification have changed. Among other things, since 1 October 2024, there has been a legal requirement that anyone who commercially markets tobacco and nicotine products or alcoholic beverages by distance selling must operate an effective age verification system, cf. Act No 651 of 11 June 2024. Similarly, since 1 January 2025, there has been a requirement for an age verification system for the marketing of alcoholic beverages in unattended shops. In addition, the present draft Act proposes, cf. Section 2(4)-(6) and Section 4(2) of the draft Act, that electronic age verification shall also be an option for the sale of tobacco and nicotine products and alcoholic beverages in physical shops. The proposed amendments concerning signage requirements with age limit requirements for the sale of tobacco, nicotine and alcohol should, among other things, be seen in the light of this.

It is proposed to remove the requirement for visible signage with age limit requirements for alcoholic beverages when sold on the internet and in unattended shops. By extension, the Danish Business Authority's supervisory obligation for this requirement and the associated penal provisions are also removed. The Danish Health Authority will continue to make available signs with the current age limits for the sale of alcoholic beverages. As economic operators marketing alcoholic beverages by distance selling or in unattended shops, one can thus continue to choose to use the Danish Health Authority's signs if the individual economic operator considers the signs to positively support enforcement of the rules on the sale of alcoholic beverages.

The rules on marketing alcohol, cf. Section 11(2) of the Marketing Practices Act, continue to apply if an economic operator who markets alcoholic beverages commercially through distance selling and in unattended shops chooses to display the age limit requirements and does not use the Danish Health Authority's signs on age limits for the sale of alcoholic beverages.

It will continue to be a requirement that, for the retail sale of alcoholic beverages in physical shops, there must be visible signage with the age limit requirements for the sale of alcoholic beverages. As is currently the case, the signs will have to be those which were created by the Danish Health Authority.

However, it is proposed to remove the Danish Business Authority's supervisory obligation for physical shops to have visible signage with

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information on the age limit requirements for the sale of alcoholic beverages. By extension, it is also proposed to remove the penal provision for violation of the rules on visible signage with information on the age limit requirement for the sale of alcoholic beverages.

In addition, it is proposed to clarify that it is not a requirement, but rather an option, that when selling tobacco products, tobacco substitutes, and herbal products for smoking, as well as electronic cigarettes and refill containers with and without nicotine in physical shops, a sign may be used to provide information about the age limit requirements for the sale of these products. This could be done in connection with the product selection process, and the sign must be as created by the Danish Health Authority. At the same time, it is proposed that this will also be an option for sales on the internet of the above products.

It is therefore proposed to remove the current requirements that when selling tobacco products, tobacco substitutes, and herbal products for smoking and electronic cigarettes and refill containers with and without nicotine online and via digital solutions, sales outlets shall ensure that the customer is met with a graphics on the age limit for the sale of these products. These requirements are set out in Section 4(9) of Order No 570 of 11 December 2021 on the prohibition of visible display and presentation, etc. of tobacco products, tobacco substitutes and herbal products for smoking, and Section 5(8) of Order No 65 of 15 January 2021 on the prohibition of advertising, visible display, etc. of electronic cigarettes and refill containers with and without nicotine.

The rules on the prohibition of advertising for electronic cigarettes and refill containers with and without nicotine, cf. Chapter 7 of the Act on electronic cigarettes etc. and the rules on the prohibition of advertising for tobacco products, tobacco substitutes, and herbal products for smoking, cf. the Act on the prohibition of tobacco advertising, continue to apply if an economic operator chooses to use the Danish Health Authority's signs on the age limit for the sale of electronic cigarettes and refill containers with and without nicotine or tobacco products, tobacco substitutes and herbal products for smoking.

The proposed amendments to the rules on age limit signage for the sale of tobacco and nicotine products and alcoholic beverages are intended to ensure that the legislation is adapted to take account of other regulations that have been introduced in this area. In addition, it is estimated that the

proposed amendments will ease the burden on economic operators selling tobacco and nicotine products as well as alcoholic beverages.

## **2.7. Increasing the Danish Safety Technology Authority's supervisory powers**

### **2.8.1. Legislation currently in force**

The Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on tobacco products, etc. and the Act on electronic cigarettes, etc. lays down the control powers of the Danish Safety Technology Authority in relation to compliance with the rules relating to tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine, as well as the sale of alcoholic beverages.

Section 2b(1) of the Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 1088 of 10 October 2024, as amended, provides that the Danish Safety Technology Authority monitors the compliance with the requirements of Sections 1–2a and rules issued pursuant to Section 2a(8). It follows from paragraph 2 of the provision that the Danish Safety Technology Authority's representatives shall at any time, without proof of identity, have access to dealers' shops for the purpose of verifying compliance with §§ 1-2a and rules issued pursuant to § 2a(8). It follows from paragraph 3 of the provision that the Danish Safety Technology Authority's representatives may, upon showing appropriate identification and without a court order, require of any person to be provided with all information necessary for the control in accordance with paragraph 1.

It is stated in Section 32(1) of the Act on tobacco products etc., cf. Consolidation Act No 1161 of 4 November 2024, as amended, that the Danish Safety Technology Authority shall monitor compliance with the requirements laid down in the Act and in rules laid down pursuant thereto. It follows from paragraph 5 of the provision that the Danish Safety Technology Authority may require of any person to be provided with all information necessary for the control in accordance with paragraph 1. Furthermore, Chapter 10 of the Act sets out the powers of the Danish Safety Technology Authority as a supervisory body. It follows from Section 34 of the Act that, inter alia, in order to procure information for use in carrying out of the supervision under Section 32, paragraphs 1 and 2, Danish Safety Technology Authority's representatives have – at any time, with proper identification, and without a court order – access to public and private property, premises, and means of transportation used by

manufacturers, importers, distributors, and retailers of products subject to this Act. The police provide assistance to the Danish Safety Technology Authority where necessary.

It is stated in Section 19(1) of the Act on electronic cigarettes, etc., cf. Consolidation Act No 1166 of 4 November 2024, as amended, that the Danish Safety Technology Authority shall monitor compliance with the rules in chapters 3-6, Section 7a, Section 25a, and rules laid down by virtue thereof. It follows from paragraph 2 of the provision that the Danish Safety Technology Authority may require of any person to be provided with all information necessary for the carrying out the control in accordance with paragraph 1. Furthermore, Chapter 8 of the Act sets out the powers of the Danish Safety Technology Authority as a supervisory body. It follows from Section 21 of the Act that, inter alia, in order to procure information for use in carrying out of the supervision under Section 19, paragraph 1, Danish Safety Technology Authority's representatives have – at any time, with proper identification, and without a court order – access to public and private property, premises, and means of transportation used by manufacturers, importers, distributors, and retailers of products subject to this Act. The police provide assistance to the Danish Safety Technology Authority where necessary.

The Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the Act on tobacco products, etc., and the Act on Electronic Cigarettes, etc. do not contain provisions that allow the Danish Safety Technology Authority to require the owner or representative of an unattended shop to be present for inspection or to demand access to the point of sale in connection with the inspection of tobacco and nicotine products marketed by distance selling.

#### 2.8.2. The Ministry of the Interior and Health's considerations and the proposed scheme

The Danish Safety Technology Authority (hereinafter the Danish Business Authority) monitors tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine, and sales of alcoholic beverages. The parties behind the 2023 prevention plan targeting the use of tobacco, nicotine and alcohol by children and young people, agreed to strengthen age verification for the sale of these products, and as a result, inter alia, the requirement to operate an effective age verification system for distance sales and for the sale of alcoholic beverages in unattended shops was adopted, cf. Act No 651 of 11 June 2024 and Act No 1669 of 30 December 2024.

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In the light of these new requirements, it has proven necessary to further strengthen the control powers of the Danish Business Authority in order to ensure that the Danish Business Authority can also be effective in its control of unattended shops and in its product control of tobacco and nicotine products marketed by means of distance sales.

It is therefore proposed that, as part of the control of compliance with the requirements laid down in § 2a(3) and (5) in unattended shops, representatives of the Danish Business Authority may, upon showing proper identification, require the owner or a representative of the unattended shop to meet them at the unattended shop in order to give the representatives of the Danish Business Authority access to the retail premises of the unattended shop, etc. To this end, it is proposed that the Danish Business Authority's control of unattended shops should be announced before the control is carried out as prescribed in § 5(1) and (2) of Consolidation Act No 1121 of 12 November 2019 on legal certainty in the administration's use of coercive measures and information obligations (the Act on legal certainty). This means, among other things, that notification must be given in writing no later than 14 days before the planned inspection.

The purpose of the proposal is to ensure that the Danish Business Authority has the powers to carry out the necessary and effective control of the sale of alcoholic beverages in unattended shops.

Furthermore, it is proposed that the representatives of the Danish Business Authority, as part of the control of tobacco and nicotine products marketed by means of distance sales, e.g. on the internet, may require access to the point of sale. The 'point of sale' is understood to mean the location(s) on a website or app where the range of tobacco and nicotine products is made available to customers.

The proposal should be viewed in light of the fact that, following the entry into force of the requirement for effective age verification in distance selling – as of 1 October 2024, the Danish Business Authority, formerly the Danish Safety Technology Authority – product checks of tobacco and nicotine products have not been possible, because representatives of the Danish Business Authority, e.g. on a website's home page, have been met with age verification requirements, e.g. MitID.

The proposal is thus intended to ensure that the Danish Business Authority can carry out the necessary product control of tobacco and nicotine products marketed by means of distance sales.

## **2.8. Changed deadline for the duty to provide information in Section 88(2) of the Health Act**

### **2.8.1. Legislation currently in force**

It follows from Section 88(1) of the Health Act that the regional council in the region of residence shall provide treatment at its hospital within the waiting time set by the Danish Health Authority for patients suffering from life-threatening diseases for which the Danish Health Authority has set maximum waiting times for treatment.

It further follows from Section 88(2) of the Health Act that, no later than eight working days after one of the region's hospitals has received a referral for a patient, the regional council must inform the patient whether the regional council can offer treatment at its hospital within the specified maximum waiting time and, if so, inform the patient of a date for the preliminary examination.

It follows from the comments on the provision, cf. Folketingstidende 2004-05, Appendix A, page 3220, that the purpose of the provision is to ensure that patients with life-threatening diseases such as cancer diseases and certain serious heart conditions get treatment without an unnecessary waiting period.

It follows from Section 88(3) of the Health Act that if the regional council in the region of residence cannot provide a treatment offer as referred to in paragraph 2, the regional council, if the patient so wishes, must notify the Danish Health Authority to that effect as soon as possible. The Danish Health Authority then refers the patient, if possible, to treatment in a hospital in another region or in a private hospital in Denmark or in a hospital abroad. In special cases, the Danish Health Authority may order a public hospital here in Denmark to provide treatment for the patient.

According to Section 88(4) of the Health Act, if the Danish Health Authority is unable to provide treatment in accordance with paragraph 3, and the patient on their own finds a private hospital in Denmark or abroad that can provide the treatment to which the patient has been referred, a subsidy will be granted for this treatment corresponding to the average cost of a similar treatment at a Danish public hospital, but not exceeding the actual cost of the treatment. No subsidy may be granted under this provision for alternative treatments or treatments of a research or experimental nature.

It follows from Section 88(5) of the Health Act that the obligation to refer patients to treatment in accordance with paragraphs 2 and 3 does not,

however, apply to hospitals where the Danish Health Authority considers that the treatment cost is unreasonably high or the costs for transport and inpatient care are disproportionately high.

Furthermore, it follows from Section 88(6) of the Health Act that the Minister for the Interior and Health shall lay down detailed rules on access to treatment and the obligations of regional councils under paragraphs 2–5.

The detailed rules are laid down in Order No 584 of 28 April 2015 on maximum waiting times for treatment of cancer and certain conditions associated with ischaemic heart disease.

With regard to the obligation to provide information, Section 7(2) of the Order states that no later than 11 calendar days after the hospital has received a referral for a patient to be examined for illness in accordance with Section 1, the hospital must inform the patient whether they can be offered treatment within the specified maximum waiting time at hospitals in their region of residence or at another hospital with which the regional council has entered into an agreement. If so, the patient must be given a date for a preliminary examination.

The provision in Section 7(2) is intended to set a deadline for the region of residence to inform the patient whether the region can offer the patient treatment at its hospital within the specified maximum waiting time, so that patients with life-threatening diseases are treated without undue delay.

In addition, in connection with Order No 584 of 28 April 2015, the Danish Health Authority issued Guidance Paper No 9185 of 10 April 2024 on maximum waiting times for treatment of cancer and certain conditions associated with ischaemic heart disease.

#### 2.8.2. The Ministry of the Interior and Health's considerations and the proposed scheme

In Section 88(2) of the Health Act, the information deadline is specified as 8 working days, while the deadline in the Order on maximum waiting times for the treatment of cancer and certain conditions with ischaemic heart disease is specified as 11 calendar days.

The different deadlines lead to an inconsistency in practice.

During periods of, for example, public holidays, situations may arise where 8 working days may be longer than 11 calendar days, for example in connection with Christmas and Easter.

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During these periods, there may also be situations where eight working days may be later than the maximum waiting times set by the Danish Health Authority, which are specified in calendar days.

In addition, during periods without public holidays, situations may arise where 11 calendar days are longer than 8 working days.

There will therefore be a need to eliminate this inconsistency and clearly state the deadline within which the residential regional council has to provide patients suffering from a life-threatening disease with information about the region's possible treatment offers within the established maximum waiting time.

It is therefore proposed that the obligation to provide information in Section 88(2)(1) of the Health Act be changed from 8 working days to 10 calendar days.

The proposal will mean that the regional council must notify patients with life-threatening illnesses whether the region can offer treatment at its hospitals within the specified maximum waiting time, no later than 10 calendar days after the hospital has received a referral for a patient.

The proposed amendment will mean that patients will be notified of possible treatment options within the same time frame of maximum waiting times, regardless of whether the deadline falls on a working day, weekend or public holiday.

The aim is to strengthen patient rights and eliminate the inconsistency that exists in practice regarding the deadline for the obligation to provide information.

With the new deadline of 10 calendar days, patients will thus be given at least the same amount of time as with the current deadline in the Health Act, as 10 calendar days will not be longer than 8 working days. Thus, the legal position of patients will not be impaired by the proposed amendment.

With the new deadline of 10 calendar days, patients may be better off than with the current deadline, as 10 calendar days may be shorter than 8 working days during periods with, for example, public holidays. The legal position of patients may, in such cases, be improved by the proposed amendment.

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At the same time, the proposed deadline in calendar days will be consistent with the maximum waiting times set by the Danish Health Authority, which are stated in calendar days.

As a result of the proposed amendment, the deadline for the obligation to provide information in Order No 584 of 28 April 2015 on maximum waiting times for treatment of cancer and certain conditions associated with ischaemic heart disease, would have to be amended accordingly. The amendment to the obligation to provide information in the Order will not have consequences for the maximum waiting times laid down by the Danish Health Authority, which are stated in calendar days.

The proposed amendment will not entail any changes for patients who are not covered by maximum waiting times in relation to the deadline for the obligation to provide information in Section 90 of the Health Act, which is eight working days.

### **3. Impact on the UN Sustainable Development Goals**

This draft Act contains a number of proposals to clamp down on children and young people's access to products that are harmful to health, including sunbeds, tobacco and nicotine products, and alcoholic beverages.

Using sunbeds significantly increases the risk of both common skin cancer and melanoma, and sunbed use is particularly dangerous for children and young people. The risk of developing melanoma increases every time you use a sunbed, and if you start using sunbeds at a young age, the risk increases, partly because the damage caused by UV radiation has more time to develop into melanoma later in life.

Tobacco, nicotine and alcohol are particularly harmful to children and young people as their brains are not fully developed. Nicotine is highly addictive and can, among other things, harm brain development and learning capacity, and increase the risk of mental illness, such as anxiety and depression, and nicotine increases the likelihood of becoming dependent on both cigarettes and other intoxicants. Binge-drinking (when drinking five or more objects on the same occasion) is associated with an increased risk of depressive symptoms and there is a strong link between alcohol and crime.

It is estimated that the draft Act could contribute to reducing the use of sunbeds by children and young people and support existing legislation on the sale of tobacco, nicotine and alcohol, thereby ensuring that children and young people do not have access to age-restricted products.

Against this background, it is considered that the legislative proposal could support the UN Sustainable Development Goal No 3 on Health and Well-being and No 10 on the reduction of inequality, as a reduction in sunbed use and the consumption of tobacco and nicotine products could contribute to better the health and well-being of the population, especially among children and young people.

#### **4. Financial impact and implementation impact on the public sector**

The draft Act consists of several elements that entail administrative costs for the Danish Safety Technology Authority (hereinafter referred to as the Danish Business Authority).

With regard to the elements concerning the introduction of an age limit for sunbed use and requirements for sunbed centres, the Danish Business Authority's expenses for monitoring compliance with the new rules will be covered within the Authority's current budget . This means that the Danish Business Authority's existing tasks in this area will be adjusted to balance the increased time spent per inspection as a result of the initiatives in this draft Act. The Danish Business Authority's supervision of sunbed centres is funded with appropriations of approximately DKK 0.2 million annually.

With regard to the Danish Business Authority's age verification of sales of tobacco and nicotine products and alcoholic beverages, in connection with the agreement on the prevention plan from 2023, DKK 15.0 million is allocated annually from 2025 for comprehensive age verification efforts by the Danish Business Authority. The elements concerning the options for electronic age verification in physical shops and the extension of the pilot scheme with young mystery shoppers are covered by the Danish Business Authority's current framework for age verification.

With regard to the elements on strengthened regulation of tobacco substitutes, including additional health warnings on tobacco substitutes as well as a new notification obligation for tobacco substitutes, the costs associated with this are within the current budget of the Danish Business Authority, but may lead to reprioritisation and thus fewer inspections in the area as a whole. The Danish Business Authority's market surveillance of tobacco and nicotine products is currently financed through fees charged to the industry. New control tasks resulting from the elements of this draft Act concerning further regulation of tobacco substitutes will be financed through this existing fee scheme.

With regard to the element concerning the reduction of the expected level of fines for the illegal sale of tobacco and nicotine products or alcoholic

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beverages to minors, it is expected with uncertainty to result in a revenue reduction of DKK 2.2 million annually in 2026 and onwards. The reduced revenue is financed from the general reserves.

With regard to the proposed level of fines in the Act on Sunbeds for non-compliance with an order, the revenue implications will have to be explored. Any shortfall in revenue will be covered within the existing budget of the Ministry of the Interior and Health.

As regards the element concerning the amendment to the deadline on the duty of disclosure in Section 88(2) of the Health Act, it is not expected to entail additional expenditure for the regions.

To the extent that consumption of tobacco, nicotine and alcohol is reduced as a result of the elements of the legislative proposal, there will be negative revenue consequences for the State. There are no studies, evaluations, etc. that make it possible to make revenue calculations thereof.

It is estimated that the draft Act will have a positive implementation impact in terms of more effective control and enforcement of the legislation. The Danish Business Authority's ability to use young mystery shoppers is extended so that age verification remains effective. Similarly, the Danish Business Authority's control will be more effective as a result of the elements of the draft Act on strengthened age control in unattended shops and in connection with the Danish Business Authority's product control of tobacco and nicotine products marketed by means of distance sales.

Furthermore, it is assessed that the draft Act's relaxation of the requirements for visible signage with information about age limits, which is removed for distance selling, and the Danish Business Authority's supervisory obligation is removed for signage in physical shops, will have positive implementation consequences, as a supervisory task is removed from the Danish Business Authority.

In addition, it is considered that the draft law does not have financial consequences or implementation implications for the state, regions and municipalities.

The draft Act is deemed to be in compliance with the principles for digital-ready legislation to the extent that the principles are relevant. The possibility of electronic age verification for the sale of tobacco and nicotine products and alcoholic beverages in physical shops is designed in

such a way that it is possible to use existing and future public IT infrastructure such as the national digital identity wallet, cf. Principle 6, and that it allows efficient IT use for control purposes, cf. Principle 7.

The draft Act amending the Health Act's obligation to provide information for when the region shall at the latest inform a patient with life-threatening disease whether the region can offer treatment within the established maximum waiting time, as well as the Order on maximum waiting times of 10 calendar days, are designed in accordance with Principle 1 on simple and clear rules.

#### **5. Economic and administrative impact on trade and industry, etc.**

The draft Act targets the use of sunbeds by Danes, with a particular focus on children and young people. Furthermore, measures will be taken to address situations where tobacco, nicotine and alcohol are sold to children and young people below the applicable age limits, and increased regulation of tobacco substitutes will be introduced.

The draft Act is deemed to have an economic impact on trade and industry (see below).

It is estimated that there will be other compliance costs as a result of Section 1(6) of the draft Act, which proposes introducing an age limit of 18 for the use of sunbeds. The proposal will lead to an expected decline in the earnings of sunbed centres as a result of young people under the age of 18 no longer being able to purchase tanning services. However, the other compliance costs are estimated to be below the de minimis threshold of DKK 10 million and are therefore not further quantified.

Section 3(2) of the draft Act proposes introducing a notification requirement for tobacco substitutes and allowing the Minister for Industry, Business and Financial Affairs to lay down rules on the information and statements that must accompany a notification. The consequences of this cannot currently be assessed in more detail, since this depends on the specific implementation of the notification requirement. A more detailed assessment of the economic impact on trade and industry will be made when the requirements are set out in an Order. In this context, it must be noted that under current legislation there is already a notification obligation for tobacco substitutes which are intended to be placed on the market in Denmark, cf. current Section 3a of the Act on tobacco products, etc.

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Section 3, Nos 4 and 5 of the draft Act propose that tobacco substitutes must in future carry one or more health warnings and that the Minister for the Interior and Health shall be authorised to lay down detailed rules in this regard, including on the quantity and types of health warnings. The consequences of this cannot currently be assessed in more detail, since this depends on the specific implementation of the requirement. A more detailed assessment of the economic impact on trade and industry will be made when the requirement is set out in an Order. In this context, it must be noted that under current legislation there is already a requirement for health warnings on tobacco substitutes, cf. current Section 19a of the Act on tobacco products, etc.

There are estimated to be administrative consequences as a result of the draft Act's proposals regarding, respectively, the requirement that a leaseholder or tenant who makes a sunbed available must operate an age verification system, and the possibility for retailers of tobacco and nicotine products and alcoholic beverages to use electronic age verification in physical shops to ensure compliance with current age limits.

With regard to the requirement for age verification systems in sunbed centres, this may entail conversion costs and possibly operating costs in connection with the sunbed centres having to establish an age verification system. However, there are no requirements as to the specific age verification system to be used by a leaseholder or tenant, and the amount of the cost will depend on the specific method chosen.

With regard to the possibility for retailers of tobacco and nicotine products and alcoholic beverages to use electronic age verification in physical shops, there may also be conversion costs and possibly operating costs if individual retailers choose to make use of the voluntary verification option. Thus, there are no requirements stipulated for the use of an electronic age verification system or which system a retailer can choose to use.

The draft Act removes the requirement for signage with age limits for the sale of tobacco, nicotine and alcohol products via distance selling and in unattended shops. Also removed is the supervisory obligation with the requirement for signage with age limits for the sale of tobacco, nicotine and alcohol products in physical shops. It is estimated that this will ease the administrative burden on trade and industry.

Overall, it is estimated that there will be administrative consequences that could potentially exceed the de minimis threshold of DKK 4 million,

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which is why a more detailed quantification of these consequences is currently underway.

In light of the above, the draft Act is considered to be innovation-friendly and technology-neutral, as neither lease-holders nor tenant owners nor retailers who market tobacco, nicotine and alcohol in physical shops – if they choose to make use of the option – are required to use a specific method for age verification. Thus, the draft Act's elements concerning age verification do not affect the ability of companies or entrepreneurs to test, develop and apply new technologies and innovation. Electronic age verification does not require confirmation of the exact age of the citizen, but merely confirms that the citizen is above the age limit. Data is thus minimised, which promotes the use of security-enhancing and privacy-enhancing technologies. The relevance to security and privacy will be affected by the chosen method, as some methods will require more data than others. Furthermore, the draft Act is not considered relevant in relation to the innovation and entrepreneurship check.

### **6. Administrative impact on citizens**

The draft Act is deemed to have no administrative impact on citizens.

### **7. Climate impact**

The draft Act is deemed to have no climactic impact.

### **8. Impact on the environment and nature**

A reduction in the consumption of tobacco and nicotine products can have positive environmental impacts in terms of reduced waste, such as packaging, cigarette butts and nicotine bags. According to the 2022 WHO publication 'Tobacco: Poisoning our planet ', tobacco products are the object on the planet that are thrown most into nature and on streets, and they contain more than 7000 toxic chemicals that leak into the environment when they are thrown into nature. There is also concern about waste from e-cigarettes and smokeless tobacco, such as nicotine bags, where the products and packaging contain plastic.

### **9. Relationship to EU law**

The draft Act introduces and clarifies national regulations in the area of the use of sunbeds in sunbed centres. At the same time, this area falls under the scope of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (the General Product Safety Directive). The General Product Safety Directive is a minimum harmonisation directive.

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It is the opinion of the Ministry of the Interior and Health that the proposed initiatives concerning sunbeds comply with EU law.

The draft Act introduces national rules for the regulation of tobacco and nicotine products. Tobacco and nicotine products benefit from the free movement of goods under the FEU Treaty. Therefore, as a general rule, Member States may not impose requirements that restrict the free movement of goods. However, it also follows from the TFEU that the free movement of goods can be restricted in consideration of, among other things, public health, which is the consideration that is sought to be protected with the current draft Act.

The draft Act concerns, inter alia, the regulation of tobacco substitutes.

The Ministry of the Interior and Health notes that tobacco substitutes are not regulated by the Tobacco Products Directive (2014/40/EU) and are subject to more limited regulation in Denmark than under the Tobacco Products Directive. The draft Act proposes to introduce further regulation of health warnings on tobacco substitutes in order that tobacco substitutes can in future also carry more health warnings, as is the case with tobacco products among other things. In addition, the draft Act proposes the introduction of a notification obligation for tobacco substitutes that are placed on the Danish market. Similar regulations currently apply to new categories of tobacco products and electronic cigarettes containing nicotine, pursuant to Articles 19 and 20 of the Tobacco Products Directive. The proposed notification requirement for tobacco substitutes aims to ensure an overview of the types of tobacco substitutes marketed on the Danish market and to ensure that these products comply with the applicable legislation on tobacco substitutes. Furthermore, the initiative will support the possibility that any new legislation concerning product requirements for new tobacco substitutes can be laid down in Danish legislation.

The proposed initiatives will be an obstacle to the free movement of goods, but from the point of view of public health, it is considered appropriate and necessary. It should also be borne in mind that the Member States have a particularly wide discretion to lay down national rules for the protection of public health under Article 36 TFEU. It should be noted that, following notification to the EU, Belgium has adopted a ban on nicotine bags, which in Denmark are classed as tobacco substitutes.

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It is the opinion of the Ministry of the Interior and Health that the proposed initiatives concerning regulation of tobacco substitutes comply with EU law.

Furthermore, the draft Act ensures that in order to ensure that economic operators and traders marketing tobacco and nicotine products through online sales and digital solutions can comply with the obligations arising from Article 19(1)(c) and Article 22(1)(c) of the Product Safety Regulation, to make available information that enables the product to be identified, including a picture of the product, its type and any other product identifier, it is proposed to insert an exception to the Danish prohibition on visible placement and display of tobacco and nicotine products on the internet in accordance with national legislation, including Section 5a(1) of the Act on Tobacco Advertising, etc. and Section 18a(1) of the Act on Electronic Cigarettes, etc.

The Ministry of the Interior and Health is of the opinion that with the proposed amendment, Danish law concerning the regulation of tobacco and nicotine products complies with the Product Safety Regulation.

The other proposed provisions in the draft Act, including the introduction of an age limit for sunbed use, more powers in connection with the control of tobacco and nicotine products and alcoholic beverages, adjusted fine levels, and a change to the deadline for the duty to provide information in Section 88(2) of the Health Act, are not considered relevant in relation to EU law.

With regard to the deadline for the duty to provide information in Section 88(2) of the Health Act, EU law also applies to persons covered by a public health insurance scheme and, pursuant to the coordination rules for social security schemes (Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems, as amended, the EEA Agreement and its annexes, the Agreement between the EC, its Member States and Switzerland, and the EU's two agreements with the United Kingdom). Persons covered by these rules will, under certain conditions, be entitled to benefits under the Health Act during their stay in Denmark. As a result, the obligation to provide information in the Health Act will also apply to certain persons who do not have a domicile registered in Denmark. The duty to provide information may therefore apply to 1) persons who have been issued with the special health card, 2) persons who live in another EU/EEA country, Switzerland or the United Kingdom and are insured at Denmark's expense, and 3)

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persons who are insured in another EU/EEA country, Switzerland or the United Kingdom and who, during their stay in Denmark, are entitled to benefits under the Danish Health Act.

The draft Act as a whole has been notified as a draft in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

### **10. Consulted government authorities/agencies and organisations, etc.**

In the period from 11 November 2025 to 9 December 2025 (29 days), a draft Act was submitted for consultation with the following authorities and organisations, etc.:

Advokatrådet, Alkohol og Samfund, Akademikernes Centralorganisation (AC), Arbejdsgiverforeningen KA, Arbejdsmiljørådet (AMR), Arbejdstilsynet, Astma-Allergi Forbund, Becig, Blå Kors, BrancheDanmark, British American Tobacco, Bryggeriforeningen, Børnerådet, Børns Vilkår, Center for Hjerneskade, Coop Danmark, Dagrofa, Danmarks Apotekerforening, Danmarks Farmaceutiske Selskab, Danmarks Idrætsforbund (DIF), Danmarks Lungeforening, Danmarks, Restauranter og Cafeer (DRC), Dansk Arbejdsgiverforening (DA), Dansk e-Damper Forening (DADAFO), Dansk Erhverv, Dansk Industri, Dansk Lungemedicinsk Selskab, Dansk Psykiatrisk Selskab, Dansk Selskab for Almen Medicin, Dansk Selskab for Distriktpsykiatri, Dansk Selskab for Folkesundhed, Dansk Selskab for Patientsikkerhed, Dansk Sygeplejeråd, Dansk Transport og Logistik (DTL), Danske Fysioterapeuter, Danske Gymnasieelevers Sammenslutning, Danske Handicaporganisationer (DH), Danske Patienter, Danske Regioner, Danske Seniorer, Danske Skoleelever, Danske Tandplejere, Danske Ældreråd, Dataetisk Råd , Datatilsynet, De Samvirkende Købmænd, Den Danske Dommerforening, Det Ethiske Råd, DGI, Diabetesforeningen, Efuma, Erhvervsskolernes Elevorganisation, Fag og Arbejde (FOA), Fagbevægelsens Hovedorganisation, Fagligt Fællesforbund – 3F, Farmakonomforeningen, Finans Danmark, Forbrugerombudsmanden, Forbrugerrådet, Foreningen af Danske Lægestuderende (FADL), Foreningen af Speciallæger, Foreningen for Dansk Internet Handel, Foreningen for Parallelimportører af Medicin, Forsikring og Pension, Færøernes landsstyre, Gejser, Gigtforeningen, Hjerteforeningen, HK - Handel, Hotel-, Restaurant - & Turisterhvervet (HORESTA), House of Oliver Twist A/S, Industriforeningen for generiske og biosemilære lægemidler, Japan International Tobacco,

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Jordemoderforeningen, KFUM' s Sociale Arbejde, Kirkens Korshær, Komiteen for Sundhedsoplysning, Kommunernes Landsforening (KL), Kræftens Bekæmpelse, Landsorganisationen for sociale tilbud, Landssammenslutningen af Handelsskoleelever, Lægeforeningen, Lægemiddelindustriforeningen, Medicoindustrien, Metal Ungdom, Mødrehjælpen, Naalakkersuisut, National Videnskabsetisk Komité, Nationalt Center for Etik, Nikotinbranchen, Nærbutikkernes Landsforening, Nærings- og Nydelsesmiddelarbejder Forbundet (NNF), Offentligt Ansattes Organisationer (OAO), Parallelimportørforeningen af lægemidler, Patientforeningen, Patientforeningen Danmark, Pharmadankmark, Pharmakon, Philip Morris, Praktiserende Lægers Organisation, Praktiserende Tandlægers Organisation, Punktum dk A/S, Rigsrevisionen , Røgfri Fremtid, Rådet for Socialt Udsatte, Salling Group, Skole og Forældre, Smoke Solution, SSP-Samrådet, Sund By Netværket, Sundhed Danmark - Foreningen af danske sundhedsvirksomheder, Sundhedskartellet, Swedish Match, Sygeforsikringen "Danmark", Søfartsstyrelsen, Tandlægeforeningen, Tobaksindustrien, Tobaksproducenterne, Veterinærmedicinsk Industriforening (VIF), Vin- & Spiritus Organisationen Danmark, Eldresagen og Yngre Læger.

| <b>11. Summary table</b>                                 |                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          | Positive impact/lower expenditures (if yes, state the extent/if no, enter 'None')                                                                                                                                                   | Negative impact/additional expenditures (if yes, state the extent/if no, enter 'None')                                                                                                                                                                                                                                                                                                                       |
| Economic impact on the State, municipalities and regions | A possible reduction in the use of sunbeds, tobacco, nicotine and alcohol may, in the long term, reduce expenditures on healthcare, etc. There are no studies, evaluations, etc. available that make it possible to calculate this. | The draft Act consists of several elements that will entail administrative costs for the Danish Safety Technology Authority (hereinafter referred to as the Danish Business Authority), including new rules for sunbed use and requirements for sunbed centres, as well as increased regulation of tobacco substitutes. Control and enforcement costs for this will be kept within the current budget of the |

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|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Authority.</p> <p>To the extent that tobacco, nicotine and alcohol consumption decreases as a result of the draft Act, there will be a negative revenue impact on the state. There are no studies, evaluations, etc. that make it possible to make revenue calculations thereof.</p> |
| Implementation impact on the State, municipalities, and regions | <p>It is estimated that the draft Act will have a positive implementation impact in terms of more effective control and enforcement of the legislation, for example by making use of mystery shoppers. In addition, a supervisory task for the Danish Business Authority is removed as a result of the relaxation of the requirements on visible signage with information on the age limit requirements.</p> | None                                                                                                                                                                                                                                                                                    |
| Economic impact on trade and industry, etc.                     | None                                                                                                                                                                                                                                                                                                                                                                                                         | <p>It is considered that a number of provisions of the legislative proposal will have an economic impact on trade and industry. The impact is estimated to be less than DKK 10 million.</p>                                                                                             |
| Administrative consequences for trade and industry, etc.        | <p>Relaxation of requirements for signage indicating age limits for the sale of tobacco and nicotine products and alcoholic beverages.</p>                                                                                                                                                                                                                                                                   | <p>As a result of the draft Act's provisions on age verification systems in sunbed centres and the possibility of electronic age verification for the sale of</p>                                                                                                                       |

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|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | tobacco and nicotine products and alcoholic beverages in physical shops, it is estimated that there will be administrative consequences that could potentially exceed the de minimis threshold of DKK 4 million, which is why a more detailed quantification of these consequences is currently underway. |
| Administrative impact on citizens    | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | None                                                                                                                                                                                                                                                                                                      |
| Climate impact                       | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | None                                                                                                                                                                                                                                                                                                      |
| Impact on the environment and nature | A reduction in the consumption of tobacco and nicotine products can have positive environmental impacts in terms of reduced waste, such as packaging, cigarette butts and nicotine bags.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | None                                                                                                                                                                                                                                                                                                      |
| Relationship to EU law               | <p>Sunbeds fall under the scope of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (the General Product Safety Directive), which is a minimum harmonisation directive. The draft Act introducing and clarifying national rules on the use of sunbeds in sunbed centres is considered to be in line with EU law.</p> <p>Tobacco and nicotine products benefit from the free movement of goods under the FEU Treaty. Therefore, as a general rule, Member States may not impose requirements that restrict the free movement of goods. However, it also follows from the TFEU that the free movement of goods can be restricted in consideration of, among other things, public health, which is the consideration that is sought to be protected with the current draft Act. Tobacco substitutes are not regulated by the Tobacco Products Directive</p> |                                                                                                                                                                                                                                                                                                           |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
|                                                                                                                                                                                                | <p>(2014/40/EU) and are currently subject to more restrictive regulation in Denmark than under the Tobacco Products Directive. The proposed regulation of tobacco substitutes will be an obstacle to the free movement of goods, but are assessed on public health grounds as appropriate and necessary. The Member States have a particularly wide discretion to lay down national rules for the protection of public health under Article 36 TFEU.</p> <p>The deadline for the duty to provide information in Section 88(2) of the Health Act, EU law also applies to persons covered by a public health insurance scheme and, pursuant to the coordination rules for social security schemes (Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems, as amended, the EEA Agreement and its annexes, the Agreement between the EC, its Member States and Switzerland, and the EU's two agreements with the United Kingdom).</p> |             |
| Contravenes the five principles for the implementation of professional EU regulation (which, where relevant, also applies to the implementation of non-professional EU regulation) (mark as X) | Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | No<br><br>X |

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### *Explanatory notes on the individual provisions of the draft act*

#### *Re Section 1*

##### Re No. 1

Section 2 of the Act on Sunbeds contains a number of definitions of terms used in the Act. It follows from Section 2(2) of the Act on Sunbeds that a sunbed centre is to be regarded as premises where one or more sunbeds are made available to the public.

The explanatory notes to the provision currently in force make clear that a sunbed centre is understood to mean any where sunbeds are made available to the public for the cosmetic use of UV light. The concept of sunbed centre must therefore be understood in its broadest sense. A room in, for example, a sports hall, a hotel or a fitness centre where sunbeds are made available to users of the sports hall or customers of the hotel and fitness centre will thus be covered.

It is proposed that, throughout the Act, ‘sunbed centre’ shall be replaced by ‘tanning salon’, and ‘the sunbed centre’ shall be replaced by: the ‘the tanning salon’ and the ‘Sunbed centre’ replaced by ‘The tanning salon’.

The proposed scheme is solely intended to change the terminology and does not alter the definition set out in the Act on Sunbeds and elaborated in the comments on the provision, cf. the above section. The purpose of the change is to ensure that artificially produced ultraviolet radiation from sunbeds is not associated with natural sunlight, as sunbeds emit UV radiation with a higher intensity than the summer sun in Denmark, and large doses of UV radiation are absorbed by the entire body in a short period of time.

##### Re No 2

This is a technical amendment to the Act, the purpose of which is to change the provision so that the correct names of the ministries in question are used.

##### Re No 3

This is a technical amendment to the Act, the purpose of which is to change the provision so that the correct names of the ministries in question are used.

Re No 4

This is a technical amendment to the Act, the purpose of which is to change the provision so that the correct names of the ministries in question are used.

It should be noted that as of 1 January 2026, the Danish Safety Technology Authority will be merged with the Danish Business Authority.

Re No 5

Section 2 of the Sunbed Act gives the meaning of a number of terms in the Act.

It is proposed that in *Section 2*, a *No 9* shall be inserted after *No 8*, according to which the age verification system is defined as a control system that unambiguously confirms that the sunbed user's age complies with the age limit.

The proposed amendment will mean that a definition of 'age verification system' will be added to the Act. This should be seen in conjunction with the fact that it is proposed in *Section 1(6)* of the draft Act to insert an age limit for sunbed use.

Re No 6

Under legislation currently in force, the Sunbed Act, there is no age limit for sunbed use in Denmark. This means that sunbeds can be used by everyone, regardless of age. In the comments on the draft Act for the Sunbed Act of 2014, it is stated that the draft Act does not envisage the introduction of an age limit for the use of sunbeds, which was otherwise proposed by the interministerial committee on sunbeds, cf. Folketingstidende 2013-2014, Appendix A, L 163 as submitted.

The reason at that time was that the tanning habits of children and young people were going in the right direction. At that time, trends showed that the proportion of 15-25-year-olds who used sunbeds had fallen from 41 per cent in 2008 to 15 per cent in 2012. At the same time, the figures showed that the proportion of 15-25-year-olds who had never used a sunbed had risen from 34 per cent in 2008 to 57 per cent in 2012.

Furthermore, the comments on the draft Act for the Sunbed Act indicate that the Ministry expected that the requirement for increased user

information, including mandatory signage in sunbed centres on general health advice and guidance on cases in which the use of sunbeds is strongly discouraged, the health risks associated with the use of sunbeds, as well as rules for employee education and training in staffed sunbed centres and for employee advice on proper use, health risks and possible injury, would support the positive (downward) trend in children's and young people's sunbed habits.

The latest figures from the Danish Cancer Society from 2023 indicate that while sunbed use among the general population has been declining, the trend has not been uniformly downward among 15-25-year-olds. From 2019 to 2023, there has been a slight increase in use from 10 per cent to 14 per cent. Since 2019, the proportion of female sunbed users has risen from 12 to 20 per cent, while the proportion of 15-19-year-old sunbed users in 2022 was just under 25 per cent.

It is proposed that a *Section 2a* be inserted after Section 2.

Under the proposed *Section 2a(1)*, an age limit for sunbed use of 18 years is introduced.

The proposed amendment will mean that persons under the age of 18 will not be able to make use of publicly accessible sunbeds in the future.

The age limit enters into force, cf. Section 8 of the draft Act, as of 1 January 2027.

It is proposed to insert paragraph 2 and paragraph 3 as new paragraphs in Section 2.

*Paragraph 2* of the provision proposes that a lease-holder or tenant who makes a sunbed available shall operate an age verification system which ensures that only persons who are at least 18 years of age have access to the sunbed.

The proposed amendment would require a lease-holder or tenant who makes a sunbed available to operate an age verification system which verifies, prior to the time of sale, that the sunbed user is at least 18 years of age.

The system may, for example, be electronic or be staffing of a sunbed centre where an employee verifies valid identification. Thus, there is no

requirement for sunbed centres to use electronic age verification systems, but it will be up to the individual lease-holder or tenant to decide how to ensure that the age limit is complied with in practice.

If there is suspicion that the effective age verification system is being circumvented, for example through identity theft or document forgery, a police report can be filed.

It will be up to the individual lease-holder or tenant to acquire an age verification system. In addition, it will be the responsibility of the individual lease-holder or tenant to ensure and be able to document to the authorities that the electronic age verification system in question complies with applicable legislation.

There will not be any central electronic age verification system developed to be used by sunbed centres to electronically verify a customer's age. From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which will be a solution that users will be able to use, among other things, to verify their age to an electronic age verification system. To ensure methodological freedom, age verification solutions other than the national digital identity wallet may also be used to verify age in an electronic age verification system.

It is proposed in *paragraph 3* of the provision, that the Minister for the Interior and Health lay down detailed rules on the age verification system referred to in paragraph 2.

The authorisation allows for the establishment of requirements to ensure the protection of sunbed users' data, e.g. that solutions must not store any information about users other than what is necessary to support age verification. Similarly, requirements may be laid down for the transfer and sharing of data, to ensure, among other things, that the only information transferred is about whether the citizen is old enough and that providers do not gain knowledge of where and when citizens use the solution and, as a consequence, that this information may not be collected and shared with third parties.

The age verification system shall confirm that the consumer meets the specified age limit. In connection with age verification, data about the citizen's exact age, date of birth or other personal information about the

citizen that is not necessary to confirm that the citizen meets a given age limit must not be transferred.

The requirement to operate an age verification system enters into force, cf. Section 8 of the draft Act, as of 1 January 2027.

Re No 7

Section 3 of the Act on Sunbeds sets out a number of provisions governing the types of sunbeds that a lease-holder or tenant may use. In legislation currently in force, Section 3(1) stipulates that it is permitted to use sunbeds of UV type 3 in both staffed and unattended sunbed centres, while Section 3(2) of the Act stipulates that it is only permitted to use UV type 1 and UV type 2 in staffed sunbed centres. Section 3(3) of the Act lays down a ban on sunbeds of UV type 4. Section 4(1) of the Act sets out requirements for the education and training of employees in staffed sunbed centres with UV type 1 and UV type 2 equipment and for the advice given by employees to sunbed users. For a description of UV types, please refer to Section 2, Nos 5–8 of the Act.

The regulation in the Sunbed Act, Section 3, paragraphs 1–3, on the use of the UV types constitutes an exhaustive list. It is therefore not permitted to use sunbeds that fall outside the aforementioned types of sunbeds or that consist of a combination of these, unless an exemption has been granted in accordance with Section 3(4), which states that the Minister for the Interior and Health, after consultation with the Minister for Industry, Business and Financial Affairs, may grant exemptions from the requirements in Section 3(1)–(3), Section 5(1)(1)–(4) and Section 5(2) when the sunbed otherwise ensures improved protection for sunbed users, cf. Folketingstidende 2013-14, Appendix A, L 163 as submitted, page 16.

The comments on the provision indicate that UV type 1 and UV type 2 sunbeds have a lower level of UV-B radiation than UV type 3 sunbeds. UV-B radiation is approximately 1 000 times more likely to cause redness and burns than the same amount of UV-A radiation, which is why it is considered that there is an increased risk that sunbed users will be exposed to greater overall radiation when using UV type 1 and UV type 2 sunbeds, as redness appears at a later stage.

It is proposed that in *Section 3(1)*, ‘UV type 1, UV type 2 or’ and ‘except as provided for in paragraph 2’ shall be deleted.

The proposed scheme will mean that, going forward, a lease-holder or tenant of a sunbed centre will not be permitted to use UV type 1 and UV type 2 sunbeds, regardless of whether the sunbed centre is staffed or unattended. For both staffed and unattended sunbed centres, it will therefore only be permitted to use UV type 3 sunbeds.

The purpose of the proposed amendment is to adapt the Act law to current practice in this area, where the Danish Business Authority's supervision shows that most sunbed centres are now unattended. At the same time, the aim is to improve the radiation protection of the sunbed users.

#### Re No 8

The Sunbed Act contains a number of provisions on which types of sunbeds may be used and which types may not be used. Section 3(2) of the legislation currently in force stipulates that UV type 1 and UV type 2 sunbeds may only be used in staffed sunbed centres.

It is proposed that *Section 3(2)* shall be repealed. Paragraphs 3 and 4 are renumbered 2 and 3.

The proposed scheme will mean that, going forward, a lease-holder or tenant of a sunbed centre will not be permitted to use UV type 1 and UV type 2 sunbeds, regardless of whether the sunbed centre is staffed or unattended. For both staffed and unattended sunbed centres, it will therefore only be permitted to use UV type 3 sunbeds.

#### Re No 9

The Sunbed Act contains a number of provisions on which types of sunbeds may be used and which types may not be used. Section 3(3) of the legislation currently in force stipulates that UV type 4 sunbeds may not be used.

It is proposed that in *paragraph 3*, which becomes paragraph 2, the following shall be inserted after 'Sunbeds of': 'UV type 1, UV type 2 and'.

The proposed scheme will mean that, going forward, a lease-holder or tenant of a sunbed centre will not be permitted to use UV type 1 and UV type 2 sunbeds, regardless of whether the sunbed centre is staffed or unattended. For both staffed and unattended sunbed centres, it will

therefore only be permitted to use UV type 3 sunbeds. The amendment is thus consistent with the amendment to Section 3(1), cf. Section 1, No 8, of the draft Act.

#### Re No 10

Section 3(4) of the Act on Sunbeds stipulates that the Minister for Health and Prevention, after consultation with the Minister for Industry, Business and Financial Affairs, may exempt a sunbed from the requirements for equipment specified in Section 3(1)–(3), Section 5(1)(1)–(4), and Section 5(2) when the sunbed otherwise ensures improved protection for sunbed users.

It is proposed that in *Section 3(4)*, which becomes (3), ‘Section 3(1–3)’ shall be replaced by: ‘Section 3(1) and (2)’.

This is a technical amendment to the Act, the purpose of which is to ensure that the provisions of the Act are referred to correctly.

#### Re No 11

Section 4(1) of the Act on Sunbeds stipulates that one or more employees in staffed sunbed centres must have undergone education and training. Under Section 4(2) of the Act, the Minister for Health and Prevention is authorised to lay down rules on requirements for the education and training of employees in staffed sunbed centres that use UV type 1 or UV type 2 sunbeds and for the advice given by employees to sunbed users. For a description of UV types, please refer to Section 2, Nos 5–8 of the Act.

The purpose of the provision in the legislation currently in force has been to set requirements in the form of an Order regarding the competencies of employees to advise individual users on correct use, health risks and possible injury, as well as to establish a duty of advice to sunbed users for employees in staffed sunbed centres with UV type 1 and 2 sunbeds, including specific requirements for employees’ advice to users in the form of a few key recommendations regarding correct use, health risks and possible injuries associated with the use of sunbeds.

It is proposed to repeal *Section 4*.

The proposed amendment aims to bring the legislation into line with current practice in the field of sunbeds. According to the Danish Business

Authority, most of the sunbed centres that have been inspected have been unattended sunbed centres with UV type 3 sunbeds. The provision in Section 4(1) of the legislation currently in force is therefore only relevant in very few cases. At the same time, as a result of the proposed legislative amendment to only allow UV type 3 sunbeds, cf. Section 1(7) of the draft Act, there will be no need for trained staff in staffed sunbed centres to provide guidance on UV type 1 and UV type 2 sunbeds.

The provision in Section 4(2) of the legislation currently in force, whereby the Minister for Health and Prevention is authorised to lay down rules on requirements for the education and training of employees in staffed sunbed centres that use UV type 1 or UV type 2 sunbeds and for the advice given by employees to sunbed users, was never implemented.

Re No 12

Section 5(1)(1) of the Act on sunbeds states that a lease-holder or tenant who makes a sunbed available shall ensure that the effective radiation of the sunbed does not exceed 0.3 W/m<sup>2</sup> weighted according to the range of redness effects listed in the table in Annex 1 to the Act on sunbeds,

It is proposed that in *Section 5(1)* a *No 2* shall be inserted after *No 1*, according to which the radiation in the wavelength intervals 250-320 nm and 320-400 nm must each be less than 0.15 W/m<sup>2</sup>. The proposed amendment requires the lease-holder or tenant of a sunbed centre to ensure that the distribution between UVA and UV-B radiation for each type of sunbed is not exceeded. Under the current Act on sunbeds, requirements are only imposed on the total effective radiation, which must not be exceeded. In practice, however, a sunbed may well exceed either the limit values for UVA or UV-B radiation without exceeding the total limit value. As a supervisory body, the Danish Business Authority has learned that this is done regularly in practice and may cause confusion as to when there is a violation in connection with the controls. At the same time, the amendment is intended to improve the safety of users by means of compliance with the radiation limits.

The explanatory notes to the legislation currently in force specify the limit values for UVA and UVB radiation respectively in the different types of sunbeds. The intention is to use the same values in the proposed provision as those, relation to UV-type 3, in the explanatory notes to legislation currently in force.

Re No 13

Section 5(2) of the Act on Sunbeds stipulates that a lease-holder or tenant who makes a sunbed available must ensure that users of the sunbed have access to protective eyewear that provide adequate protection for the eyes. The explanatory notes to the current Act state that the requirement is considered to be met if the sunbed centre either provides the legally required protective eyewear for free or sells them to users of the sunbed centre for a fee.

It is proposed that in *Section 5(2)*, after ‘must ensure that users of the sunbed have access to’, the following shall be inserted: ‘or can easily access protective eyewear’.

With the proposed extension, the following shall be inserted after ‘shall ensure that the user of the sunbed has access to’: ‘or can easily access protective eyewear’. The purpose of the amendment is to clarify when the requirement for protective eyewear is not met. This is to ensure that it is clear to inspectors in this sector as to when a violation has occurred.

The purpose of the provision is to clarify that a lease-holder or tenant who provides a sunbed has methodological freedom in providing protective eyewear for sunbed users.

Re No 14

It follows from Section 5(4) of the Act on sunbeds that a lease-holder or tenant who makes a sunbed available shall ensure that readily comprehensible operating instructions are available on or near the sunbed. The comments on the legislation currently in force also state that the operating instructions must include the manufacturer’s instructions for use of the appliance.

It is proposed that in *Section 5(4)*, the words ‘in writing’ shall be inserted after ‘shall ensure that readily comprehensible’.

The proposed amendment clarifies that operating instructions must be in writing. The purpose of the provision is to lay down requirements on the format of the operating instructions and thereby clarify that the requirement is met, for example, if the instructions are recorded and played back to the user.

Re No 15

Section 6(1) of the Act on Sunbeds stipulates that a sunbed centre must be registered with the Danish Safety Technology Authority and that, in the event of changes to the registered information, the lease-holder or tenant providing a sunbed is obliged to update the registered information within a reasonable period of time.

It is proposed that in *Section 6(1)*, the words ‘reasonable period of time’ shall be replaced by ‘30 days’.

With the proposed amendment, ‘reasonable period of time’ is changed to ‘30 days’. The purpose is to specify when the changes must be registered at the latest.

Re No 16

Section 7(1) of the Act on Sunbeds stipulates that the Danish Safety Technology Authority shall monitor compliance with the provisions of this Act and the rules laid down by virtue of this Act.

It is proposed that in *Section 7*, inserting after paragraph 2 as a new *paragraph 3*, by which as part of the control obligations under Section 7, paragraph 1, the representatives of the Danish Business Authority may require the owner or a representative of the sunbed centre to meet with them in order to give the representatives of the Danish Business Authority access to the sunbed centre.

The proposed amendment should be seen in conjunction with Section 1, No 6, of the draft Act, which proposes that a lease-holder or tenant who makes a sunbed available shall operate an age verification system which in advance ensures that only persons who are at least 18 years of age have access to the sunbed.

The proposed provision will mean that, in future, the Danish Business Authority will be able to require the owner or representative of a sunbed centre to be physically present when the Danish Business Authority carries out an inspection of the sunbed centre.

Re No 17

Section 7 of the Act on Sunbeds stipulates that the Danish Safety Technology Authority shall monitor compliance with the provisions of this Act and the rules laid down by virtue of this Act.

It is proposed to insert *Section 7a* as a new provision by which the Danish Business Authority may issue an injunction to an owner or operator who provides a sunbed that does not meet the requirements of § 5, paragraph 1, Nos 3-6 and § 5, paragraphs 2-5, to rectify the situation within a specified timeframe.

The proposed amendment supplements the current rules in the Sunbed Act with a dedicated enforcement provision, enabling the Danish Business Authority, in connection with its supervision of the sunbed sector, to follow up on shortcomings at sunbed centres with an injunction to rectify the situation within a given timeframe. The injunction authorization is intended for use in cases where the Authority's inspection finds that, for example, protective eyewear is not available, or where the provision on displaying advice on the use of sunbeds has not been complied with.

In the event of exceeded radiation limits or failure to register, such will still be reported to the police without prior injunction.

This is in line with current practice regarding the use of injunctions, and there are no plans to extend the use of injunctions in cases involving sunbeds.

Re No 18

Section 9(1) of the Act on Sunbeds stipulates that, unless a more severe penalty is imposed under other legislation, violations of Section 3(1)–(3), Section 5(1)(1), Section 6(1), and Section 10(4), second sentence, are punishable by fine.

It is proposed that in *Section 9(1)*, the following shall be inserted after 'violations of': 'Section 2a(1)–(2),'.

It is proposed that the proposed provision on age limits for the use of sunbeds, as well as failure to comply with the requirement to operate an age verification system, shall be made a criminal offence. It is proposed that the level of fines be set at DKK 15 000 for first-time offences, DKK 25 000 for second offences, and DKK 40 000 for third offences.

The setting of the penalty for violations depends on the court's actual assessment in the individual instance of all circumstances in the case and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, cf. the general rules on setting the penalty in Chapter 10 of the Criminal Code.

Re No 19

Section 9(1) of the Act on Sunbeds stipulates that, unless a more severe penalty is imposed under other legislation, violations of Section 3(1)–(3), Section 5(1)(1), Section 6(1), and Section 10(4), second sentence, are punishable by fine.

It is proposed that in *Section 9(1)*, the following shall be inserted after 'Section 6(1),': 'Section 7(3)' and 'Section 3(1)–(3)' shall be changed to: 'Section 3(1)–(2)'.

It is proposed that, as part of the control obligations under paragraph 1, the representatives of the Danish Business Authority may require the owner or a representative of the sunbed centre to meet with them in order to give the representatives of the Danish Business Authority access to the sunbed centre.

It is proposed that Section 9 of the Act be amended to reflect the change in Section 3, where paragraph 2 has been deleted, cf. Section 1, No 8, of the draft Act.

Re No 20

Section 9 of the Act on sunbeds states how a number of provisions of the Act are penalised.

It is proposed that in *Section 9*, a new *paragraph 2* is inserted after paragraph 1.

According to the proposed paragraph 2, anyone who violates or fails to comply with an injunction issued by the Danish Business Authority pursuant to section 7a shall be punished by a fine, unless a higher penalty is warranted under other legislation.

The proposed amendment means that violation or non-compliance with an injunction will be punishable by a fine.

The penalty for failure to comply with the decisions of the Danish Business Authority shall help ensure a high level of compliance with the regulations and ensure the effectiveness of the control of sunbed centres.

It is assumed that the penalty for violation or non-compliance with injunctions will be punished by a fine of DKK 5 000.

The setting of the penalty for violations depends on the court's actual assessment in the individual instance of all circumstances in the case and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, cf. the general rules on setting the penalty in Chapter 10 of the Criminal Code.

No 21.

Section 10(2) of the Act on Sunbeds stipulates that the Minister for Health and Prevention shall determine the date of entry into force of Section 4.

Section 4(1) of the Act on Sunbeds stipulates that one or more employees in staffed sunbed centres must have undergone education and training. Under Section 4(2) of the Act, the Minister for Health and Prevention is authorised to lay down rules on requirements for the education and training of employees in staffed sunbed centres that use UV type 1 or UV type 2 sunbeds and for the advice given by employees to sunbed users. For a description of UV types, please refer to Section 2, Nos 5–8 of the Act.

It is proposed that Section 10(2) shall be repealed.

The amendment follows from No 11 of the draft Act, where it is proposed that Section 4 be repealed.

#### *Re Section 2*

Re No. 1

It is proposed that throughout the Act, 'Danish Safety Technology Authority' is replaced with: 'Danish Business Authority', and the 'Danish Safety Technology Authority's' is changed to: the 'Danish Business Authority's'.

This is a consequential amendment resulting from the merger of the Danish Safety Technology Authority with the Danish Business Authority as of 1 January 2026.

Re No 2

Section 1(2)–(4) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 provides a number of definitions for key concepts in the Act.

It is stated in Section 1(2) Nos 1 and 2 of the Act that tobacco products are understood as products that are designed to be smoked, inhaled, sucked or chewed or ingested in another way, if they are wholly or partly made of tobacco, as well as products that are intended to be used with products included in No 1.

It is shown in paragraph 3 of the provision that a tobacco substitute is understood in this Act to be a product containing nicotine that is not a tobacco product, cf. § 2(2) of the Act on tobacco products etc. or electronic cigarettes, cf. § 2(1) of the Act on electronic cigarettes etc. and which is not approved by marketing permission in accordance with the Act on medications or EU legislative regulations laying down common procedures for approval of medicinal products for human use and equipment intended to be used in conjunction with this product.

It is stated in paragraph 4 of the provision that an herbal product for smoking is understood in this Act to be a product based on plants, herbs or fruits which does not contain tobacco and which can be consumed using a combustion process.

It is proposed that *Section 1(2)–(4)* shall be repealed.

The proposed amendment should be viewed in conjunction with Section 2(3) of the draft Act, which proposes the addition of a new Section 1a in the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, proposing a number of definitions, including definitions of tobacco products, tobacco substitutes and herbal products for smoking. The proposed amendment is therefore not intended to change the current definitions in the Act, but to clarify the definitions already in force, cf. Section 2(3) of the draft Act.

Re No 3

Section 1(2)–(4) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 provides a number of definitions for key concepts in the Act.

It is proposed that *Section 1a* shall be inserted after Section 1, by which a number of key concepts are defined in the Act.

The proposed amendment will mean that the Act will in future contain a separate section with definitions. The proposed amendment should be viewed in conjunction with Section 2(2) of the draft Act, which proposes repealing the current definitions of tobacco products, tobacco substitutes and herbal products for smoking, respectively.

It is proposed in *Section 1a(1)* that ‘tobacco products’ means products that can be used and which consist wholly or partly of tobacco, regardless of whether the tobacco is genetically modified, as well as goods intended for use with these products.

The definition of tobacco products will, after the proposed amendment, better reflect the definition of tobacco products, cf. § 2(2) of the Act on tobacco products, etc. The amendment is made with a view to legislative uniformity, and does not intend to change the current understanding of tobacco products in this Act.

It is proposed in *Section 1a(2)* that tobacco substitutes are defined as a product containing nicotine that is not a tobacco product, cf. § 2(2), of the Tobacco Products etc. Act, or an electronic cigarette, cf. § 2(1), of the Electronic Cigarettes Act. etc., and which have not been approved by a marketing authorisation in accordance with the Medicinal Products Act or EU rules on the establishment of joint procedures for the authorisation of medicinal products for human use, as well as equipment intended to be used with the product.

The definition of a tobacco substitute in the proposed Section 1a(2) reflects the current Section 1(3) of the Act. The proposed amendment is therefore not intended to change the current definition of tobacco substitute.

It is proposed in *Section 1a(3)* that herbal product for smoking is understood to be a product based on plants, herbs or fruits which does not contain tobacco and which can be consumed using a combustion process.

The definition of an herbal product for smoking in the proposed Section 1a(3) reflects the current Section 1(4) of the Act. The proposed amendment is therefore not intended to change the current definition of herbal product for smoking.

It is proposed in *Section 1a(4)* that an unattended shop means a physical self-service shop where there is generally no physical presence of an employee and where the customer shops without being in contact with shop staff. If there is an employee present in the shop, it is not for the purpose of serving customers.

The proposed amendment means the introduction into the Act of a definition of unattended shop.

In an unattended shop, it is thus possible to purchase and pay for goods without the need for an employee to be present during all or part of the shop's opening hours. Unattended shops differ from distance selling in that the customer must be at a specific physical location (in the unattended shop) in order to make a purchase.

The definition of an unattended shop in the proposed § 1a, No 4, reflects the description of an unattended shop in the comments on Folketingstidende 2024-2025, Appendix B, recital to L 53. Thus, the proposed amendment aims only to insert the definition of an unattended shop into the Act, and thus does not aim to change the current understanding of an unattended shop.

It is proposed in *Section 1a(5)* that distance selling is understood to mean situations where the customer and the person placing the product on the market do not meet physically at the time of the order. In the case of cross-border distance sales, the product is deemed to be placed on the market in the country where the consumer is located

The proposed amendment will mean that a definition of distance selling will be added to the Act.

That term is used in order to clarify that the same regulation is intended for tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes and refill containers with and without nicotine, as well as alcoholic beverages, where the concept of distance selling is used. It can be assumed that distance selling will be conducted overwhelmingly as e-commerce.

The definition of distance selling in the proposed § 1a, No 5, reflects the comments on Folketingstidende 2023-2024, Appendix A, L 173, as submitted, page 32. Thus, the proposed amendment aims only to insert the

definition of a distance selling into the Act, and thus does not aim to change the current understanding of distance selling.

It is proposed in *Section 1a, No 6* that age verification system means an IT system that unambiguously confirms electronically that the consumer's age falls within the age limit.

The proposed amendment will mean that a definition of age verification system will be added to the Act.

The definition of age verification system in the proposed § 1a, No 6, reflects the comments on Folketingstidende 2023–2024, Appendix A, L 173, as submitted. It is the same definition of age verification system that applies in the Act on tobacco products, etc. and the Act on electronic cigarettes, etc., cf. Section 2, No 33 of the Act on tobacco products, etc. and Section 2, No 12, of the Act on electronic cigarettes, etc.

The proposed amendment is therefore not intended to change the current understanding of an age verification system.

An age verification system must confirm that the age of the consumer is in accordance with the specified age limit, i.e. that the consumer has the relevant minimum age. It also follows from the definition that it must be an IT system. An age verification system shall, for example, be able to receive information on the age from an age verification solution such as MitID, the national digital identity wallet or user creation with other forms of valid identification, such as a passport. It should be noted that when using MitID, more information is provided than just whether the consumer has the relevant minimum age.

The addition of the definitions does not in itself intend to change the regulation in this area. However, see Section 2(4)–(6) of the draft Act, which allow for electronic age verification at physical points of sale.

Re No 4

Under § 1(1) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, tobacco products, tobacco substitutes and herbal products for smoking may not be sold to persons under the age of 18.

Section 2a(1) of the Act provides that a person who sells tobacco products, tobacco substitutes or herbal products for smoking on a commercial basis at physical points of sale must require the presentation of a valid photo ID if the seller is in doubt that the customer is at least 18 years of age. The prohibition shall also cover proxy sales.

It is proposed that § 2a(1) be rewritten to the effect that anyone who commercially sells tobacco products, tobacco substitutes, or herbal products for smoking at physical points of sale, for the purpose of enforcing the age limit laid down in § 1 may require the presentation of a valid photo identification or make use of an age verification system.

The proposed amendment will mean that anyone who sells tobacco products, tobacco substitutes or herbal products for smoking products at physical points of sale, in order to ensure that tobacco products, tobacco substitutes or herbal products for smoking are not sold to persons under the age of 18, may require the presentation of valid photo identification or make use of an age verification system.

A person who commercially sells tobacco products, tobacco substitutes, or herbal products for smoking, i.e. the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and employed staff, shall ensure that no tobacco products, tobacco substitutes, or herbal products for smoking are sold to persons under 18 years of age, cf. § 1(1) of the Act.

Employed staff means clerks, auxiliaries, etc. It is irrelevant whether the employment is paid or unpaid.

The proposed amendment thus aims to support the aforementioned group of persons in their responsibility to ensure that the customer is at least 18 years of age, whereby those who sell tobacco products, tobacco substitutes, or herbal products for smoking at physical points of sale will in future always be able to require the presentation of valid photo ID – not only in cases of doubt – or make use of an age verification system that unambiguously confirms electronically that the customer is within the age limit. The proposed amendment supports the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and shop staff in carrying out the necessary checks to ensure that tobacco products, tobacco substitutes, or herbal products for smoking are not sold to persons under the age of 18.

In cases where the customer, upon the request of the seller, is unable to present a photo identification, presents inadequate identification or cannot verify their age electronically, etc., the seller must refrain from carrying out the sale.

Valid photo identification may, for example, be a passport, a physical or digital driving licence, proof of identity or proof of age via the national digital identity wallet, or an identity card with a photo issued by the municipality to persons over the age of 15, see Order No 1220 of 21 November 2017 on the issuing of identity cards.

There is no requirement for those who sell tobacco products, tobacco substitutes, or herbal products for smoking commercially at physical points of sale to have an electronic age verification system. It will thus be up to the individual retailer to decide how to specifically ensure compliance with the legislation in force. Age verification in connection with the physical sale of tobacco products, tobacco substitutes, and herbal products for smoking may thus continue to be carried out by asking for valid photo ID, cf. the proposed provision. The use of an age verification system therefore also does not exclude the possibility of requiring the presentation of valid photo identification. This means that different methods of age verification can be used in different sales situations.

There will not be any central electronic age verification system developed that physical points of sale can use to electronically verify a customer's age when selling tobacco products, tobacco substitutes, or herbal products for smoking. It will therefore be up to the individual retailer to acquire an age verification system. If the individual retailer wishes to use an age verification system, it will thus be the responsibility of the individual retailer to ensure that the age verification system in question complies with the applicable legislation. Thus, during the controls carried out by the authorities, retailers will have to be able to explain and document how the chosen age verification method effectively verifies the purchaser's age.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which will be a solution that users will be able to use, among other things, to verify their age to an age verification system. To ensure methodological freedom, age verification solutions other than the national digital identity wallet may also be used to verify age in an age verification system. These verification solutions must meet a number of

requirements which, see Section 2(7) of the draft Act, are laid down by the Minister for the Interior and Health.

It is the responsibility of commercial sellers to ensure that tobacco products, tobacco substitutes, or herbal products for smoking are not sold to persons under the age of 18 in contravention of Section 1(1) of the Act. See penal provision Section 5 of the Act as well as the special remarks on § 2, No 14, of the draft Act. If there is suspicion that the effective age verification system is being circumvented, for example through identity theft or document forgery, a police report can be filed.

See also point 2.3 in the general comments on the draft Act.

Re No 5

Under § 2(1) of the Act prohibiting the sale of tobacco and alcohol to persons under 18 years of age, alcoholic beverages with an alcoholic strength by volume of 1.2 or more may not be sold to persons under the age of 16 years. The prohibition shall also cover proxy sales.

Section 2a(2) of the Act provides that a person who sells alcoholic beverages commercially with an alcoholic strength by volume of 1.2 % or more at physical points of sale must require the presentation of a valid image identification if the vendor is in doubt that the customer is at least 16 years of age.

It is proposed that § 2a(1) be rewritten to the effect that anyone who sells alcoholic beverages commercially with an alcoholic strength by volume of 1.2 % or more at physical points of sale, for the purpose of enforcing the age limit laid down in § 2(1), may require the presentation of a valid photo identification or make use of an age verification system.

The proposed amendment will mean that anyone who sells alcoholic beverages with an alcohol content by volume of 1.2% or more at physical points of sale for commercial purposes, in order to ensure that alcoholic beverages with an alcohol content by volume of 1.2% or more are not sold to persons under the age of 16, may require the presentation of valid photo ID or make use of an age verification system.

Anyone who sells alcoholic beverages with an alcohol content by volume of 1.2% or more at physical points of sale, i.e. the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and employed staff,

etc., must ensure that alcoholic beverages with an alcohol content by volume of 1.2% or more are not sold to persons under the age of 16, cf. section 2(1) of the Act.

Employed staff means clerks, auxiliaries, etc. It is irrelevant whether the employment is paid or unpaid.

The proposed amendment thus aims to support the aforementioned group of persons in their responsibility to ensure that the customer is at least 16 years of age, whereby those who commercially sell alcoholic beverages with an alcohol content by volume of 1.2% or more at physical points of sale will in future always be able to require the presentation of valid photo ID – not only in cases of doubt – or make use of an age verification system that unambiguously confirms electronically that the customer is within the age limit. The proposed amendment supports the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and shop staff in carrying out the necessary checks to ensure that alcoholic beverages with an alcohol content by volume of 1.2% or more are not sold to persons under the age of 16.

In cases where the customer, upon the request of the seller, is unable to present a photo identification, presents inadequate identification or cannot verify their age electronically, etc., the seller must refrain from carrying out the sale.

Valid photo identification may, for example, be a passport, a physical or digital driving licence, proof of identity or proof of age via the national digital identity wallet, or an identity card with a photo issued by the municipality to persons over the age of 15, see Order No 1220 of 21 November 2017 on the issuing of identity cards.

There is no requirement for those who commercially sell alcoholic beverages with an alcohol content by volume of 1.2% or more at physical points of sale to have an electronic age verification system. It will thus be up to the individual retailer to decide how to specifically ensure compliance with the legislation in force. Age verification in connection with the physical sale of alcoholic beverages may thus continue to be carried out by asking for valid photo ID, cf. the proposed provision. The use of an age verification system therefore also does not exclude the possibility of requiring the presentation of valid photo identification. This

means that different methods of age verification can be used in different sales situations.

There will not be any central electronic age verification system developed that physical points of sale can use to electronically verify a customer's age when alcoholic beverages. It will therefore be up to the individual retailer to acquire an age verification system. If the individual retailer wishes to use an age verification system, it will thus be the responsibility of the individual retailer to ensure that the age verification system in question complies with the applicable legislation. Thus, during the controls carried out by the authorities, retailers will have to be able to explain and document how the chosen age verification method effectively verifies the purchaser's age.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which will be a solution that users will be able to use, among other things, to verify their age to an age verification system. To ensure methodological freedom, age verification solutions other than the national digital identity wallet may also be used to verify age in an age verification system. These verification solutions must meet a number of requirements which, see Section 2(7) of the draft Act, are laid down by the Minister for the Interior and Health.

It is the responsibility of commercial sellers to ensure that alcoholic beverages with an alcohol content by volume of 1.2% or more are not sold to persons under the age of 16 in contravention of Section 2(1) of the Act. Reference is made to penal provision Section 5 of the Act as well as the special remarks on § 2, No 14, of the draft Act. If there is suspicion that the effective age verification system is being circumvented, for example through identity theft or document forgery, a police report can be filed.

See also point 2.3 in the general comments on the draft Act.

Re No 6

Under § 2(2) of the Act prohibiting the sale of tobacco and alcohol to persons under 18 years of age, alcoholic beverages with an alcoholic strength by volume of more than 6 may not be sold to persons under the age of 18 years. The prohibition shall also cover proxy sales.

Section 2a, paragraph 4 of the Act provides that a person who sells alcoholic beverages commercially with an alcoholic strength by volume of more than 6 at physical points of sale must require the presentation of a valid image identification if the vendor has doubts that the customer is at least 18 years of age.

It is proposed that § 2a(2) be rewritten to the effect that anyone who sells alcoholic beverages commercially with an alcoholic strength by volume of more than 6 at physical points of sale, for the purpose of enforcing the age limit laid down in § 2(2), may require the presentation of a valid photo identification or make use of an age verification system.

The proposed amendment will mean that anyone who sells alcoholic beverages with an alcohol content by volume of more than 6 at physical points of sale for commercial purposes, in order to ensure that alcoholic beverages with an alcohol content by volume of more than 6 are not sold to persons under the age of 18, may require the presentation of valid photo ID or make use of an age verification system.

Anyone who sells alcoholic beverages with an alcohol content by volume of more than 6 at physical points of sale, i.e. the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and employed staff, etc., must ensure that alcoholic beverages with an alcohol content by volume of more than 6 are not sold to persons under the age of 18, cf. section 2(2) of the Act.

Employed staff means clerks, auxiliaries, etc. It is irrelevant whether the employment is paid or unpaid.

The proposed amendment thus aims to support the aforementioned group of persons in their responsibility to ensure that the customer is at least 18 years of age, whereby those who commercially sell alcoholic beverages with an alcohol content by volume of more than 6 at physical points of sale will in future always be able to require the presentation of valid photo ID – not only in cases of doubt – or make use of an age verification system that unambiguously confirms electronically that the customer is within the age limit. The proposed amendment supports the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and shop staff in carrying out the necessary checks to ensure that alcoholic beverages with an alcohol content by volume of more than 6 are not sold to persons under the age of 18.

In cases where the customer, upon the request of the seller, is unable to present a photo identification, presents inadequate identification or cannot verify their age electronically, etc., the seller must refrain from carrying out the sale.

Valid photo identification may, for example, be a passport, a physical or digital driving licence, proof of identity or proof of age via the national digital identity wallet, or an identity card with a photo issued by the municipality to persons over the age of 1, see Order No 1220 of 21 November 2017 on the issuing of identity cards.

There is no requirement for those who commercially sell alcoholic beverages with an alcohol content by volume of more than 6 at physical points of sale to have an electronic age verification system. It will thus be up to the individual retailer to decide how to specifically ensure compliance with the legislation in force. Age verification in connection with the physical sale of alcoholic beverages may thus continue to be carried out by asking for valid photo ID, cf. the proposed provision. The use of an age verification system therefore also does not exclude the possibility of requiring the presentation of valid photo identification. This means that different methods of age verification can be used in different sales situations.

There will not be any central electronic age verification system developed that physical points of sale can use to electronically verify a customer's age when alcoholic beverages. It will therefore be up to the individual retailer to acquire an age verification system. If the individual retailer wishes to use an age verification system, it will thus be the responsibility of the individual retailer to ensure that the age verification system in question complies with the applicable legislation. Thus, during the controls carried out by the authorities, retailers will have to be able to explain and document how the chosen age verification method effectively verifies the purchaser's age.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which will be a solution that users will be able to use, among other things, to verify their age to an age verification system. To ensure methodological freedom, age verification solutions other than the national digital identity wallet may also be used to verify age in an age verification system. These verification solutions must meet a number of

requirements which, see Section 2(7) of the draft Act, are laid down by the Minister for the Interior and Health.

It is the responsibility of commercial sellers to ensure that alcoholic beverages with an alcohol content by volume of more than 6 are not sold to persons under the age of 18 in contravention of the proposed provision Section 2(2). See penal provision Section 5 of the Act as well as the special remarks on § 2, No 14, of the draft Act. If there is suspicion that the effective age verification system is being circumvented, for example through identity theft or document forgery, a police report can be filed.

See also point 2.3 in the general comments on the draft Act.

Re No 7

It is proposed that in *Section 2a*, a new *paragraph 6* be inserted after paragraph 5, whereby the Minister for the Interior and Health may lay down detailed rules on the age verification systems referred to in paragraphs 1–5, including detailed requirements on the systems, age verification solutions, and on the seller's obligation to provide the Danish Business Authority with information on content and use.

The proposed provision will authorise the Minister for the Interior and Health to lay down detailed rules on requirements concerning the age verification, for which there are requirements, see Section 2a(3) and (5) of the Act, as well as Section 2a(1), (2) and (4), as proposed to be introduced by Section 2, Nos 4–6, of the draft Act. Thus, the Minister for the Interior and Health may in future lay down rules on the age verification system referred to in paragraphs 3 and 5, which must be operated by those who sell alcoholic beverages commercially by distance selling or in unattended shops, as well as on what information about content and use the seller will be obliged to provide to the Danish Business Authority during inspections.

The proposed authorisation regarding requirements on age verification systems in distance selling corresponds to enabling provisions in the Act on tobacco products, etc., see Section 24(2), and the Act on Electronic Cigarettes, etc., see Section 15(4).

Furthermore, the proposed amendment will enable the Minister for the Interior and Health to lay down rules on the age verification system referred to in paragraphs 1, 2 and 4, which is proposed to be introduced by Section 2, Nos 4–6 of the draft Act, which those who commercially sell

tobacco products, tobacco substitutes, herbal products for smoking, or alcoholic beverages at physical points of sale may choose to use. The Minister for the Interior and Health may also lay down detailed rules on age verification solutions that are made available to citizens and on the information about content and use that sellers will be obliged to provide to the Danish Business Authority during inspections.

The aim of the regulation is to ensure high data and privacy protection in the electronic age verification systems and verification solutions that may be used at physical points of sale, as well as to ensure the effectiveness of the system and solutions in relation to age verification, thus reducing the potential for circumvention.

The authorisation allows for the establishment of requirements to ensure the protection of citizens' data, e.g. that solutions must not store any information about citizens other than what is necessary to support age verification. Similarly, requirements may be laid down for the transfer and sharing of data, to ensure, among other things, that the only information transferred is about whether the citizen is old enough and that providers do not gain knowledge of where and when citizens use the solution and, as a consequence, that this information may not be collected and shared with third parties.

The age verification system shall confirm that the consumer meets the specified age limit for the product concerned. In connection with age verification, data about, inter alia, the citizen's exact age, date of birth or other personal information about the citizen that is not necessary to confirm that the citizen meets a given age limit must not be transferred.

The authorisation also allows for the establishment of requirements to ensure effectiveness and reduce the potential for circumvention. Furthermore, the Minister for the Interior and Health lay down requirements for the solutions to include abuse limitations, which may, for example, take the form of biometric or PIN code requirements.

Finally, the authorisation allows for the establishment of requirements to ensure that an age verification system complies with prevailing security and quality practices, e.g. in the areas of cybersecurity and web accessibility.

See also point 2.3 in the general comments on the draft Act.

Re No 8

It is stated in § 2a(6) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 years, that shops where alcoholic beverages are sold at retail outlets shall, by means of visible signs drawn up by the Danish Health Authority, inform about the age limit requirements for the sale of alcoholic beverages, cf. paragraphs 2–5 and § 2.

It appears from the comments on the provision, cf. Folketingstidende 2012-23, Appendix A, L 113 as submitted, page 7, that ‘shops’ also include sales on the internet.

It is proposed that in *Section 2a(6)*, which becomes (7), as a result of Section 2(7) of the draft Act, the word ‘Shops’ shall be replaced by: ‘Physical shops’.

The proposed amendment will mean the removal of the requirement for visible signage with age limit requirements for alcoholic beverages when sold on the internet and in unattended shops.

At the same time, the proposed amendment will clarify that it will continue to be a requirement that, for the retail sale of alcoholic beverages in physical shops, there must be visible signage with the age limit requirements for the sale of alcoholic beverages. The signs with the age limit requirements in physical shops will, as today, have to be those which are drawn up by the Danish Health Authority.

The Danish Health Authority will continue to make available signs with the applicable age limits for the sale of alcoholic beverages, which economic operators who commercially market alcoholic beverages by distance selling and in unattended shops must use if the individual economic operator considers that the signs positively support enforcement of the rules on the sale of alcoholic beverages, cf. § 2 of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18.

Reference is also made to point 2.6 of the general explanatory notes of the draft act.

Re No 9

It is stated in § 2a(7) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 years, that signs indicating that the sale of

tobacco products, tobacco substitutes, and herbal products for smoking can take place only by complying with the age limit requirements for the sale of tobacco products, tobacco substitutes, and herbal products for smoking, cf. paragraph 1 and § 1, shall be drawn up by the Danish Health Authority.

It is stated in the comments on the provision, cf. Folketingstidende 2021–21, Appendix A, L 61, as submitted, pages 58–59, that the provision on visible signage in future will only apply in connection with the sale of alcoholic beverages and that if a sales outlet would like to be able to display a sign with the age limit for the purchase of tobacco products, this is possible in cases where a purchaser has requested a purchase and, in such cases, there shall be age limit signs drawn up by the Danish Health Authority, cf. § 4, No 7, of the draft Act.

It is proposed that *Section 2a(7)*, which becomes (8), as a result of Section 2, No 6, of the draft Act, be repealed.

The proposed amendment is intended to simplify the regulations relating to signage with age limits for tobacco products, tobacco substitutes, and herbal products for smoking and in this connection to clarify that there is no requirement to display a sign with the age limit for the purchase of tobacco products, tobacco substitutes, and herbal products for smoking in connection with the selection of product. If an economic operator chooses to make use of the option to display a sign indicating the age limit for the sale of tobacco products, tobacco substitutes, or herbal products for smoking, such must be in accordance with other legislation in this area, including the display ban, cf. Section 5a of the Act on the Prohibition of Tobacco Advertising.

Reference is also made to the comments on Section 4(4) and Section 5(1) of the draft Act, which propose, among other things, to clarify that it is possible to display a sign with the age limit for the sale of tobacco products, tobacco substitutes, herbal products for smoking, electronic cigarettes, etc., in connection with the selection of products, and that such signs must be designed by the Danish Health Authority.

Please also refer to point 2.6 in the general explanatory notes on the draft Act.

Re No 10

It follows from Section 2, paragraph 6 that shops where alcoholic beverages are retailing must state, by means of a visible sign drawn up by the Danish Health Authority, the age limit requirements for the sale of alcoholic beverages, cf. paragraphs 2-5 and § 2. Section 2a(8) provides that the Minister for Health shall lay down detailed rules on the design, posting, etc. of signs, cf. (6).

It is proposed that in *Section 2a(8)*, which becomes (9), ‘cf. (6)’ shall be replaced by: ‘see (7)’.

The proposed amendment is a consequence of § 2(7) of the draft Act, in which it is proposed that a new paragraph 6 be inserted in § 2a after paragraph 5. As a consequence, § 2a(6–8) becomes § 2a(7–9).

Please also refer to Section 2(9) of the draft Act, where Section 2a(7), which becomes (8), is proposed to be repealed.

Re No 11

Section 2b(1) of the Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18 provides that the Danish Safety Technology Authority monitors the compliance with the requirements of Sections 1–2a and rules issued pursuant to Section 2a(8). It follows from paragraph 2 of the provision that the representatives of the Danish Safety Technology Authority have, at any time and without showing identification, access to dealers’ commercial premises in order to verify compliance with Sections 1–2a and rules issued by virtue of Section 2a(8). It is stated in paragraph 3 of the provision that the Danish Safety Technology Authority’s representatives may, upon showing appropriate identification and without a court order, require of any person to be provided with all information necessary for the control in accordance with paragraph 1.

It is proposed that in § 2 *b(1)* and (2) , ‘§§ 1–2a and rules issued pursuant to § 2a(8)’ shall be changed to: ‘Sections 1, 2 and 2a, (1-5), and rules issued pursuant to Section 2a (6).”

The proposed amendment will remove the Danish Safety Technology Authority’s (hereinafter referred to as the Danish Business Authority) obligation to monitor compliance with the rules on visible signage

providing information on age limits for the sale of alcoholic beverages. The proposed amendment will also remove the Danish Business Authority's right to access retailers' premises in order to check compliance with the requirements for visible signage providing information on age limits for the sale of alcoholic beverages.

There are no plans to change the Danish Business Authority's obligation to monitor compliance with the rules on the illegal sale of tobacco, nicotine and alcohol to minors, cf. the age limits laid down in the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18.

The proposed amendment should be seen in conjunction with § 2(8) of the draft Act, in which it is proposed to remove the requirement for visible signage with the age limit requirements for alcoholic beverages when selling alcoholic beverages on the internet and in unattended shops, and in which it is proposed to clarify that it will continue to be a requirement that, for the retail sale of alcoholic beverages in physical shops, there must be visible signage with the age limit requirements for the sale of alcoholic beverages. Similarly, the amendment should be viewed in conjunction with Section 2(9) of the draft Act, whereby Section 2a(7) is repealed.

The proposed amendment will also mean that the Danish Business Authority must monitor compliance with the rules issued pursuant to Section 2a(6), which is proposed to be inserted in Section 2(6) of the draft Act. The Danish Business Authority will thus in future monitor compliance with the rules laid down by the Minister for the Interior and Health on age verification systems, cf. Section 2a(1)-(5). The amendment should be viewed in conjunction with Section 2(4)-(6) of the draft Act, which proposes that, for the purposes of enforcing the age limits laid down in the Act, an age verification system may be used in physical shops.

See also point 2.3 in the general comments on the draft Act.

Re No 12

It is stated in § 2b(4) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 years that the Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of verifying compliance with the requirements laid down in Section 1(1), Section 2 and Section 2a(1), (2) and (4), as well as in rules issued pursuant to Section 2a(8), make use of young mystery shoppers

with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales.

In the comments on Section 2b(4), cf. Folketingstidende 2024–2025, Appendix A, L 173 as submitted, it is stated that the Danish Safety Technology Authority will be able to use young mystery shoppers for a period of two years. Before the end of the period, an evaluation will be carried out with a view to discussing whether the scheme should be extended, made permanent or discontinued.

It is proposed that in *Section 2b(4)*, ‘30 June 2026’ shall be replaced by: ‘30 June 2028’, and ‘and rules issued pursuant to Section 2a(8)’ are deleted.

The proposed amendment will mean that the pilot scheme, whereby the Danish Safety Technology Authority (hereinafter referred to as the Danish Business Authority) can use young mystery shoppers with a hidden identity during their controls of the age limits for the sale of tobacco products, tobacco substitutes, herbal products for smoking and alcoholic products in physical shops, will be extended by two years until 30 June 2028.

The proposed amendment is not intended to change the purpose or framework of the scheme, cf. Folketingstidende 2024-2025, Appendix A, L 173 as submitted, pages 10-11 and 35-36.

The proposed amendment as regards the deletion of ‘as well as in rules issued pursuant to Section 2a(8))’ should be seen in conjunction with Section 2, No 8, of the draft Act, which proposes to remove the Danish Business Authority’s supervisory obligation concerning the requirement for visible signage for the sale of alcoholic beverages in shops, cf. Section 2a(6), which becomes (7), cf. Section 2, No 7, of the draft Act.

See also points 2.3 and 2.6 in the general remarks on the Bill.

Re No 13

Section 2a, paragraph 3 provides that a person who markets alcoholic beverages commercially with an alcoholic strength by volume of 1.2 % or more by volume on a distance basis and in unattended shops must operate an age verification system which, at the time of sale, verifies that the

customer is at least 16 years of age. Similarly, Section 2a, paragraph 5 provides that a person who markets alcoholic beverages commercially with an alcoholic strength by volume of more than 6 % by volume on a distance basis or in unattended shops must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age.

Section 2b(1) of the Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18, which is amended by Section 2(11), provides that the Danish Safety Technology Authority monitors compliance with the requirements of Sections 1–2a and rules issued pursuant to Section 2a(8).

It is proposed that in § 2b of the Act, a new *paragraph 6* shall be inserted to state that as part of the control of compliance with the requirements laid down in § 2a(3) and (5) in unattended shops, representatives of the Danish Business Authority may, upon showing proper identification, require the owner or a representative of the unattended shop to meet them at the unattended shop in order to give the representatives of the Danish Business Authority access to the retail premises of the unattended shop, etc.

The proposed provision will mean that, in future, the Danish Business Authority will be able to require the owner or representative of an unattended shop to be physically present in order to give representatives of the Danish Business Authority access to shop premises, etc. for inspection purposes.

An unattended shop is defined, cf. Section 2, No 3, of the draft Act, as a physical self-service shop where there is generally no physical presence of an employee and where the customer shops without being in contact with shop staff. If there is an employee present in the shop, it is not for the purpose of serving customers.

The proposed provision should be seen in the light of the definition of an unattended shop as well as the requirement for an age verification system for the marketing of alcoholic beverages in unattended shops, which entered into force on 1 January 2025, cf. Act No 1669 of 30 December 2024.

The proposed provision is intended to ensure more effective control when the Danish Business Authority monitors the sale of alcoholic beverages in

unattended shops. Under the current legal situation, there is a risk that the Danish Business Authority is unable to check an unattended shop's age verification system, as the Danish Business Authority potentially does not have access to the shop itself. This also means that the Danish Business Authority is unable to determine whether an unattended shop sells alcoholic beverages and is therefore subject to the requirement to operate an age verification system.

It is proposed that the Danish Business Authority's control of unattended shops should be notified before the control is carried out as prescribed in § 5(1) and (2) of Consolidation Act No 1121 of 12 November 2019 on legal certainty during the use by the administration of compulsory intervention and information obligations (the Legal Certainty Act). The requirement of notice can be waived in accordance with § 5(4) of the Act if the purpose of carrying out the intervention would be frustrated if prior notice needed to be given.

It is considered that the purpose of carrying out the control generally would not be frustrated by giving advance notice of a check for compliance with the requirements laid down in § 2a(3) and (5) of the Act, according to which a person who commercially markets alcoholic beverages in unattended shops must operate an age verification system which verifies, at the time of sale, that the customer is above the applicable age limits for the sale of alcoholic beverages.

Unannounced checks in an unattended shop may be considered in cases where the Danish Business Authority finds, after a specific assessment, that the requirement for advance notification can be wholly or partly waived pursuant to § 5(4) of the Act on legal certainty.

Reference is made to the fact that under the current Section 2b(2) and (3) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, the representatives of the Danish Business Authority have, at any time and without showing identification, access to dealers' commercial premises in order to verify compliance with, inter alia, the rules under Section 2a(3) and (5), as well as on presentation of appropriate identification and without a court order by anyone, may require to be provided with all information necessary for the inspection.

See also point 2.7 in the general comments on the draft Act.

Re No 14

§ 5 of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 states how breaches of a number of provisions of the Act are penalised.

It is stated in § 5(1) that for violations of §§ 1–2a and rules issued pursuant to § 2a(8), the shopkeeper, restaurateur, hotelier, or canteen owner who commercially markets as a professional distance seller, etc. shall be punished with a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1–2a and regulations issued pursuant to Section 2a(8) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.

The comments on the provision, cf. Folketingstidende 2003–2004, Appendix A, L 95 as submitted, state that the responsibility for compliance with the prohibition on the sale of tobacco products and alcoholic beverages to persons under the age of 16 rests solely on the specified group of persons. If the shopkeeper, restaurateur, hotelier, or canteen owner, etc. is a legal person, then that legal person entity may be liable to a fine pursuant to paragraph 2 (currently paragraph 4). It is a condition for punishing the shopkeeper, restaurateur, hotelier, canteen owner, etc. that they have acted intentionally or negligently, cf. Section 19 of the Criminal Code. The shopkeeper, restaurateur, hotelier, canteen owner, etc. will thus be liable to be punished for infringement of the provision if the shopkeeper, restaurateur, hotelier, canteen owner, etc. has personally sold tobacco or alcohol to the child. The shopkeeper, restaurateur, hotelier, canteen owner, etc. may also be punished, depending on the circumstances, if they have failed to instruct their staff not to sell tobacco and alcoholic beverages to persons under the age of 16 or have failed to exercise the necessary supervision and control to ensure compliance with the provision. Employees, on the other hand, cannot be punished for violating the ban, neither for their own sales nor for aiding and abetting the shopkeeper, restaurateur, hotelier, canteen owner, etc. in violating the ban. The same applies to any manager or similar person in a shop who has day-to-day responsibility for the shop without being the owner or tenant. On the other hand, a tenant of, for example, a shop, restaurant or canteen could be punished. Similarly, the manager of a restaurant, hotel, canteen, etc. may be punished because he or she has the same criminal liability for

the operation of the business as the holder of the business licence associated with the business.

In the comments on § 5(1), cf. Folketingstidende 2018-2019, Annex A, L 65 as published, it is stated that the proposal envisages an increase in the level of penalty in § 5(1) point 1 of the Act, so that the amount of fines in future will respectively be DKK 10 000 for first offences, DKK 20 000 for second offences and DKK 40 000 for third offences. For subsequent violations, the amount of the fine will depend on a specific assessment, which will depend on intent, etc.

In the comments to Section 5(1), cf. Folketingstidende 2024-2025, Appendix A, L 53 as submitted, it is stated that in order to crack down on the sale of tobacco and nicotine products and alcoholic beverages to minors, higher fines will be imposed for the illegal marketing of tobacco, nicotine and alcohol to minors. The expectation of the level of fines for infringements of §§ 1–2a (1–5) is DKK 50 000 in first-time cases and DKK 65 000 in second time-cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, pages 78–79.

From the comments in Section 5(1), cf. Folketingstidende 2024-2025, Appendix A, L 53 as submitted, page 78, it appears that, with regard to Section 2a(6)-(7) and rules issued pursuant to Section 2a(8), no changes are intended in relation to the expectations for the current level of fines other than those that have been expected to date.

In the event of a violation of Sections 1 and 2, which also include a ban on proxy sales of tobacco products, tobacco substitutes, herbal products for smoking, and alcoholic beverages, the explanatory notes to the Act state that, in the event of a private individual violating the ban on proxy sales, the expected fine level is a fine of DKK 10 000 for a first offence. In the case of a second offence and in the case of a third offence, the fines are assumed to be DKK 20 000 and DKK 40 000, respectively, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 78.

It is proposed that § 5(1) be reworded such that for violation of Sections 1 and 2 and Section 2a(1-5) , and rules issued pursuant to Section 2a(6), the shopkeeper, restaurateur, hotelier, or canteen owner who commercially markets as a professional distance seller, etc. shall be punished with a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1 and 2 and 2a ,

paragraphs 1-5, and regulations issued pursuant to Section 2a(6) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.

Under the proposed amendment, the shopkeeper, restaurateur, hotelier, or canteen owner, those who commercially as a profession market goods by distance selling, etc. will be punished with a fine for violating Sections 1 and 2 and Section 2a(1)-(5) and rules issued pursuant to Section 2a(6).

The responsibility for ensuring that tobacco products, tobacco substitutes, herbal products for smoking, and alcoholic beverages are not sold to persons below the applicable age limits, cf. Sections 1 and 2 of the Act, thus rests solely with the aforementioned group of persons. If the shopkeeper, restaurateur, hotelier, or canteen owner, etc. is a legal person, then that legal person may be liable to a fine pursuant to paragraph 4, cf. Section 5(4) of the Act.

It is a condition for punishing the shopkeeper, restaurateur, hotelier, canteen owner, etc. under § 5 that they have acted intentionally or negligently, cf. Section 19 of the Criminal Code, except as provided for below as regards criminal liability for legal persons. The shopkeeper, restaurateur, hotelier, canteen owner, etc. may thus be punished for violating the provision if they themselves have sold tobacco products, tobacco substitutes, or herbal products for smoking or alcoholic beverages to a person below the applicable age limits, cf. Sections 1 and 2 of the Act. The shopkeeper, restaurateur, hotelier, canteen owner, etc. may also be punished if employees have sold tobacco products, tobacco substitutes, or herbal products for smoking or alcoholic beverages to a person below the applicable age limits, cf. Sections 1 and 2 of the Act. Legal persons may also be punished for the actions of their employees, cf. Section 5(4) of the Act and Section 27 of the Criminal Code.

Employees, on the other hand, cannot be punished for violating the ban, neither for their own sales nor for aiding and abetting the shopkeeper, restaurateur, hotelier, canteen owner, etc. in violating the ban. The same applies to any manager or similar person in a shop who has day-to-day responsibility for the shop without being the owner or tenant. On the other hand, a tenant of, for example, a shop, restaurant or canteen could be punished. Similarly, the manager of a restaurant, hotel, canteen, etc. may be punished because he or she has the same criminal liability for the

operation of the business as the holder of the business licence associated with the business.

Persons who contribute to violations of the prohibitions laid down in Sections 1 and 2 by encouraging the shopkeeper, restaurateur, hotelier, canteen owner, etc. to sell tobacco products, tobacco substitutes, or herbal products for smoking or alcoholic beverages to a person below the applicable age limits will not be punishable under the draft Act, cf. the proposed Section 5(1), last sentence. Responsibility is thus placed with the person who would benefit financially if the age limits for sales were not enforced.

The proposed amendment is therefore not intended to change the responsibility for compliance with the provisions of the Act on the sale of tobacco products, tobacco substitutes, or herbal products for smoking or alcoholic beverages to persons below the specified age limits. However, it is specified that the shopkeeper, restaurateur, hotelier, canteen owner, etc. may be punished if employees sell tobacco products, tobacco substitutes, or herbal products for smoking or alcoholic beverages to a person below the applicable age limits, cf. Sections 1 and 2 of the Act. Legal persons may also be punished for the actions of their employees, cf. Section 5(4) of the Act and Section 27 of the Criminal Code.

The proposed amendment will also mean that the shopkeeper, restaurateur, hotelier, or canteen owner, those who commercially as a profession market goods by distance selling, etc., will no longer be fined for violating the rules requiring shops engaged in the retail sale of alcoholic beverages to display visible signage informing customers of the age requirements for the sale of alcoholic beverages, cf. Section 2a(6), which becomes Section 7, cf. Section 2(8) of the draft Act.

The proposed amendment should be seen in conjunction with § 2, No 11, of the draft Act, in which it is proposed that the obligation of the Danish Business Authority to carry out control of the rules requiring shops where retail sales of alcoholic beverages take place, by visible signage drawn up by the Danish Health Authority, to inform about the age limit requirements for the sale of alcoholic beverages should be removed.

The proposed amendment also makes it possible to state in the explanatory notes the adjusted expectations for the levels of fines for violations of

Sections 1, 2 and 2a(1)–(5) and to set expectations for the level of fines for violations of the rules issued pursuant to Section 2a(6).

With regard to Sections 1, 2 and 2a(1)–(5), it is proposed to change the expected level of fines so that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority in police reports for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

In the case of a private person's violation of the ban on proxy sales, see §§ 1 and 2, no changes are envisaged in relation to the expectations of the applicable level of fines previously expected. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used

as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

$$\text{Moderated fine} = (\text{maximum fine} \times 100\%) + (\text{second largest fine} \times 50\%) + (\text{second largest fine} \times 50\%) + (\text{all subsequent fines} \times 25\%)$$

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

With regard to Section 2a(6), it is proposed that the expected level of fines be such that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

$$\text{Moderated fine} = (\text{maximum fine} \times 100\%) + (\text{second largest fine} \times 50\%) + (\text{second largest fine} \times 50\%) + (\text{all subsequent fines} \times 25\%)$$

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the

amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

See also point 2.4 in the general comments on the draft Act.

Re No 15

§ 5 of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 states how breaches of a number of provisions of the Act are penalised.

In the comments to Section 5(3), cf. Folketingstidende 2024-2025, Appendix A, L 53 as submitted, it is stated that if a retailer, etc. fails to grant the Danish Safety Technology Authority access to shop premises for the purpose of inspection, cf. Section 2b(2), the retailer will be punished with a fine. Furthermore, it is stated that in the event of a violation of Section 2b, paragraph 2, the expected fine level is that a first-time offence will be punished with a fine of DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. It should be the intention in determining fines for violations that the fine be of a size sufficient to have a preventive effect and send a clear signal that the regulations should be managed effectively. It is also the intention that the level of the fine should be in reasonable proportion to the infringement in question.

It is proposed that in § 5(3)(1), the following is inserted after ‘§ 2b(2),’: ‘and 6.’

The proposed amendment will mean that if an owner or representative of an unattended shop fails to appear for inspection, cf. Section 2b(6), the owner will be punished with a fine. It is proposed that violations of the provision be subject to penalty in order to provide incentives to comply with the Danish Business Authority’s request. The fact that the provision is punishable by law should be seen in the context of Act No 1669 of 30 December 2024, which stipulates in Section 2a(3) and (5) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, requires that anyone who commercially as a profession markets alcoholic beverages in unattended shops must operate an age verification system. When Section 2b(6) becomes punishable by law, it will help to ensure that the Danish Business Authority can effectively monitor compliance with

the new requirement. Reference is also made to the comments on Section 2 No 13 of the draft Act, where it is proposed that the Danish Business Authority's control of unattended shops should be notified before the control is carried out as prescribed in § 5(1) and (2) of Consolidation Act No 1121 of 12 November 2019 on legal certainty during the use by the administration of compulsory intervention and information obligations (the Legal Certainty Act).

In the event of a violation of Section 2b, paragraph 2, the expected fine level is that a first-time offence will be punished with a fine of DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. The expected level of fines is thus the same as for violations of Section 2(b)(2). It should be the intention in determining fines for violations that the fine be of a size sufficient to have a preventive effect and send a clear signal that the regulations should be managed effectively. It is also the intention that the level of the fine should be in reasonable proportion to the infringement in question.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

*Re Section 3*

Re No. 1

It is proposed that throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.

This is a consequential amendment resulting from the merger of the Danish Safety Technology Authority with the Danish Business Authority as of 1 January 2026.

Re No 2

It follows from Section 2, No 26 of the Act on tobacco products, etc. that a tobacco substitute is a product containing nicotine that is not a tobacco product, or an electronic cigarette, cf. § 2(1), of the Electronic Cigarettes Act. etc., and which have not been approved by a marketing authorisation in accordance with the Medicinal Products Act or EU rules on the establishment of joint procedures for the authorisation of medicinal products for human use, as well as equipment intended to be used with the product.

It follows from § 3a(1) that manufacturers and importers of tobacco substitutes that are placed on the market in Denmark shall for each tobacco substitute report information on the product, including its ingredients, sorted by trade name.

A tobacco substitute may therefore only be marketed in Denmark if the product has been reported to the Danish Safety Authority (hereinafter referred to as the Danish Business Authority). On the basis of the reported information, the Danish Business Authority has been able to, inter alia, plan market surveillance, take samples for testing and follow the development of tobacco substitutes.

Under current rules, notification must be given six months prior to the marketing of new categories of tobacco products, electronic cigarettes and refill containers containing nicotine, cf. Section 26 of the Act on Tobacco Products, etc. and Section 5 of the Act on Electronic Cigarettes, etc.

Currently there are no regulations on notification of tobacco substitutes to the Danish Business Authority.

It is proposed that § 3a be rewritten, such that tobacco substitutes may only be placed on the market in Denmark if they have been notified to the Danish Business Authority. The notification lapses if the notifier fails to maintain the notification.

The proposed provision will mean that tobacco substitutes may only be placed on the market in Denmark if they have been notified to the Danish Business Authority and that the notification will lapse if the notifier does not maintain the notification.

The proposed notification obligation for tobacco substitutes must be seen in conjunction with the definition of a tobacco substitute. Tobacco substitutes is thus a collective term can only encompass a product containing nicotine that is not a tobacco product, cf. No 2, or an electronic cigarette, cf. Section 2(1) of the Act on electronic cigarettes etc. and which is not approved by marketing permission in accordance with the Act on medicinal products or EU law laying down common procedures for approval of medicinal products for human use and equipment intended to be used in conjunction with this product. For example, nicotine pouches are a tobacco substitute currently marketed on the Danish market, but a tobacco substitute may also take the form of another product type, provided that it complies with the definition of a tobacco substitute and is not currently marketed in Denmark.

The Act on tobacco products, etc. lays down a number of requirements for product regulation of tobacco substitutes. Pursuant to Section 10a(2), the Minister for the Interior and Health is authorised to lay down detailed rules on limit values for the maximum nicotine content in tobacco substitutes. Furthermore, the Danish Health Authority is authorised to lay down detailed rules on requirements for the appearance of tobacco substitutes and on ingredients in relation to unit packets of tobacco substitutes, cf. Section 14(4) and (5) of the Act. The specific requirements on nicotine pouches are set out in Order No 249 of 4 March 2025 on limit values for nicotine content in tobacco substitutes and Order No 252 of 4 March 2025 on studies of specific additives in tobacco products and detailed requirements for the labelling and packaging of cigarettes and roll-your-own tobacco, standardisation of single cigarettes and single nicotine pouches, ingredients in unit packets of chewing tobacco and tobacco substitutes, etc.

The proposed amendment aims to ensure a better overview of which tobacco substitutes are marketed on the Danish market, including supporting the possibility of new legislation on product requirements for new types of tobacco substitutes being laid down in orders before or shortly after the product is marketed on the Danish market. This may relate, for example, to the setting of a nicotine limit for a new type of tobacco substitute.

For tobacco substitutes already marketed on the Danish market today and reported to the Danish Business Authority, see the current Section 3a of the Act, the proposed amendment will have no significance. It is therefore not the intention that a new notification should be made for tobacco substitutes that have already been reported.

It is proposed in § 3a(2) that the notification under paragraph 2 must be submitted by every manufacturer and importer who wishes to market a tobacco substitute, no later than 6 months prior to the proposed marketing.

With the proposed provision, the Danish Business Authority has, inter alia, time to review the material and in this connection assess whether there may be a need to request additional information on the product from the notifier before it is placed on the market.

The deadline of 6 months reflects the maximum case processing time by the Danish Business Authority from receipt of a notification with the information, etc. set out in paragraph 3.

The case processing time may be shorter than 6 months and the placement on the market can take place when confirmation is received from the Danish Business Authority that a correct notification has been made.

If the case processing time is longer than 6 months, it will thus be possible to start placing the product in question on the market. However, with reference to the purpose of the notification requirement, there may be situations where six months has not been sufficient in relation to the issuance of new amendments to the Order to lay down new product requirements. Thus, situations may arise where the Danish Business Authority confirms that a product has been correctly notified, but under which detailed requirements are laid down by law regarding, for example, the product's nicotine content, appearance, and components. In such cases,

the Orders will be issued with an effective date that takes into account the conversion of production apparatus.

It is proposed in § 3a(3) that the Minister for Industry, Business and Financial Affairs lay down rules on 1) the information and statements that must accompany notification under paragraph 1; 2), the Danish Business Authority's processing of the notification, and 3) which product changes require that a new notification is submitted.

The rules that will be laid down pursuant to the proposed No 1 will thus require that the notification must be accompanied by information on, inter alia, the name and contact details of the notifier, a detailed description of the tobacco substitute in question, the nicotine content and ingredients of the product, the uptake of nicotine when the product is consumed, the appearance of the product and a description of the intended use of the product. In the detailed rules, the Danish Minister for Business and Growth may also take into account any differentiation in the requirements for information to be included with the notification. This may be relevant in relation to whether it is a tobacco substitute that is known and marketed on the market today, or whether it is a new type of tobacco substitute.

It is proposed in No 2 that the Minister for Industry, Business and Financial Affairs also be authorised to lay down detailed rules on the Danish Business Authority's processing of the notification.

It is proposed in No 3 that the Minister for Industry, Business and Financial Affairs, by virtue of the proposed authorisation, can lay down criteria for product changes to previously notified products, which can constitute such a significant change to the product that the product needs to be notified afresh. Product changes that require that a new notification is submitted shall be notified according to the proposed (1), which inter alia means that the changed product can only be placed on the market 6 months after the notification is submitted. By a significant change is understood a change of the amount or composition of the tobacco substitute's content.

Reference is also made to point 2.5 of the general explanatory notes of the draft act.

Re No 3

Section 6 of the Act on Tobacco Products, etc. stipulates that the Danish Safety Technology Authority shall publish and regularly update on its

website the information, statements, and reports received pursuant to Section 3(1)(1)(a) and (2), Section 3a(1), Section 5(1) and rules laid down pursuant to Section 3(2), cf. Section 3(1)(1)(a) and (2), Section 3a(2) and Section 5(3). However, that does not apply to information on operational conditions or business relationships insofar as it is of significant economic importance – for the person or company to which the information relates – that the information not be made public.

It is proposed that in § 6, the following is inserted as *paragraph 2*, by which the Danish Business Authority may remove information, statements, and reports received pursuant to Section 3a, including pursuant to Section 3a(3), from its website if the notification is not upheld or if, on the basis of an inspection, the product as a whole is assessed as not complying with applicable legislation.

The proposed amendment will enable the Danish Business Authority to remove information, statements, and reports concerning a tobacco substitute from the Authority's website if the notification pursuant to section 3a is not maintained or if, on the basis of an inspection of the product, the product as a whole is assessed as not complying with applicable legislation.

The proposed amendment should be seen in conjunction with § 3(2) of the draft Act, under which a new notification obligation for tobacco substitutes is proposed to be introduced. The proposed amendment is intended to ensure that the Authority's website is updated as far as possible with information, statements and reports, etc., which the Danish Business Authority is obliged to publish, cf. § 6 of the Tobacco Products Act.

For example, it may be relevant for the Danish Business Authority to be able to remove a tobacco substitute from its website in cases where new product requirements have been introduced for a specific tobacco substitute, after which the Danish Business Authority, in connection with an inspection, finds that the tobacco substitute in question no longer complies with applicable law.

It is not the intention of the proposed provision that, in all cases where a tobacco substitute is considered on the basis of a control to be non-compliant, the Danish Business Authority will remove information etc. on a tobacco substitute.

Reference is also made to point 2.5 of the general explanatory notes of the draft act.

Re No 4

It is stated in Section 19a(1) of the Act on tobacco products, etc. that manufacturers and importers of tobacco substitutes shall ensure that tobacco substitutes which they place on the market display a health warning, cf. paragraph 2. Paragraph 2 of the provision makes clear that the Minister for the Interior and Health lays down rules on the wording, form, and placement of the health warning.

The authorisation has been used in Order No. 484 of 13 May 2025 on labelling and health warnings on tobacco substitutes.

Section 6 of the Order stipulates that each unit packet and any outside packaging of tobacco substitutes must be provided with the following health warning in Danish: ‘This product contains nicotine, which is a highly addictive substance’.

It is proposed that in *Section 19a(1)*, the words ‘a health warning’ are replaced by ‘one or more health warnings in Danish’.

The proposed provision will mean that going forward, manufacturers and importers of tobacco substitutes shall ensure that tobacco substitutes which they place on the market display one or more health warnings, cf. paragraph 2 of the provision.

The proposed provision should be seen in conjunction with § 3(5) of the draft Act, with which it is proposed that the authorisation of the Minister for the Interior and Health to lay down rules on the wording, form and placement of the health warning on tobacco substitutes be extended in order for, inter alia, the Minister for the Interior and Health to also lay down detailed rules on the number and types of health warnings on tobacco substitutes.

Manufacturers and importers of tobacco substitutes will thus in future have to ensure that tobacco substitutes which they market are provided with one or more health warnings, cf. the rules laid down pursuant to Section 19a(2).

Reference is also made to point 2.5 of the general explanatory notes of the draft act.

Re No 5

It is stated in Section 19a(1) of the Act on tobacco products, etc. that manufacturers and importers of tobacco substitutes shall ensure that tobacco substitutes which they place on the market display a health warning, cf. paragraph 2. Paragraph 2 of the provision makes clear that the Minister for the Interior and Health lays down rules on the wording, form, and placement of the health warning.

The authorisation has been used in Order No 251 of 4 March 2025 on labelling and health warnings on tobacco substitutes.

Section 6 of the Order stipulates that each unit packet and any outside packaging of tobacco substitutes must be provided with the following health warning in Danish: ‘This product contains nicotine, which is a highly addictive substance’.

It is proposed that in *Section 19a(2)*, the following shall be inserted after ‘rules on’: ‘the number and type of health warnings and if’, and the words ‘the health warning’ are replaced by ‘the health warnings’.

The proposed provision will mean that, in future, the Minister for the Interior and Health will also be able to lay down detailed rules on the number and type of health warnings on tobacco substitutes.

The proposed provision should be viewed in conjunction with Section 3(4) of the draft Act, which proposes that tobacco substitutes must in future carry one or more health warnings.

The Minister for the Interior and Health will, in accordance with the proposed amendment, be able to lay down, inter alia, rules on the number of health warnings, which can also differentiate depending on the specific type of tobacco substitute. This allows for future types of tobacco substitutes other than the product types currently marketed on the Danish market to be taken into account.

Under the proposed amendment, the Minister for the Interior and Health will also be able to lay down detailed rules on the type of the health warnings in question. A number of tobacco products are currently subject

to specific requirements regarding different types of health warnings, cf. Chapter 3 of Order No 780 of 13 June 2023 on limit values, health warnings and age verification systems, etc. for tobacco products, etc. The proposed amendment is intended to enable similar requirements to be laid down for different types of health warnings for tobacco substitutes.

Reference is also made to point 2.5 of the general explanatory notes of the draft act.

Re No 6

Section 24(1) of the Act on tobacco products, etc. provides that retailers of tobacco products, tobacco substitutes, and herbal products for smoking on a distance basis must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age.

Section 32(1) of the Act states that the Danish Safety Technology Authority shall monitor compliance with the requirements laid down in this Act and in rules laid down pursuant thereto.

It is proposed that in *Section 32* of the Act, the following be inserted as *paragraph 6*, whereby representatives of the Danish Business Authority, as part of their control of tobacco products, tobacco substitutes, or herbal products for smoking that are marketed by means of distance selling, may demand access to the point of sale.

The proposed amendment aims to strengthen the Danish Business Authority's control of the marketing of tobacco products, tobacco substitutes, and herbal products for smoking through distance selling, i.e. via the internet and similar channels.

With the proposed provision, in future, in cases where the representatives of the Danish Business Authority are met with demands for age verification in connection with product controls of tobacco products, tobacco substitutes and herbal products for smoking which are placed on the market for distance sales, e.g. on the internet, including via an app function, the Danish Business Authority will require access to the point of sale.

The 'point of sale' is understood to mean the location(s) on a website or app where the range of tobacco products, tobacco substitutes, and herbal products for smoking are made available to customers.

The proposed provision is intended to ensure that the Danish Business Authority has the necessary access to displays of tobacco products, tobacco substitutes, or herbal products for smoking in order to be able to carry out effective product control of the products when they are marketed by means of distance selling.

See also point 2.7 in the general comments on the draft Act.

Re No 7

Section 43(1) of the Act on tobacco products, etc. states that the Danish Safety Technology Authority is to charge fees to cover the costs incurred by the Danish Safety Technology Authority in receiving reports under Section 3(1) and Section 3a(1), or rules issued pursuant to Section 3(2) or Section 3a(2), evaluations pursuant Section 5(2), approval and control of laboratories, cf. § 11(1) and § 12(1), and registrations, cf. § 23(1), and the Danish Safety Technology Authority's controls under §§ 32–39.

It is proposed that in *Section 43(1)*, the following shall be inserted after 'Section 3(1), and': 'notifications under'.

The proposed amendment should be seen in conjunction with § 3(2) of the draft Act, by which the current reporting obligation for tobacco substitutes is changed to a notification obligation, whereby a tobacco substitute may only be placed on the Danish market if the product has been notified to the Danish Business Authority no later than 6 months beforehand. The proposed amendment is thus a consequence of this and is not intended to change the existing fee structure.

Re No 8

It follows from § 43(2) of the Act on tobacco products etc. that the fee is charged to manufacturers and importers of tobacco products and tobacco substitutes subject to the reporting obligation laid down in §§ 3(1) and 3a(1). The fee is allocated based on the Danish market share of each individual manufacturer or importer. With regard to products covered by this Act, the assessment of the individual manufacturer's or importer's market share is carried out on the basis of the excise duties reported to the Danish Customs and Tax Administration.

It is proposed that in *Section 43(2)*, the following shall be inserted after 'Section 3(1), and': 'the notification obligation under'.

The proposed amendment should be seen in conjunction with § 3(2) of the draft Act, by which the current reporting obligation for tobacco substitutes is changed to a notification obligation, whereby a tobacco substitute may only be placed on the Danish market if the product has been notified to the Danish Business Authority no later than 6 months beforehand. Reference is also made to § 3, No 7, of the draft Act.

The proposed amendment is thus a consequence of § 3(2) of the draft Act and is not intended to change the existing fee structure.

Re No 9

§ 45 of the Act on tobacco products etc. states how a number of provisions of the Act are penalised.

Section 45(1) No 1 stipulates that unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1).

The expectations regarding the level of fines for infringements of §§ 4(1), 5(1), 10, or 28(2) are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2015-2016, Appendix A, L 166, as submitted, page 54, Folketingstidende 2018-2019, Appendix A, L 108, as submitted, page 15, Folketingstidende 2020-2021, Appendix A, L 61, as submitted, page 44, and Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 42.

The expectations on the level of fines for infringements of § 13, § 14(1), § 15, § 15a, § 15b(1) and (2), § 16, § 17, § 18(1), § 19(1), § 19a(1), § 20(1) and (2), § 21a(1) and (2), § 22d(1), § 24(1), § 30(1) and § 30a(1) are, in principle, DKK 50 000 for first-time offences and DKK 65 000 for second-time offences, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, pages 41-43.

The expectation of the level of fines for infringements of § 22(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 41.

It is stated in § 1 No 27 of Act No 1669 of 30 December 2024 that § 45(1) is reworded, by which, unless a higher penalty is incurred under other

legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19a(1), 20(1) and (2), 21a(1) and (2); 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1).

The proposed amendment would result in an infringement of § 18a(1) being punishable by a fine. The expectation of the level of fines for infringements of § 18a(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases. Pursuant to the commencement provision in Section 12(4) of Act No 1669 of 30 December 2024, the amendment will enter into force on 1 April 2026.

It is proposed that § 45(1) *No 1* be reworded, according to which, unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19a(1), 20(1) and (2), 21a(1) and (2); 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1).

The proposed amendment will not lead to changes to which provisions of the Act on tobacco products etc. may be penalised by a fine. The proposed amendment is prompted by a need to specify adjusted expectations for the level of fines for violations of Section 24(1).

No changes are intended with regard to Sections 4(1), 5(1), 10, or 28(2).

With regard to Sections 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a(1), 22d(1), 30(1) and 30a(1), no changes are envisaged in relation to the expectations of the applicable level of fines previously expected. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

It should be noted that Section 19a(1) is proposed to be amended by Section 3(4) of the draft Act, whereby manufacturers and importers of tobacco substitutes must in future ensure that tobacco substitutes they market are provided with one or more health warnings. The amendments enter into force on 1 May 2026, cf. Section 8, No 1, of the draft Act. The proposed amendment, cf. Section 3(4) of the draft Act, is not intended to have any impact on the expected level of fines.

It is also noted that the Danish Safety Technology Authority, as a public authority, has a general duty of guidance.

With regard to Section 24(1), it is proposed to change the expected level of fines so that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

See also point 2.4 in the general comments on the draft Act.

Re No 10

§ 45 of the Act on tobacco products etc. states how a number of provisions of the Act are penalised.

Section 45(1) No 1 stipulates that unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1).

The expectations regarding the level of fines for infringements of §§ 4(1), 5(1), 10, or 28(2) are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2015-2016, Appendix A, L 166, as submitted, page 54, Folketingstidende 2018-2019, Appendix A, L 108, as submitted, page 15, Folketingstidende 2020-2021, Appendix A, L 61, as submitted, page 44, and Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 42.

The expectations on the level of fines for infringements of § 13, § 14(1), § 15, § 15a, § 15b(1) and (2), § 16, § 17, § 18(1), § 19(1), § 19a(1), § 20(1) and (2), § 21a(1) and (2), § 22d(1), § 24(1), § 30(1) and § 30a(1) are, in principle, DKK 50 000 for first-time offences and DKK 65 000 for second-time offences, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, pages 41-43.

The expectation of the level of fines for infringements of § 22a(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 41.

It is stated in § 1 No 27 of Act No 1669 of 30 December 2024 that § 45(1) is reworded, by which, unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1),

10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19a(1), 20(1) and (2), 21a(1) and (2); 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1).

The proposed amendment would result in an infringement of § 18a(1) being punishable by a fine. The expectation of the level of fines for infringements of § 18a(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases. Pursuant to the commencement provision in Section 12(4) of Act No 1669 of 30 December 2024, the amendment will enter into force on 1 April 2026.

§ 2, no. 21, of Act No. 2071 of 21 December 2020 states that, in § 45(1), no 1, of the Act on tobacco products, etc., ‘§ 14(1)’ is amended to read: ‘Section 14(1) and (3),’. The Minister for the Interior and Health shall determine the date of entry into force of § 2 no. 21 of the Act. The provision will be put into effect when and if the basis of EU law is in place, with the proviso that producers are given a period of 6 months in which to convert their production facilities. The expectation of the level of fines for infringements of § 14(3) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases, cf. Folketingstidende 2020-2021, Appendix A, L 61, as presented on page 44.

With § 1 No 28 of Act No 1669 of 30 December 2024, for which the Minister for the Interior and Health determines the date of entry into force, see § 12(5) of the Act, it is proposed that § 45(1)(1) is reworded, by which, unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), 10, 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19a(1), 20(1) and (2), 21a(1) and (2); 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1). The proposed amendment suggests that the expected level of fines for violations of Section 14(3) be changed so that fines will generally start at DKK 50 000 for first-time offences and DKK 65 000 for repeat offences, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 45.

It is proposed that § 45(1) No 1 be reworded, according to which, unless a higher penalty is incurred under other legislation, a fine shall be imposed on anyone who infringes §§ 4(1), 5(1), §§ 10 and 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1).

The proposed amendment would mean that the adopted § 2 No 21 of Act 2071 of 21 December 2020 will be adopted again for technical reasons and

that the comments may indicate expectations of a higher level of fines for infringements.

Section 3, No 9, of the draft Act proposes to recast Section 45(1)(1) with entry into force on 1 May 2026 and, in this context, the expected size of fines for infringements of Section 24(1) is adjusted.

This indication of the expected fines under Section 24(1) is carried forward with this proposed amendment.

With regard to Section 14(3), it is proposed to change the expected level of fines so that, in future, fines will generally start at DKK 50 000. In the case of a second offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Re No 11

Section 26(1) of the Act on tobacco products, etc. states that new categories of tobacco products may only be placed on the market in

Denmark if they have been notified to the Danish Safety Technology Authority. The notification lapses if the notifier fails to maintain the notification and does not pay a fee, cf. § 44(1).

It is stated in § 3a(1) of the Act on tobacco products, etc. that manufacturers and importers of tobacco substitutes that are placed on the market in Denmark shall for each tobacco substitute report information on the product, including its ingredients, sorted by trade name.

Section 45(1) No 2 of the Act on tobacco products, etc. states that, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who fails to comply with the notification obligation as required in § 26, paragraph 1.

The expectation of the level of fines for infringements of § 26(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 46.

Under § 45(1) no. 5, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who fails to comply with an order or an obligation to provide information based on §§ 3(1), 3a(1), 5(2), 7(3), 28(1), 32(3)-(5), 38, or 38c.

The expectation of the level of fines for infringements of § 3a(1) is DKK 10 000 in first cases, DKK 20 000 in second cases and DKK 40 000 in third cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 47.

It is proposed to amend *Section 45(1)No 2* so that after ‘legal basis’, the following shall be inserted: ‘§ 3a(1), and’.

The proposed amendment should be seen in conjunction with § 3(2) of the draft Act, in which it is proposed to introduce a notification obligation rather than a reporting obligation for tobacco substitutes which are marketed in Denmark. This is thus a consequence of § 3, No 2, of the draft Act. At the same time, the comments provide an opportunity to specify further guidelines on the expected level of punishment under Section 3a(1) and Section 26(1).

The expectations regarding the size of fines for violations of Section 3a(1) and Section 26(1), cf. legislation currently in force, are carried forward

with the proposed amendment. This means that for violations of Section 3a(1) and Section 26(1), the expected fine is initially DKK 10 000 for first-time offenders, DKK 20 000 for a second offence and DKK 40 000 for a third offence. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Reference is also made to point 2.4 of the general explanatory notes of the draft Act.

Re No 12

§ 45 of the Act on tobacco products etc. states how a number of provisions of the Act are penalised.

Under § 45(1) no. 5, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who fails to comply with an order or an obligation to provide information based on §§ 3(1), 3a(1), 5(2), 7(3), 28(1), 32(3)-(5), 38, or 38c.

The expectations regarding the level of fines for infringements of § 32(5) are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2015-2016, Appendix A, L 166, as submitted, page 55, as subsequently amended, see Folketingstidende 2018-2019, Appendix A, L 108, as submitted.

The expectation of the level of fines for infringements of §§ 3(1), 3a(1), or 28(1) is DKK 10 000 in first time cases, DKK 20 000 in second time cases and DKK 40 000 in third time cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 47.

The expectation of the level of fines for infringements of § 38 and § 38c is DKK 50 000 in first-time cases and DKK 65 000 in second time-cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 48.

It is proposed that in *Section 45(1) No 5*, ‘Section 3a(1),’ be deleted.

The proposed amendment should be viewed in conjunction with Section 3, Nos 2 and 11, which propose introducing a notification requirement rather than a reporting requirement for tobacco substitutes marketed in Denmark, and that violations of Section 3a(1) will in future be punishable by a fine under Section 45(1)(2) of the Act. This is thus a consequence of Section 3(2) and (11) of the draft Act, and the proposed amendment is not intended to change the possibility of punishment for violation of Section 3a(1). At the same time, the comments provide an opportunity to specify further guidelines on the expected level of punishment under Section 3(1), Section 28(1), Section 32(5), Section 38, and Section 38c.

The expectations regarding the size of fines for violations of Section 3(1) and Section 28(1), cf. legislation currently in force, are carried forward with the proposed amendment. This means that for violations of Section 3(1) and Section 28(1), the expected fine is initially DKK 10 000 for first-time offenders, DKK 20 000 for a second offence and DKK 40 000 for a third offence. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

The expectations regarding the size of fines for violations of Section 38 and Section 38c, cf. legislation currently in force, are carried forward with the proposed amendment. This means that for violations of Sections 38

and 38c, the expected fine is initially DKK 50 000 for first-time offences and DKK 65 000 for repeat offences. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

For Section 32(5), it is proposed that the expected level of fines be such that first-time offences are punishable by a fine of DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. It should be the intention in determining fines for violations that the fine be of a size sufficient to have a preventive effect and send a clear signal that the regulations should be managed effectively. It is also the intention that the level of the fine should be in reasonable proportion to the infringement in question.

Expected fine levels for violation of Section 32(5), which stipulates that the Danish Business Authority may require anyone to provide all information necessary for the Authority to carry out its control duties, cf. Section 32(1) of the Act, is proposed to be specified in order to align the penalty with that which is applicable to violations of the corresponding

provision, cf. Section 2 b(3) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 81. Reference is also made to § 4(6) of the draft Act, where the level of fines for the corresponding provision of the Act on electronic cigarettes, etc. is proposed to be indicated.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Reference is also made to point 2.4 of the general explanatory notes of the draft Act.

Re No 13

§ 45 of the Act on tobacco products etc. states how a number of provisions of the Act are penalised.

It is proposed that in *Section 45(1) No 12*), the following shall be inserted after ‘access pursuant to’: ‘§ 32(6) and’.

Under the proposed amendment, it will in future be punishable by a fine if, as a retailer of tobacco products, tobacco substitutes, or herbal products for smoking marketed by distance selling, does not grant representatives of the Danish Safety Technology Authority access to the point of sale for

inspection purposes pursuant to Section 32(6), as proposed in Section 3(6) of the draft Act. Violation of the provision is proposed to be punishable by law, among other things, in order to ensure effective control.

In the event of a violation of Section 32(6), the expected fine level is that the fine will initially start at DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. It should be the intention in determining fines for violations that the fine be of a size sufficient to have a preventive effect and send a clear signal that the regulations should be managed effectively. It is also the intention that the level of the fine should be in reasonable proportion to the infringement in question.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the size of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Re No 14

§ 45 of the Act on tobacco products etc. states how a number of provisions of the Act are penalised.

It appears in § 45(2) that in rules laid down pursuant to §§ 8(1) and (2), 9(1) and (2), 19(2), 19a(2), 21, 21a(2), 22c, 24 (2), 30(2) or 30a(2), fines may be imposed for infringement of the rules in the provisions.

Expectations regarding the level of fines for violations of Section 8(1) and (2), Section 9(1) and (2), Section 10a(2), Section 19(2), Section 19a(2), Section 21, Section 21a(3), Section 22c, Section 22d(2), Section 24(2), Section 30(2) or Section 30a(2) are, as a starting point, DKK 50 000 for first-time offences and DKK 65 000 for second-time offences, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, pages 49–52.

It is proposed that *paragraph 45 (2)* be redrafted, according to which in rules laid down pursuant to §§ 8(1) and (2), 9(1) and (2), 10a(2), 19(2), 19a(2), 21a(3), 22c, 22d(2), 24(2), 30(2) or 30a(2), penalties may be imposed for infringement of the provisions of the rules.

The proposed amendment will not lead to changes to which provisions of the Act on tobacco products etc. may be penalised by a fine. The proposed amendment is prompted by a need to specify adjusted expectations for the level of fines for violations of Section 24(2).

With regard to Section 8, Section 9(1) and (2), Section 10a(2), Section 19(2), Section 19a(2), Section 21, Section 21a(3), Section 22c, Section 22d(2), Section 30(2) or Section 30a(2), no changes are envisaged in relation to the expectations of the applicable level of fines previously expected. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

With regard to Section 24(2), it is proposed to change the expected level of fines so that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

See also point 2.4 in the general comments on the draft Act.

*Re § 4*

Re No. 1

It is proposed that throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.

This is a consequential amendment resulting from the merger of the Danish Safety Technology Authority with the Danish Business Authority as of 1 January 2026.

Re No 2

§ 15(1) of the Act on electronic cigarettes etc. provides that it is not permitted to market electronic cigarettes and refill containers with or without nicotine to persons under the age of 18. The prohibition shall also cover proxy sales.

(2) of that provision provides that anyone who commercially sells electronic cigarettes or refill containers with or without nicotine at physical points of sale must require the presentation of a valid photo ID if the seller is in doubt that the customer is at least 18 years of age.

It is proposed that § 15(2) be rewritten to the effect that anyone who commercially sells electronic cigarettes or refill containers with or without nicotine at physical points of sale, for the purpose of enforcing the age limit laid down in paragraph 1 may require the presentation of a valid photo identification or make use of an age verification system.

The proposed amendment will mean that anyone who commercially sells electronic cigarettes or refill containers with or without nicotine at physical points of sale, in order to ensure that electronic cigarettes or refill containers with or without nicotine are not sold to persons under the age of 18, may require the presentation of valid photo identification or make use of an age verification system.

The provision is similar to the existing § 2a(1), (2) and (4) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18 with the amendments proposed in § 2, Nos 4–6 of this draft Act.

Anyone who commercially sells electronic cigarettes or refill containers with or without nicotine. i.e. the for commercial purposes, i.e. the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and employed staff, shall ensure that electronic cigarettes and refill containers

with or without nicotine are not sold to persons under the age of 18, cf. Section 15(1) of the Act.

Employed staff means clerks, auxiliaries, etc. It is irrelevant whether the employment is paid or unpaid.

The proposed amendment thus aims to support the aforementioned group of persons in their responsibility to ensure that the customer is at least 18 years of age, whereby those who commercially sell electronic cigarettes or refill containers with or without nicotine at physical points of sale will in future always be able to require the presentation of valid photo ID – not only in cases of doubt – or make use of an age verification system that unambiguously confirms electronically that the customer is within the age limit. The proposed amendment supports the shop owner, the restaurateur, the hotel host, the canteen owner, etc. and shop staff in carrying out the necessary checks to ensure that electronic cigarettes or refill containers with or without nicotine are not sold to persons under the age of 18.

In cases where the customer is unable to present a photo identification upon the request of the seller, presents inadequate identification or cannot verify their age electronically, etc., the seller must refrain from carrying out the sale.

Valid photo identification may, for example, be a passport, a physical or digital driving licence, proof of identity or proof of age via the national digital identity wallet, or an identity card with a photo issued by the municipality to persons over the age of 15, see Order No 1220 of 21 November 2017 on the issuing of identity cards.

There is no requirement for those who commercially sell electronic cigarettes or refill containers with or without nicotine at physical points of sale to have an electronic age verification system. It will thus be up to the individual retailer to decide how to specifically ensure compliance with the legislation in force. Age verification in connection with the physical sale of electronic cigarettes or refill containers with or without nicotine may thus continue to be carried out by asking for valid photo ID, cf. the proposed provision. The use of an age verification system therefore also does not exclude the possibility of requiring the presentation of valid photo identification. This means that different methods of age verification can be used in different sales situations.

There will not be any central electronic age verification system developed that physical points of sale can use to electronically verify a customer's age when electronic cigarettes or refill containers with or without nicotine. It will therefore be up to the individual retailer to acquire an age verification system. If the individual retailer wishes to use an age verification system, it will thus be the responsibility of the individual retailer to ensure that the age verification system in question complies with the applicable legislation. Thus, during the controls carried out by the authorities, retailers will have to be able to explain and document how the chosen age verification method effectively verifies the purchaser's age.

From spring 2026, the Danish Agency for Digitisation will provide a national digital identity wallet, see L 48 Proposal for a national digital identity wallet, which will be a solution that users will be able to use, among other things, to verify their age to an age verification system. To ensure methodological freedom, age verification solutions other than the national digital identity wallet may also be used to verify age in an age verification system. These verification solutions must meet a number of requirements which, see Section 4(3) of the draft Act, are laid down by the Minister for the Interior and Health.

It is the responsibility of commercial sellers to ensure that electronic cigarettes or refill containers with or without nicotine are not sold to persons under the age of 18 in contravention of Section 15(1) of the Act. Reference is made to the Act's penal provision Section 33. If there is suspicion that the effective age verification system is being circumvented, for example through identity theft or document forgery, a police report can be filed.

Re No 3

Section 15(3) of the Act on Electronic Cigarettes etc. stipulates that retailers of electronic cigarettes or refill containers with and without nicotine on a distance selling basis must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age., cf. paragraph 4. It follows from paragraph 4 of the provision that the Minister for the Interior and Health shall lay down rules on the age verification system, including requirements for the system and on the retailer's obligation to provide the Danish Safety Technology Authority with information on the content and use of the system.

It is proposed that in *Section 15(4)*, the words ‘lays down rules on the age verification system’ shall be changed to: ‘may lay down rules on age verification systems, see (2) and (3)’, and ‘and on the retailers’ obligation to provide the Danish Safety Technology Authority with information on the content and use of the system’ is amended to: ‘, age verification solutions, and the retailer’s obligation to provide the Danish Business Authority with information on content and use’.

The proposed provision will allow the Minister for the Interior and Health to also lay down detailed rules on the requirements for the age verification systems which persons who commercially sell electronic cigarettes or refill containers with and without nicotine at physical points of sale can choose to make use of, cf. Section 4, No 2, of the draft Act, as well as on age verification solutions and what information on content and use the seller will be obliged to disclose to the Danish Business Authority during controls.

The proposed amendment thus does not intend to amend the current authorisation of the Minister for the Interior and Health to lay down rules on age verification systems which, cf. Section 15(3) of the Act, are requirements on distance sales of electronic cigarettes or refill containers with and without nicotine. The Minister of the Interior and Health will thus in future have the authority to lay down detailed rules for both age verification systems and verification solutions for use in physical shops and for age verification systems for use in distance selling.

The purpose of the proposed amendment is thus for the Minister for the Interior and Health to also be authorised to lay down detailed rules on the requirements for the age verification systems which persons who commercially sell electronic cigarettes or refill containers with and without nicotine at physical points of sale can choose to make use of, and on age verification solutions made available to citizens, as well as on what information on content and use the seller will be obliged to disclose to the Danish Business Authority during controls.

The aim of the regulation is to ensure high data and privacy protection in the electronic verification solutions as well as to ensure the effectiveness of the system and solutions in relation to age verification, thus reducing the potential for circumvention.

The authorisation to also set requirements on age verification systems used at physical points of sale allows for the establishment of requirements to ensure the protection of citizens' data, e.g. that solutions must not store any information about citizens other than what is necessary to support age verification. Similarly, requirements may be laid down for the transfer and sharing of data, to ensure, among other things, that the only information transferred is about whether the citizen is old enough and that providers do not gain knowledge of where and when citizens use the solution and, as a consequence, that this information may not be collected and shared with third parties.

Age verification systems used at physical points of sale shall confirm that the consumer meets the specified age limit for the product concerned. In connection with age verification, data about, inter alia, the citizen's exact age, date of birth or other personal information about the citizen that is not necessary to confirm that the citizen meets a given age limit must not be transferred.

The authorisation to lay down requirements for age verification systems and verification solutions used at physical points of sale also allows for the establishment of requirements to ensure effectiveness and reduce the potential for circumvention. Furthermore, the Minister for the Interior and Health lay down requirements for the solutions to include abuse limitations, which may, for example, take the form of biometric or PIN code requirements.

Finally, the authorisation allows for the establishment of requirements to ensure that an age verification system complies with prevailing security and quality practices, e.g. in the areas of cybersecurity and web accessibility.

See also point 2.3 in the general comments on the draft Act.

Re No 4

It is stated in Section 18a(1) of the Act on Electronic Cigarettes, etc. that the visible display and presentation of electronic cigarettes and refill containers with and without nicotine in sales outlets, including on the internet, is prohibited.

It is stated in Section 18a(3)(1) that points of sale, including on the internet, may, at the request of the purchaser, provide the purchaser with a

list of neutral information on which electronic cigarettes and refill containers with and without nicotine are sold at the point of sale and the price of the goods.

Requirements for the information on the list pursuant to Section 18a(3)(1) are described in more detail in Order No 65 of 15 January 2021 prohibiting the advertising, visible placement and display, etc. of electronic cigarettes and refill containers with and without nicotine. Section 5(5)(1) of the Order states that the information on the list may not be displayed with or accompanied by illustrations, pictures, colours, logos, symbols or other text.

Please refer to point 2.6.1.3 in the general explanatory notes on the draft Act.

It is proposed that in *Section 18a* a new *Section 4* be inserted after Section 3, whereby points of sale, including online, may, in connection with the selection of products, display a sign to the buyer stating the age requirements for the sale of electronic cigarettes and refill containers with and without nicotine, cf. Section 15(1). The sign referred to in the first paragraph shall be created by the Danish Health Authority.

The proposed provision would mean that it is not a requirement but an option for sales on the internet, including via app functions, and for sales from physical shops, of electronic cigarettes and refill containers with and without nicotine, to inform about the age limit for the sale of these products in connection with the choice of product by means of signs drawn up by the Danish Health Authority.

The intention is to clarify the rules that already apply to signage displaying age restrictions for the sale of electronic cigarettes and refill containers with and without nicotine in physical shops. It should be noted that, before making a product selection, the customer must view a graphic prepared by the Danish Health Authority regarding the age limit for the sale of electronic cigarettes, etc. online and via digital solutions, as stipulated in Section 5 of Order No 65 of 15 January 2021 on the prohibition of advertising, visible placement and display, etc. of electronic cigarettes and refill containers with and without nicotine, will also be removed. In this context, see also point 2.6.1.3 in the general comments of the draft Act.

The proposed provision is relevant in cases where an economic operator finds that signage indicating the age limits for the sale of electronic cigarettes, etc. positively supports the enforcement of the rules on the sale of electronic cigarettes and refill containers with and without nicotine, cf. Section 15(1) of the Act on Electronic Cigarettes, etc.

If an economic operator chooses to make use of the option to display a sign indicating the age limit for the sale of electronic cigarettes and refill containers with and without nicotine, this is possible in connection with the selection of products, which must be seen in light of the established ban on the visible placement and display of electronic cigarettes and refill containers with and without nicotine at points of sale, including on the internet, cf. Section 18a of the Act on Electronic Cigarettes, etc. In physical shops, this means that signs – if used – must, as a rule, be concealed and may, for example, be placed together with the products and thus become visible when a cover is removed in connection with a buyer requesting a product. When selling on the internet, this means that the signs – if used – may only become visible in connection with and immediately before the product choice is made, e.g. when a buyer has requested the purchase of the products, and may therefore not be placed on the landing page of the website. The signs shall be prepared by the Danish Health Authority and will be available on the Danish Health Authority website.

It is proposed to insert in § 18a as *paragraph 5* that when selling on the internet, a neutral image of one electronic cigarette or refill container with or without nicotine may be displayed at the request of the purchaser.

The proposed amendment maintains the ban on visible placement and display when selling electronic cigarettes or refill containers with or without nicotine on the internet, to the greatest extent possible.

The amendment means that economic operators and traders selling online and via digital solutions can comply with the Product Safety Regulation's requirement that, when offering products via distance selling or on online marketplaces, information must be available to consumers that enables them to identify the product, including an image of it, its type and any other product identifier.

With the amendment, a single picture of the product may be displayed in connection with and on the same page as where the point of sale indicates

the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d). The picture must be displayed on the product's own page. Therefore, for example, pictures must not be displayed on an overview page indicating the electronic cigarettes and refill containers that a point of sale is marketing.

The picture can only be displayed at the request of the purchaser, for example after the purchaser, with a marker or under pressure on a pressure-sensitive screen, has actively requested the display of the product. The product must therefore not be displayed automatically, e.g. when a cursor passes over the product or when a finger moves across a touch screen. The product must also not be displayed automatically when a buyer clicks on the product for further information about the product.

At the request of the purchaser, a picture of one product may be displayed at a time, so the exception does not allow all products to be simultaneously displayed on, for example, an online sales page. The exception also does not allow for changing pictures of the product that the buyer has requested to see.

A 'picture' of the product means an image of it, its type or any other product identifier, cf. Article 19(1)(c) and Article 22(9)(c) of the Product Safety Regulation.

A 'neutral picture' means 'a photograph, illustration or other pictographic element, which easily allows the identification of a product or potential product,' see Preamble recital No 42 of the Product Safety Regulation.

The amendment does not change the existing advertising ban under Chapter 7 of the Act on Electronic Cigarettes, etc.

Re No 5

Section 19(3) of the Act on electronic cigarettes, etc. that the Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of controls for the requirements laid down in Section 15(1) and (2), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales.

In the comments on Section 19(3), cf. Folketingstidende 2024–2025, Appendix A, L 173 as submitted, it is stated that the Danish Safety Technology Authority will be able to use young mystery shoppers for a period of two years. Before the end of the period, an evaluation will be carried out with a view to discussing whether the scheme should be extended, made permanent or discontinued.

It is proposed that in *Section 19(3)*, ‘30 June 2026’ shall be replaced by: ‘30 June 2028’.

The proposed amendment will mean that the pilot scheme, whereby the Danish Business Authority can use young mystery shoppers with a hidden identity during their controls of the age limits for the sale of electronic cigarettes and refill containers with and without nicotine in physical shops, will be extended by two years until 30 June 2028.

The proposed amendment is not intended to change the purpose or framework of the scheme, cf. Folketingstidende 2024-2025, Appendix A, L 173 as submitted, pages 10-11 and 25-26.

See also point 2.3 in the general comments on the draft Act.

Re No 6

Section 15(3) of the Act on Electronic Cigarettes etc. stipulates that retailers of electronic cigarettes or refill containers with and without nicotine on a distance selling basis must operate an age verification system which, at the time of sale, verifies that the customer is at least 18 years of age., cf. paragraph 4.

Section 19(1) of the Act provides that the Danish Safety Technology Authority monitors the compliance with the rules laid down in Chapters 3–6, Section 7a, and Section 25a and rules laid down pursuant thereto

It is proposed that in *Section 19* of the Act, the following be inserted as *paragraph 5*, whereby representatives of the Danish Business Authority, as part of their control of electronic cigarettes and refill containers with and without nicotine that are marketed by means of distance selling, may demand access to the point of sale.

The proposed amendment aims to strengthen the Danish Business Authority's control of the marketing of electronic cigarettes and refill

containers with and without nicotine through distance selling, i.e. via the internet and similar channels.

With the proposed provision, in future, in cases where the representatives of the Danish Business Authority are met with demands for age verification in connection with product controls of electronic cigarettes and refill containers with and without nicotine which are placed on the market for distance sales, e.g. on the internet, including via an app function, the Danish Business Authority will require access to the point of sale.

The ‘point of sale’ is understood to mean the location(s) on a website or app where the range of electronic cigarettes and refill containers with and without nicotine are made available to customers.

The proposed provision is intended to ensure that the Danish Business Authority has the necessary access to displays of tobacco products, tobacco substitutes, or herbal products for smoking in order to be able to carry out effective product control of the products when they are marketed by means of distance selling.

See also point 2.7 in the general comments on the draft Act.

Re No 7

§ 33 of the Act on electronic cigarettes, etc. states how a number of provisions of the Act are penalised.

§ 33(1) No 1 provides that, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who infringes §§ 9(1), 9a (1) and (2), 10(1), 11(1), 15(1)-(3), 16(1), 17, 18a(1), 18b(1) or 25a(1) and (2).

The expectations regarding the level of fines for infringements of §§ 10(1), 16(1), and 17 are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2015-2016, Appendix A, L 144, as set out, page 56, Folketingstidende 2022-2023, Appendix A, L 123, as submitted, pages 19 and 20, Folketingstidende 2020-2021, Appendix A, L 61, as submitted, pages 50-51.

The expectations on the level of fines for infringements of §§ 9(1), 9a(1) and (2), 11(1), 15(1)-(3), 18a(1), 18b(1) or 25a(1) and (2) are, in principle, DKK 50 000 for first-time offences and DKK 65 000 for second-time

offences, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, pages 41-43.

In the event of a violation of Section 15(1), which also includes a ban on proxy sales of electronic cigarettes and refill containers with or without nicotine, the explanatory notes to the Act state that, in the event of a private individual violating the ban on proxy sales, the expected fine level is a fine of DKK 10 000 for a first offence. In the case of a second offence and in the case of a third offence, the fines are assumed to be DKK 20 000 and DKK 40 000, respectively, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 78.

In the event of infringement of § 18a(1), the Danish Consumer Ombudsman takes the economic operator's turnover as the starting point for the calculation of fines. At the same time, the amount of the fine is such that it acts as a deterrent and sends a strong signal that the prohibition must be complied with. Furthermore, a fine imposed must be in appropriate proportion to the situation caused or potentially caused by the infringement, see Folketingstidende 2024–2025, Appendix A, L 53, as submitted, pages 62–63.

It is proposed that § 33(1), *No 1* be reworded, according to which, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who infringes §§ 9(1), 9a(1) and (2), 10(1), 11(1), 15(1)–(3), 16(1), 17, 18a(1), 18b(1), or 25a(1) or (2).

The proposed amendment will not lead to changes to which provisions of the Act on electronic cigarettes, etc. may be penalised by a fine. The proposed amendment is prompted by a need to specify adjusted expectations for the level of fines for violations of Section 15(1), (2), and (3).

As regards §§ 9(1), 9a(1)–(2), 11(1), 18b(1), or 25a(1) and (2), no changes are envisaged in relation to expectations regarding the level of fines in force than previously expected. No changes are intended with regard to §§ 10(1), 16(1) or 17. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

In the case of § 18a(1), no changes are envisaged in relation to the expectations of the applicable level of fines previously expected.

The Consumer Ombudsman will base its calculation on the trader's turnover when calculating the fine. At the same time, the amount of the fine is such that it acts as a deterrent and sends a strong signal that the prohibition must be complied with. Furthermore, a fine imposed must be in appropriate proportion to the situation caused or potentially caused by the infringement.

When determining the amount of a fine, the extent of the infringement, the turnover of the trader and whether it is a first-time or repeated infringement will be taken into account.

For the purposes of choosing the category of turnover, the total turnover of the trader shall be taken as the basis.

In relation to the position of the trader within the four categories of turnover, turnover means the trader's net turnover, which is defined in the Annual Accounts Act as the sales value of products and services, etc., after deduction of discounts, value added tax and other taxes directly linked to

the amount of sales, cf. Annex 1, C, no. 13, of Consolidation Act No. 838 of 8 August 2019 on the Annual Accounts Act.

As regards turnover from traders who are not required to submit annual accounts under the Annual Accounts Act, the position in the four categories of turnover will depend on the trader's declaration of the output tax to the Customs and Tax Administration in accordance with the VAT Act, Consolidation Act No. 209 of 27 February 2024 on Value Added Tax (the VAT Act).

The turnover will be calculated for the year of the infringement, if this information is available. If this information is not available, turnover will be calculated on the basis of the year preceding the year of the infringement.

Pursuant to § 31 of the Public Administration Act, the Consumer Ombudsman will have access to information on the trader's turnover via other public authorities.

The setting of the penalty will still depend on the court's actual assessment in the individual instance of all circumstances in the case and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, cf. the general rules on setting the penalty in Chapter 10 of the Criminal Code.

An aggravating circumstance may be, for example, the fact that the company has previously imposed a fine for a similar infringement or that the Consumer Ombudsman has previously informed the undertaking of the prohibition and the consequences of any infringement.

For physical sales outlets, the calculation of fines will be based on the number of events. The number of events that the Consumer Ombudsman can prove that electronic cigarettes or refill containers with and without nicotine have been visible to customers by means of pictorial evidence, testimony, etc. will be relevant to the calculation of the number of factors in relation to physical sales outlets, so that one day constitutes one event/infringement. The number of products visible does not affect the amount of the fine.

In the case of first-time infringements of the display ban, cf. the Act on electronic cigarettes, etc. in physical outlets, the following model of fines will be used. If the economic operator has a turnover of DKK 1 499 999.99

or less, the violation is punishable by a fine of DKK 10 000. With a turnover between DKK 1 500 000.00 and DKK 2 999 999.99, violations are punishable by a fine of DKK 20 000. With a turnover between DKK 3 000 000.00 and DKK 4 999 999.99, violations are punishable by a fine of DKK 30 000. With a turnover of DKK 5 00 000.00 or more, violations are punishable by a fine of DKK 50 000. In the case of second and subsequent cases, the penalty rates shall be increased by 50 %.

Thus, for example, in cases where a point of sale with an annual turnover of DKK 1 million has had electronic cigarettes and refill containers with and without nicotine visibly displayed to customers at the point of sale for one day, a fine of DKK 10 000 will be imposed. Similarly, in cases where five different points of sale in a grocery chain with the same owner have each had electronic cigarettes and refill containers with and without nicotine visibly displayed to customers for one day, and has a turnover of DKK 25 000 000 million, a fine of DKK 250,000 will be imposed. Similarly, for example, in cases where a point of sale with an annual turnover of DKK 1 million has had electronic cigarettes and refill containers with and without nicotine visibly displayed to customers at the point of sale for one day, but where a fine has previously been issued for a similar violation, a fine of DKK 15 000 will be imposed.

For online sales outlets, fines will not follow the same model as for brick-and-mortar shops, as in the case of online sales there are generally many more customers exposed to visible products if the display ban is not respected. Online sales outlets are not geographically limited, as is the case for brick-and-mortar shops. In addition, in relation to online sales outlets, it will be easier to document the duration of the infringement, unlike brick-and-mortar shops, where there will typically be a snapshot.

In the case of first-time infringements of the display ban, cf. the Act on electronic cigarettes, etc. at online sales outlets, the following model penalty will be used. If electronic cigarettes or refill containers with or without nicotine have been visible during a period of offence of up to 6 months, the infringement shall be punished by a fine of DKK 50 000. If electronic cigarettes or refill containers with or without nicotine have been visible during a period of offence of more than 6 months, the infringement shall be punished by a fine of DKK 75 000 and 50 % per commenced 6 months. In the case of second and subsequent cases, the penalty rate shall be increased by 50 %.

Thus, for example, in cases where an online retailer has displayed electronic cigarettes or refill containers with or without nicotine for a period of three months, the fine will be set at DKK 50 000. Similarly, for example, in cases where an online retailer has displayed electronic cigarettes or refill containers with or without nicotine for a period of three months, the fine will be set at DKK 75 000.

The setting of the penalty will still depend on the court's actual assessment in the individual instance of all circumstances in the case and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, cf. the general rules on setting the penalty in Chapter 10 of the Criminal Code.

An aggravating circumstance could be, for example, if the trader deliberately infringes the prohibition, for example by continuing to display electronic cigarettes or refill containers with or without nicotine despite the fact that the Consumer Ombudsman has previously informed the trader behind the website about the legislation.

With regard to Section 15, paragraphs 1, 2, and 3, it is proposed to change the expected level of fines so that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

In the case of a private person's violation of the ban on proxy sales, see §§ 1 and 2, no changes are envisaged in relation to the expectations of the applicable level of fines previously expected. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

The courts will continue to determine the amount of the penalty on a case-by-case basis considering the specific circumstances of the case, and the amount of the fine indicated may be varied upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

See also point 2.4 in the general comments on the draft Act.

Re No 8

§ 33 of the Act on electronic cigarettes, etc. states how a number of provisions of the Act are penalised.

§ 33(1) no. 5 provides that, unless a higher penalty is required under other legislation, a fine shall be imposed on anyone who fails to comply with an order or an obligation to provide information on the basis of § 11(2) or (3), § 12(1), § 19(2), § 26, or § 27c.

The expectations regarding the level of fines for infringements of § 12(1), § 19(2), § 26 are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 66-67.

The expectation of the levels of fines for infringements of § 11(2) or (3), § 26, and § 27c are DKK 50 000 in first-time cases and DKK 65 000 in second time-cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 66.

It is proposed in *Section 33(1)(5)* to replace ‘that’ by ‘which’.

This is a linguistic improvement of the text of the Act, which at the same time allows more detailed guidelines in the comments on the level of penalties for infringements of Section 19(2).

For Section 19(2), it is proposed that the expected level of fines be such that first-time offences are punishable by a fine of DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. It should be the intention in determining fines for violations that the fine be of a size sufficient to have a preventive effect and send a clear signal that the regulations should be managed effectively. It is also the intention that the level of the fine should be in reasonable proportion to the infringement in question.

Expected fine levels for violation of Section 19(2), which stipulates that the Danish Safety Technology Authority may require anyone to provide all information necessary for the Authority to carry out its control duties, cf. Section 19(1) of the Act, is proposed to be specified in order to align the penalty with that which is applicable to violations of the corresponding provision, cf. Section 2 b(3) of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 81. Reference is also made to § 3(12) of the draft Act, where the level of fines for the corresponding provision of the Act on tobacco products, etc. is proposed to be indicated.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the size of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Re No 9

§ 33 of the Act on electronic cigarettes, etc. states how a number of provisions of the Act are penalised.

It is proposed that in *Section 33(1)(7)*, the following shall be inserted after ‘product under’: ‘Section 19(5) and’.

Under the proposed amendment, it will in future be punishable by a fine if, as a retailer of electronic cigarettes and refill containers with and without nicotine marketed by distance selling, does not grant representatives of the Danish Business Authority access to the point of sale for inspection purposes pursuant to Section 19(5), as proposed in Section 4(6) of the draft Act. It is proposed that violations of the provisions be subject to penalty, inter alia in order to protect consumers against serious damaging effects and serious health consequences from use of the unlawful products.

In the event of a violation of Section 19(5), the expected fine level is that the fine will initially start at DKK 10 000. On the second and third violation, it is envisaged that the fines will be set at DKK 20 000 and DKK 40 000 respectively. Reference is also made to Sections 80, 81, 82

and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The determination of the size of the penalty will continue to depend on a case-by-case assessment by the courts of all the circumstances of the case, and the amount of the fine indicated may be waived upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

Re No 10

§ 33 of the Act on electronic cigarettes, etc. states how a number of provisions of the Act are penalised.

§ 33(2) of the Act on electronic cigarettes, etc. provides that in rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed.

The expectations regarding the level of fines for infringements of §§ 10(2), 12(3), 13(2) and 18 are not described in detail in the explanatory notes to the Act, cf. Folketingstidende 2015-2016, Appendix A, L 144, as submitted, page 57, and Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 67.

The expectation of the levels of fines for infringements of § 7(2), § 8, § 9(2), § 9a(3) and § 15(4) are initially DKK 50 000 in first-time cases and DKK 65 000 in second time-cases, cf. Folketingstidende 2024-2025, Appendix A, L 53, as submitted, page 68.

The level of fines for infringements of § 18a are based on the principles set out in the Marketing Practices Act, as is the case for infringement of the prohibition on tobacco advertising under the Act on the prohibition of tobacco advertising etc. The fines for infringement of the Marketing Practices Act shall be determined on the basis of the seriousness, extent and economic benefit intended. Infringements that are either serious, deliberate or repeated should also be punishable by fines of such a level that they have a real deterrent effect, cf. Folketingstidende 2020-2021, Appendix A, L 61, as set out, page 55.

It is proposed that § 33(2) be rewritten to the effect that in rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed.

The proposed amendment will not lead to changes to which provisions of the Act on tobacco products etc. may be penalised by a fine. The proposed amendment is prompted by a need to specify adjusted expectations for the level of fines for violations of Section 15(4).

With regard to §§ 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), and § 18, no changes are envisaged in relation to the expectations of the applicable level of fines than previously expected. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

It should also be noted that if several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subse*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The courts will continue to determine the amount of the penalty on a case-by-case basis considering the specific circumstances of the case, and the amount of the fine indicated may be varied upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

In the case of § 18a(4), no changes are envisaged in relation to the expectations of the applicable level of fines previously expected. According to the comments to the Act (Folketingstidende 2015-2016, Appendix A, L 144, as submitted), the calculation of the fine should be based on the principles of the Marketing Practices Act, as is also the case for violation of the prohibition of tobacco advertising under the Act on prohibition of tobacco advertising etc. Fines for violation of the Marketing Act are determined on the basis of the gravity of the violation and the turnover of the economic operator on the basis of a fine model as laid down in the comments to the Act. Violations that are either gross, intentional or repeated should in addition be punished with fines of a size that have a genuine preventive effect. This is stated in the comments on the penal provision in Section 37 of the Marketing Practices Act, as amended by the Act amending the Marketing Practices Act (Folketingstidende 2021-22, Appendix A, L 13, as submitted, pp. 20–22 and 38–42).

With regard to Section 15(4), it is proposed to change the expected level of fines so that first-time offences are punishable by a fine of DKK 25 000. In the case of a second offence, the fines are expected to be set at DKK 40 000. In the case of a third offence, the fines are expected to be set at DKK 65 000. Reference is also made to Sections 80, 81, 82 and 83 of the Criminal Code with regard to what should be taken into account when determining the penalty, including aggravating and mitigating circumstances.

If several violations are subject to simultaneous adjudication, it is proposed that the same fine calculation formula be used as in case law and as currently used by the Danish Business Authority for moderate accumulation. Thus, the moderated fine is proposed to be calculated by taking the largest fine multiplied by 100 per cent, added to the second

largest fine multiplied by 50 per cent, added to the next largest fine multiplied by 50 per cent, added to all subsequent fines multiplied by 25 per cent. The general approach is one of moderated accumulation, whereby all types of infringements are calculated collectively.

*Moderated fine = (maximum fine × 100 %) + (second largest fine × 50 %) + (second largest fine × 50 %) + (all subsequent fines × 25 %)*

It is also noted that the Danish Business Authority, as a public authority, has a general duty of guidance.

The courts will continue to determine the amount of the penalty on a case-by-case basis considering the specific circumstances of the case, and the amount of the fine indicated may be varied upwards or downwards if there are aggravating or mitigating circumstances under the general rules laid down in Chapter 10 of the Criminal Code.

See also point 2.4 in the general comments on the draft Act.

#### *Re § 5*

Re No. 1

Under § 5a(1) of the Act on the prohibition of tobacco advertising, etc., the visible placing and display of tobacco products, tobacco substitutes, or and herbal products for smoking, including on the internet, is prohibited.

Under § 5a(3)(1) 3, points of sale, including on the internet, may, at the request of the purchaser, provide the purchaser with a list of neutral information on which tobacco products, tobacco substitutes or herbal products for smoking are sold at the point of sale and the price of the products.

Requirements for the information on the list pursuant to Section 5 a(3)(1) are described in more detail in Order No 570 of 11 February 2021 prohibiting the advertising, visible placement and display, etc. of tobacco products, tobacco substitutes, and herbal products for smoking. Section 4(6)(1) of the Order states that the information on the list may not be displayed with or accompanied by illustrations, pictures, colours, logos, symbols or other text.

See the general comments on the draft Act, point 2.6.1.2.

It is proposed that in *Section 5 a* a new *Section 4* be inserted after Section 3, whereby points of sale, including online, may, in connection with the

selection of products, display a sign to the buyer stating the age requirements for the sale of tobacco products, tobacco substitutes, and herbal products for smoking, see § 1 of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18. The signs referred to in the first paragraph shall be created by the Danish Health Authority.

The proposed provision would mean that it is not a requirement but an option for points of sale, both on the internet, including via app functions, and in physical shops, to display a sign with the age limit requirements for the sale of tobacco products, tobacco substitutes, and herbal products for smoking at the request of purchase from a purchaser. The sign shall be created by the Danish Health Authority.

The intention is to clarify the rules that already apply to signage displaying age restrictions for the sale of tobacco products, tobacco substitutes, and herbal products for smoking in physical shops. It should be noted that, before making a product selection, the customer must view a graphic prepared by the Danish Health Authority regarding the age limit for the sale of tobacco products, etc. online and via digital solutions, as stipulated in Section 4 of Order No 570 of 11 February 2021 on the prohibition of visible placement and display, etc. of tobacco products, tobacco substitutes, and herbal products for smoking, will also be removed. Reference is also made to point 2.6 of the general explanatory notes of the draft act.

The proposed provision is relevant in cases where an economic operator finds that signage indicating the age limits for the sale of tobacco products, etc. positively supports the enforcement of the rules for the sale of tobacco products, tobacco substitutes, and herbal products for smoking, see § 1 of the Act prohibiting the sale of tobacco and alcohol to persons under the age of 18.

If an economic operator chooses to make use of the option to display a sign indicating the age limit for the sale of tobacco products, tobacco substitutes, and herbal products for smoking, this is possible in connection with the selection of product. This should be seen in the light of the existing prohibition on the visible placement and display of tobacco products, tobacco substitutes and herbal products for smoking at points of sale, including on the internet, cf. § 5a of the Act banning tobacco advertising, etc. In physical shops, this means that signs – if used – must, as a rule, be concealed and may, for example, be placed together with the

products and thus become visible when a cover is removed in connection with a buyer requesting a product. When selling on the internet, this means that the signs – if used – may only become visible in connection with and immediately before the product choice is made, e.g. when a buyer has requested the purchase of the products, and may therefore not be placed on the landing page of the website. The signs shall be prepared by the Danish Health Authority and will be available on the Danish Health Authority website.

It is proposed to insert in § 5 *a* as *paragraph 5* under which, when selling on the internet, a neutral picture of a tobacco product, a tobacco substitute, or an herbal product for smoking may be displayed at the request of the purchaser.

The proposed amendment maintains the ban on visible placement and display when selling tobacco products, tobacco substitutes and herbal products for smoking on the internet, to the greatest extent possible.

The amendment means that economic operators and traders selling online and via digital solutions can comply with the Product Safety Regulation's requirement that, when offering products via distance selling or on online marketplaces, information must be available to consumers that enables them to identify the product, including an image of it, its type and any other product identifier.

With the amendment, one single picture of the product may be displayed in connection with and on the same page as where the point of sale indicates the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d). The picture must be displayed on the product's own page. Therefore, for example, pictures must not be displayed on an overview page indicating the tobacco products, tobacco substitutes or herbal products for smoking that a point of sale is marketing.

The picture can only be displayed at the request of the purchaser, for example after the purchaser, with a marker or under pressure on a pressure-sensitive screen, has actively requested the display of the product. The product must therefore not be displayed automatically, e.g. when a cursor passes over the product or when a finger moves across a touch screen. The product must also not be displayed automatically when a buyer clicks on the product for further information about the product.

At the request of the purchaser, a picture of one product may be displayed at a time, so the exception does not allow all products to be simultaneously displayed on, for example, an online sales page. The exception also does not allow for changing pictures of the product that the buyer has requested to see.

A ‘picture’ of the product means an image of it, its type or any other product identifier, cf. Article 19(1)(c) and Article 22(9)(c) of the Product Safety Regulation.

A ‘neutral picture’ means ‘a photograph, illustration or other pictographic element, which easily allows the identification of a product or potential product,’ see Preamble recital No 42 of the Product Safety Regulation.

The adjustment amendments do not change the existing advertising ban under the Act banning tobacco advertising, etc.

#### *Re § 6*

Re No. 1

Section 1, No 28, of Act No 1669 of 30 December 2024 states that, in § 45(1), No 1, of the Act on tobacco products, etc. is to read as follows:

‘1) infringes §§ 4(1), 5(1), 10, 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),’

Under the provision on entry into force in Section 12(5) of Act No 1669 of 30 December 2024, the Minister for the Interior and Health determines the date of entry into force of Section 1, No 28, of the Act.

The amendments have not yet been put into effect. They will be put into effect when and if the basis of EU law is in place, however giving producers a period of 6 months in which to convert their production facilities.

In order to redraft § 45(1), No 1, of the Act on tobacco products, etc., cf. § 3, No 9, of the draft Act, it is necessary, for technical reasons, to repeal the adopted – but not yet entered into force – § 1, no. 28.

It is proposed that § 1, No 28, shall be repealed.

The repealed provision is proposed to be reinstated in § 3, No 10, of the draft Act. The Minister for the Interior and Health will continue to determine the date of entry into force.

The provision will be put into effect when and if the basis of EU law is in place.

It is noted in this connection that the prevention plan from November 2023 states that Denmark will be actively involved in the revision of the Tobacco Products Directive, including work to promote Denmark's regulation of flavours in electronic cigarettes and tobacco surrogates.

Re No 2

Under Section 12(5) of Act No 1669 of 30 December 2024, the Minister for the Interior and Health determines the date of entry into force of Section 1, No 28.

The provision means that a ban on the placing on the market of tobacco products other than cigarettes, roll-your-own tobacco, pipe tobacco and cigars, as well as herbal products for smoking with a characterising flavour other than tobacco and menthol in Denmark, enters into force when the Minister for the Interior and Health so decides. The Minister for the Interior and Health will bring the provision into force when and if the basis of EU law is in place.

It is proposed that § 12(5) be repealed.

The proposed provision must be seen in the context of Section 6, No 1 of the draft Act. The repealed provision is proposed to be reinstated in § 8(4) of the draft Act. The Minister for the Interior and Health will continue to determine the date of entry into force.

*Re § 7*

Re No. 1

It follows from Section 88(2)(1) of the Health Act that, no later than eight weekdays after one of the region's hospitals has received a referral for a patient, the regional council must inform the patient whether the regional council can offer treatment at its hospital within the specified maximum waiting time and, if so, inform the patient of a date for the preliminary examination.

Please also refer to the general explanatory notes of the draft Act, point 2.8.

It is proposed that in *Section 88(2)(1)*, ‘8 working days’ is changed to: ‘10 calendar days’.

The proposed amendment will mean that no later than 10 calendar days after one of the region’s hospitals has received a referral for a patient, the regional council must inform the patient whether the regional council can offer treatment at its hospital within the specified maximum waiting time and, if so, inform the patient of a date for the preliminary examination.

The proposed amendment will mean that patients will be notified of possible treatment options within the same time frame of maximum waiting times, regardless of whether the deadline falls on a working day, weekend or public holiday.

With the new deadline of 10 calendar days, patients will thus be given at least the same amount of time as with the current deadline in the Health Act, as 10 calendar days will not be longer than 8 working days. Additionally, time the deadline of 10 calendar days will be in line with the maximum waiting times set by the Danish Health Authority, which are also specified in calendar days. The proposed amended deadline of 10 calendar days will thus be no later than, for example, the deadline for the maximum waiting times for an examination for suspected cancer, which is 14 calendar days.

The new deadline of 10 calendar days will also mean that patients may be better off than with the current deadline, as 10 calendar days may be shorter than 8 working days during periods with, for example, public holidays. The legal position of patients may, in such cases, be improved by the proposed amendment.

The proposal will also mean that Order No 584 of 28 April 2015 on maximum waiting times for treatment of cancer and certain conditions associated with ischaemic heart disease, would have to be amended accordingly.

The proposed amendment will not entail any changes to the deadline for the duty to provide information, in Section 90 of the Health Act, which is eight working days.

Reference is also made to point 2.8 of the general explanatory notes of the draft act.

*Re § 8*

Is proposed that the Act enter into force on 1 May 2026, except as provided for in paragraphs 2–5.

This means that the provision with clarified requirements for sunbed centres and the option for the Danish Business Authority to carry out announced supervision of sunbed centres, cf. Section 1, Nos 1–5, 8–18, 20 and 21, of the draft Act, will enter into force on 1 May 2026.

This also means that, from 1 May 2026, physical retailer shops may, pursuant to Section 2(4)-(6) and Section 4(2) of the draft Act, choose to use an electronic age verification system when selling tobacco and nicotine products and alcoholic beverages in physical shops.

Furthermore, this means that the level of fines for violations relating to the sale of tobacco and nicotine products and alcoholic beverages to minors will be reduced as of 1 May 2026, cf. Section 2(14), Section 3(9) and (14), and Section 4(7) and (10) of the draft Act.

It also means that as of 1 May 2026, the regional council must notify patients with life-threatening illnesses whether the region can offer treatment at its hospitals within the specified maximum waiting time, no later than 10 calendar days after the hospital has received a referral for a patient, see § 7(1) of the draft Act.

It is proposed in *paragraph 2* that Section 2(11) and Section 4(5) enter into force on 1 July 2026.

This means that the extension of the pilot scheme with young mystery shoppers, cf. Section 2, No 12, and Section 4, No 5, of the draft Act, will enter into force on 1 July 2026.

It is proposed in (3), that Sections 1(6) and (19) and Section 3(2), (3), (7), (8), (11) and (12) shall enter into force on 1 January 2027.

This means that the requirement for age verification in sunbed centres and the possibility of penalties for non-compliance with the proposed age limit and the requirement to operate an age verification system, cf. Section 1(6)

and (19) of the draft Act, will enter into force on 1 January 2027. The intention is to allow reasonable time for leaseholders and tenants of sunbed centres to implement an age verification system to ensure that only persons aged 18 or over have access to the sunbed.

This also means that the requirement that tobacco substitutes must be notified to the Danish Business Authority no later than 6 months before intended placement on the market, cf. § 3(2) of the draft Act, will enter into force on 1 January 2027.

It is proposed in *paragraph 4* that the Minister for the Interior and Health determines the date of entry into force of § 3(10).

This means that a ban on the placing on the market of tobacco products other than cigarettes, roll-your-own tobacco, pipe tobacco and cigars, as well as herbal products for smoking with a characterising flavour other than tobacco and menthol in Denmark, enters into force when the Minister for the Interior and Health so decides. The Minister for the Interior and Health will bring the provision into force when and if the basis of EU law is in place. It is noted in this connection that the prevention plan from November 2023 states that Denmark will be actively involved in the revision of the Tobacco Products Directive, including work to promote Denmark's regulation of flavours in electronic cigarettes and tobacco surrogates.

It is proposed in *paragraph 5* that the ban on UV type 1 and UV type 2 sunbeds, pursuant to Section 1, Nos 8-9 of the draft Act does not apply to sunbeds that are made available to the public in staffed sunbed centres and which were acquired before the Act came into force. The owner or operator who makes the sunbed available is obliged to inform the user of the sunbed that it is not advisable to use a UV type 1 or UV type 2 sunbed without first consulting a doctor.

#### *Re § 9*

It is proposed that the Act should not apply to the Faroe Islands and Greenland, but that it shall be possible to implement § 1 of the Act in whole or in part by Royal Decree for the Faroe Islands/Greenland/the Faroe Islands and Greenland, subject to the changes required by Faroese/Greenlandic respectively Faroese and Greenlandic circumstances.



**The draft Act compared to legislation currently in force**

| <i>Current wording</i> | <i>The draft Act</i>                                                                                                                                                                                               |
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|                        |                                                                                                                                                                                                                    |
|                        | <b>Section 1</b>                                                                                                                                                                                                   |
|                        |                                                                                                                                                                                                                    |
|                        | The following amendments are made to the Sunbed Act (see Act No 718 of 25 June 2024):                                                                                                                              |
|                        |                                                                                                                                                                                                                    |
|                        | <b>1.</b> Throughout the Act, ‘tanning centre’ [solcenter] is replaced with: ‘sunbed centre’, ‘the tanning center’ is replaced with: ‘the sunbed centre’ and ‘Tanning centres’ is replaced with: ‘Sunbed centres’. |
|                        |                                                                                                                                                                                                                    |
|                        | <b>2.</b> Throughout the Act, "Minister for Health and Prevention" is replaced by: ‘The Minister for the Interior and Health’ .                                                                                    |
|                        |                                                                                                                                                                                                                    |
|                        | <b>3.</b> Throughout the Act “Danish Minister for Business and Growth” is changed to: ‘the Minister for Industry, Business and Financial Affairs’ .                                                                |
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|                                                                         | <p><b>4.</b> Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘The Danish Business Authority’.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Section 2.</b> For the purposes of this Act:<br/>Nos 1-8) ---</p> | <p>In Section 2, the following is inserted after number 9 as a new number:<br/>‘9) Age verification system: A verification system that unambiguously confirms that sunbed user’s age meets the age limit.’.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                         | <p><b>6.</b> The following is inserted after § 2:<br/>‘<b>Section 2a.</b> A sunbed shall not be made available to persons under the age of 18.<br/>(2) A holder or tenant who makes a sunbed available shall operate an age verification system which ensures that only persons who are at least 18 years of age have access to the sunbed.<br/>(3) The Minister for the Interior and Health lays down more detailed regulations on the age verification systems referred to in paragraph 2, including more detailed requirements for the systems, and on the obligation of the proprietors to provide the Danish Business Authority with information on the content and use</p> |

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|                                                                                                                                                                                                                                                                                                                                     | of the systems.’                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                     |                                                                                                                            |
| <b>Section 3.</b> A lease-holder or tenant who provides a sunbed may only use sunbeds of UV type 1, UV type 2 or UV type 3, without prejudice to paragraph 2.                                                                                                                                                                       | <b>7.</b> In § 3(1), ‘UV type 1, UV type 2, or’ and ‘without prejudice to paragraph 2’ are deleted.                        |
| (2) Sunbeds of UV type 1 and UV type 2 may only be used in staffed sunbed centres.                                                                                                                                                                                                                                                  | <b>8.</b> Section 3(2) shall be repealed. Paragraph 4 subsequently becomes paragraph 3.                                    |
| (3) Sunbeds of UV type 4 may not be used.                                                                                                                                                                                                                                                                                           | <b>9.</b> In <i>section 3(3)</i> which becomes (2), the following is inserted after ‘Sunbeds’: ‘UV type 1, UV type 2 and’. |
| (4) The Minister for Health and Prevention, after consultation with the Minister for Industry, Business and Financial Affairs, may exempt a sunbed from the requirements for equipment specified in Section 3(1)–(3), Section 5(1)(1)–(4), and Section 5(2) when the sunbed otherwise ensures improved protection for sunbed users. | In § 3, (4), which becomes (3), ‘§ 3(1–3)’ is changed to: ‘Section 3(1) and (2)’.                                          |
|                                                                                                                                                                                                                                                                                                                                     |                                                                                                                            |
| <b>§ 4.</b> One or more employees in staffed sunbed centres must have undergone education and training.<br>(2) The Minister for Health and Prevention is authorised to lay down rules on requirements for the                                                                                                                       | <b>11.</b> § 4 is repealed.                                                                                                |

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| education and training of employees in staffed sunbed centres that use UV type 1 or UV type 2 sunbeds, and for the advice given by employees to sunbed users.                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                    |
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| <p>§ 5. - - -</p> <p>2) The sunbed must be labelled with the UV type. Sunbeds that use fluorescent tubes must be marked with an equivalence code area indicating the types of fluorescent tubes to be used in each sunbed. Sunbeds that use UV light sources other than fluorescent tubes must be labelled with a type designation of the light sources recommended for use.</p> <p>Nos 3-5) - - -</p> | <p><b>12.</b> In § 5, <i>paragraph 1</i>, the following is inserted as a new number after No 1:</p> <p>‘(2) The radiation in the wavelength ranges 250-320 nm and 320-400 nm shall each be less than 0.15 W/m<sup>2</sup>’.</p> <p>Nos 2-5 shall henceforth be paragraphs 3-6.</p> |
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| <p>(2) A lease-holder or tenant who makes a sunbed available must ensure that users of the sunbed have access to protective eyewear that provide adequate protection for the eyes from the front and sides, while still allowing sufficient light to pass through so that users can see through them.</p> <p>(3) - - -</p>                                                                             | <p>In <b>13. Section 5(2)</b>, the following shall be inserted after ‘must ensure that users of the sunbed has access to’: ‘or can easily access’;</p>                                                                                                                             |
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| <p>(4) A lease-holder or tenant providing a sunbed must ensure that readily comprehensible operating instructions are hung on or near the sunbed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><b>14.</b> In <i>Section 5(4)</i>, the following shall be inserted after ‘must ensure that readily comprehensible’: ‘in writing’.</p>                                                                                                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                             |
| <p><b>Section 6.</b> A sunbed centre shall be registered with the Danish Safety Technology Authority. The registration obligation rests with the lease-holder or tenant who makes a sunbed available. Registration is done by submitting information including the name, address and, if applicable, the CVR number (business license number) of the sunbed centre and the lease-holder or tenant who makes sunbeds available at the sunbed centre. In the event of changes to the registered information, the lease-holder or tenant providing a sunbed is obliged to update the registered information within a reasonable period of time.</p> <p>(2) and (3). - - -</p> | <p><b>15.</b> In § 6(1), ‘reasonable period of time’ is changed to: ‘30 days’.</p>                                                                                                                                                                          |
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| <p>§ 7. - - -</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p><b>16.</b> In § 7, the following shall be inserted as a new paragraph after (2):</p> <p>‘(3) As part of the control obligations under paragraph 1, the representatives of the Danish Business Authority may require the owner or a representative of</p> |

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|                                                                                                                                                                                                        | <p>the sunbed centre to meet with them in order to give the representatives of the Danish Business Authority access to the sunbed centre.’</p> <p>Paragraphs 3-5 shall henceforth be paragraphs 4-6.</p>                                                                                                               |
|                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                                                                                        | <p><b>17.</b> The following is inserted after Section 7b:</p> <p><b>‘§ 7 a.</b> The Danish Business Authority may order an owner or tenant who provides a sunbed that does not meet the requirements of § 5, paragraph 1, Nos 3-6 and § 5, paragraphs 2-5, to rectify the situation within a specified timeframe.’</p> |
|                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |
| <p><b>Section 9.</b> Unless a more severe penalty is imposed under other legislation, violations of Section 3(1)–(3), Section 5(1)(1), Section 6(1), and Section 10(4)(2), are punishable by fine.</p> | <p><b>18.</b> In <i>Section 9(1)</i>, the following shall be inserted after ‘violations of’: ‘Section 2a(1),’ and ‘Section 3(1)-(3)’ shall be changed to: ‘Section 3(1)-(2),’ and ‘Section 5(1)’ shall be amended to ‘Section 5(1)-(5).’</p>                                                                           |
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|                                                                                                                                                                                                        | <p><b>19.</b> In § 9(1), the following is inserted after ‘§ 6(1),’: ‘Section 7(3)’ and ‘Section 3(1)-(3)’ shall be changed to: ‘§ 3(1-2)’</p>                                                                                                                                                                          |
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|                                                                                                                                                                                                        | <p><b>20.</b> Paragraph (2) is added to § 9 as follows:</p> <p>(2) Unless a higher penalty is</p>                                                                                                                                                                                                                      |

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|                                                                                                       | <p>imposed under other legislation, anyone who violates or fails to comply with an order issued by the Danish Safety Technology Authority pursuant to Section 7a shall be punished by a fine.’</p> <p>Paragraphs 2-3 shall subsequently become paragraphs 3-4.</p> |
|                                                                                                       |                                                                                                                                                                                                                                                                    |
| (2) The Minister of Health and Prevention shall determine the date of entry into force for Section 4. | <b>21.</b> Section 10(2) shall be repealed.                                                                                                                                                                                                                        |
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|                                                                                                       | <b>Section 2</b>                                                                                                                                                                                                                                                   |
|                                                                                                       |                                                                                                                                                                                                                                                                    |
|                                                                                                       | <p>The Act on the prohibition of the sale of tobacco and alcohol to persons under the age of 18, cf. Consolidation Act No 1088 of 10 October 2024, as amended by Section 3 of Act No 1669 of 30 December 2024, shall be amended as follows:</p>                    |
|                                                                                                       |                                                                                                                                                                                                                                                                    |
|                                                                                                       | <p><b>1.</b> Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.</p>                                          |
|                                                                                                       |                                                                                                                                                                                                                                                                    |
| <b>§ 1. - - -</b>                                                                                     |                                                                                                                                                                                                                                                                    |

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| <p>(2) Tobacco products are understood as:</p> <p>1) Products that are designed to be smoked, inhaled, sucked or chewed or ingested in another way, if they are wholly or partly made of tobacco.</p> <p>2) Products intended to be used in conjunction with products included in No 1.</p> <p>(3) A tobacco substitute is understood in this Act to be a product containing nicotine that is not a tobacco product, cf. § 2(2) of the Act on tobacco products etc. or an electronic cigarette, cf. § 2(1) of the Act on electronic cigarettes etc. and which is not approved by marketing permission in accordance with the Act on medications or EU legislative regulations laying down common procedures for approval of medicinal products for human use and equipment intended to be used in conjunction with this product.</p> <p>(4) An herbal product for smoking is understood in this Act to be a product based on plants, herbs or fruits which does not contain tobacco and which can be consumed using a combustion process.</p> | <p>2. § 1(2)–(4) are repealed.</p>                                                       |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>3. The following is inserted after § 1:</p> <p><b>‘Section 1 a.</b> The following</p> |

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|  | <p>definitions apply for the purposes of this statute:</p> <p>1) Tobacco products: Products that can be used and which consist wholly or partly of tobacco, regardless of whether the tobacco is genetically modified, as well as goods intended for use with these products.</p> <p>2) Tobacco surrogate: Products containing nicotine that are not a tobacco product, cf. § 2(2) of the Act on tobacco products etc. or electronic cigarettes, cf. § 2(1) of the Act on electronic cigarettes etc. and which are not approved by a marketing authorisation in accordance with the Act on medicinal products or EU legislative regulations laying down Community procedures for the authorisation of medicinal products for human use and equipment intended to be used in conjunction with the product.</p> <p>3) Herbal product for smoking: A product based on plants, herbs or fruits which contains no tobacco and that can be consumed via a combustion process.</p> <p>4) Unattended shop: A physical self-service shop where there is generally no physical presence of an employee and where the customer shops without being in</p> |
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|                                                                                                                                                                                                                                                                                  | <p>contact with shop staff. If there is an employee present in the shop, it is not for the purpose of serving customers.</p> <p>5) Distance selling: Situations where the customer and the person placing the product on the market do not meet physically at the time of the order. In the case of cross-border distance sales, the product is deemed to be placed on the market in the country where the consumer is located</p> <p>6) Age verification system: An IT system that unambiguously confirms electronically that the consumer's age falls within the age limit.'</p> |
|                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>§ 2a.</b> Whoever commercially sells tobacco products, tobacco substitutes or herbal products for smoking at physical points of sale must require the presentation of valid photo identification if the seller has doubts that the customer has reached the age of 18.</p> | <p><b>4. Section 2a(1)</b> is to be worded as follows:</p> <p>'For the purpose of enforcing the age limit laid down in § 1, anyone who commercially sells tobacco products, tobacco surrogates or herbal products for smoking at physical points of sale may require the presentation of a valid photo identification or use an age verification system.'</p>                                                                                                                                                                                                                      |
|                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>(2) A person who sells alcoholic beverages commercially with an alcoholic strength by volume of</p>                                                                                                                                                                           | <p><b>5. Section 2a(2)</b> is to be worded as follows:</p> <p>'Paragraph 2. For the purposes of enforcing the age limit specified in</p>                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| 1.2 % or more at physical points of sale must require the presentation of a valid image identification if the vendor is in doubt that the customer is at least 16 years of age.                                                                                                  | Section 2(1), anyone who commercially sells alcoholic beverages with an alcohol strength by volume of 1.2 % or more at physical points of sale may require the presentation of valid photo ID or use an age verification system.'                                                                                                                                                                                                                                                                     |
|                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| (4) A person who sells alcoholic beverages commercially with an alcoholic strength by volume of 16.5 % or more at physical points of sale must require the presentation of a valid image identification if the vendor is in doubt that the customer is at least 18 years of age. | <b>6.</b> <i>Section 2a(4)</i> is to be worded as follows:<br>(4) For the purposes of enforcing the age limit specified in Section 2(2), anyone who commercially sells alcoholic beverages with an alcohol strength by volume of more than 6 % or more at physical points of sale may require the presentation of valid photo ID or use an age verification system.'                                                                                                                                  |
| (5) - - -                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                  | <b>7.</b> In <i>Section 2a</i> , the following is inserted as a new paragraph after (5):<br>(6) The Minister for the Interior and Health lays down more detailed regulations on the age checking system referred to in paragraphs 1, 2, and 4, including more detailed requirements for the system, and on the obligation of the seller to provide the Danish Safety Technology Authority with information on the content and use of the system."<br>Paragraphs 6-8 shall then become paragraphs 7-9. |

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| <p>(6) Shops where retail sales of alcoholic beverages take place, must, through visible signs drawn up by the Danish Health Authority, inform about the age limit requirements for the sale of alcoholic beverages, cf. (2–5) and § 2.</p> <p>(7) Signs containing information that the sale of tobacco products, tobacco substitutes and herbal products for smoking can only take place by complying with the age limit requirements for the sale of tobacco products, tobacco substitutes and herbal products for smoking, cf. (1) and § 1, shall be drawn up by the Danish Health Authority.</p> <p>(8) The Minister for Health shall lay down detailed rules on the design, installation, etc. of signs, cf. (6).</p> | <p><b>8.</b> In § 2a(6), which becomes (7), ‘Shops’ is replaced by: ‘Physical shops’.</p> <p><b>9.</b> Section 2a(7) , which becomes (8), is repealed.</p> <p><b>10.</b> In § 2a(8), which becomes (9), ‘see (6)’ is replaced by: ‘see (7)’.</p> |
| <p><b>§ 2b.</b> The Danish Safety Technology Authority monitors the compliance with the requirements of §§ 1–2a and rules issued pursuant to § 2a(8).</p> <p>(2) The representatives of the Danish Safety Technology Authority have, at any time and without showing identification,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p><b>11.</b> In § 2 b(1) and (2) , ‘§§ 1-2a and rules issued pursuant to § 2a(8)’ is changed to: ‘Sections 1, 2 and 2a, (1-5), and rules issued pursuant to Section 2a (6).”</p>                                                                |

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| access to dealers' commercial premises in order to verify compliance with §§ 1–2a and rules issued pursuant to § 2a(8).                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| (4) The Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of verifying compliance with the requirements laid down in Section 1(1), Section 2 and Section 2a(1), (2) and (4), as well as in rules issued pursuant to Section 2a(8), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales. | <b>12.</b> In <i>Section 2b(4)</i> , '30 June 2026' shall be replaced by: '30 June 2028', and 'and rules issued pursuant to Section 2a(8)' are deleted.                                                                                                                                                                                                                                                                                                                                    |
| (5) - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>13.</b> In § 2b, the following is inserted as (6):<br>(6) As part of the control of compliance with the requirements laid down in § 2a(3) and (5) in unattended shops, representatives of the Danish Business Authority may, upon showing proper identification, require the owner or a representative of the unattended shop to meet them at the unattended shop in order to give the representatives of the Danish Business Authority access to the retail premises of the unattended |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | shop, etc.’                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Section 5.</b> For violation of Sections 1–2a and rules issued pursuant to Section 2a(8), the shopkeeper, restaurateur, hotelier, or canteen owner who commercially markets as a professional distance seller, etc. shall be punished with a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1–2a of the Act and regulations issued pursuant to Section 2a(8) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.</p> | <p><b>14.</b> <i>Section 5(1)</i> is to be worded as follows:<br/> ‘For violation of Sections 1 and 2 and Section 2a(1-5) , and rules issued pursuant to Section 2a(6), the shopkeeper, restaurateur, hotelier, or canteen owner who commercially as a professional distance seller, etc. shall be punished with a fine. In determining the level of the penalty, it is considered to be an especially aggravating circumstance if the infringement of Sections 1 and 2 and 2a , paragraphs 1-5, and regulations issued pursuant to Section 2a(6) are of a serious or repetitive nature. The provision in § 23 of the Danish Criminal Code shall not apply.’</p> |
| (2) - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>(3) Unless higher penalties are stipulated under other legislation, fines will be imposed on those who</p> <p>1) fail to grant access to the Danish Safety Technology Authority in accordance with § 2b(2),</p> <p><i>Nos 2-4) - - -</i></p>                                                                                                                                                                                                                                                                                                                                | <p><b>15.</b> In § 5(3)(1), the following is inserted after ‘§ 2 b(2)’: ‘and 6.’</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Section 3.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>The Act on tobacco products, etc. (see Consolidation Act No 1161 of 4 November 2024), as amended by § 2 of Act No 2071 of 21 December 2021 and § 1 of Act No 1669 of 30 December 2024) is amended as follows:</p>                                                                                                                                                                                                                                                                                                                            |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p><b>1.</b> Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.</p>                                                                                                                                                                                                                                                                                                                       |
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| <p><b>Section 3 a.</b> Manufacturers and importers of tobacco surrogates that are placed on the market in this country must for each tobacco surrogate report information on the product, including its ingredients, separated by trade name.</p> <p>(2) The Minister for Industry, Business and Financial Affairs lays down more detailed regulations on reports under paragraph 1, including on the information to be reported, when and in what form reporting shall be made and information on changes in the composition and content of tobacco substitutes.</p> | <p><b>2.</b> § 3 a shall be worded as follows:</p> <p><b>‘3a.</b> Tobacco surrogates may only be marketed in Denmark if they have been notified to the Danish Business Authority. The notification lapses if the notifier fails to maintain the notification.</p> <p>(2) The notification under paragraph 1 must be submitted by every manufacturer and importer who wishes to market a tobacco surrogate, no later than 6 months prior to the proposed marketing.</p> <p>(3) The Minister for Industry, Business and Financial Affairs lay</p> |

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|                                                                                                                                                                                  | <p>down rules on</p> <p>1) the information and statements, etc. that are to accompany a notification under paragraph 1;</p> <p>2) The Danish Business Authority's processing of the notification; and</p> <p>3) which product changes require a new notification to be submitted.'</p>                                                                                                                               |
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| § 6. - - -                                                                                                                                                                       | <p>3. In <i>Section 6</i>, the following is inserted as (2):</p> <p>'Paragraph 2. The Danish Business Authority may remove information, statements, and reports received pursuant to Section 3a, including pursuant to Section 3a(3), from its website if the notification is not upheld or if, on the basis of an inspection, the product as a whole is assessed as not complying with applicable legislation.'</p> |
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| Section 19 a. Manufacturers and importers of tobacco substitutes must ensure that tobacco substitutes which they place on the market display a health warning, see subsection 2. | <p>4. In <i>Section 19a(1)</i>, 'a health warning' is changed to: 'one or more health warnings in Danish'.</p>                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (2) The Minister for the Interior and Health lays down rules on the wording, form and placement of the health warning.                                                           | <p>5. In <i>Section 19a(2)</i>, the following shall be inserted after 'rules on': 'the number and type of health warnings and if', and the words</p>                                                                                                                                                                                                                                                                 |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ‘the health warning’ are replaced by: ‘the health warnings’.                                                                                                                                                                                                                                                            |
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| § 32. - - -                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><b>6.</b> In <i>Section 32</i>, the following is inserted as (6):</p> <p>(6) As part of their controls of tobacco products, tobacco substitutes, and herbal products for smoking as marketed through distance selling, representatives of the Danish Business Authority may demand access to the point of sale.’</p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                         |
| <p><b>Section 43.</b> The Danish Safety Technology Authority is to charge fees to cover the costs incurred by the Danish Safety Technology Authority in receiving reports under Section 3(1) and Section 3a(1), or rules issued pursuant to Section 3(2) or Section 3a(2), evaluations pursuant Section 5(2), approval and control of laboratories, cf. § 11(1) and § 12(1), and registrations, cf. § 23(1), and the Danish Safety Technology Authority’s controls under §§ 32–39.</p> | <p><b>7.</b> In § 43(1), the following is inserted after ‘§ 3(1), and’: ‘notifications under’.</p>                                                                                                                                                                                                                      |
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| <p>(2) The fee is charged to manufacturers and importers of tobacco products and tobacco substitutes subject to the reporting obligation in §§ 3(1) and 3a(1).</p>                                                                                                                                                                                                                                                                                                                     | <p><b>8.</b> In § 43(2), the following is inserted after ‘§ 3(1), and’: ‘the notification obligation under’.</p>                                                                                                                                                                                                        |

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| <p>The fee is allocated based on the Danish market share of each individual manufacturer or importer. With regard to products covered by this Act, the assessment of the individual manufacturer's or importer's market share is carried out on the basis of the excise duties reported to the Danish Customs and Tax Administration.</p> |                                                                                                                                                                                                                                                                           |
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| <p><b>Section 45.</b> Unless a higher penalty is due under other legislation, a fine shall be imposed on any person who</p> <p>1) infringes §§ 4(1), 5(1), 10, 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1) or 30a(1).</p>                           | <p><b>9. § 45(1), No 1,</b> is to be worded as follows:</p> <p>‘1) infringes §§ 4(1), 5(1), §§ 10 and 13, 14(1), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),’.</p>         |
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|                                                                                                                                                                                                                                                                                                                                           | <p><b>10. § 45(1), No 1,</b> is to be worded as follows:</p> <p>‘1) infringes §§ 4(1), 5(1), §§ 10 and 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),’</p> |
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| 2) fails to comply with the notification requirement, which has a legal basis in § 26, paragraph 1.                                                                                         | <b>11.</b> In <i>Section 45(1)(2)</i> , the following is inserted after ‘legal basis in’: ‘§ 3a(1), and’.                                                                                                                                                                           |
| <i>Nos. 3-4) - - -</i>                                                                                                                                                                      |                                                                                                                                                                                                                                                                                     |
| 5) fails to comply with an order or an obligation to provide information on the basis of §§ 3(1), 3a(1), 5(2), 7, 28(1), 32(3)-(5), or § 38 or § 38c.                                       | <b>12.</b> In <i>Section 45(1)(5)</i> , ‘ <i>Section 3a(1),</i> ’ is deleted.                                                                                                                                                                                                       |
| <i>Nos 6-11)</i>                                                                                                                                                                            |                                                                                                                                                                                                                                                                                     |
| fails to grant access to the Danish Safety Technology Authority in accordance with § 34 or                                                                                                  | In <i>Section 45(1)(12)</i> the following shall be inserted after ‘access’: ‘§ 32(6) and’.                                                                                                                                                                                          |
|                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                     |
| (2) In rules laid down pursuant to §§ 8(1) and (2), 9(1) and (2), 19(2), 19a(2), 21a(2), 22c, 24(2), 30(2) or 30a(2), fines may be imposed for infringement of the provisions of the rules. | <b>14.</b> <i>Section 45(2)</i> shall read as follows:<br>‘ <i>Paragraph 2.</i> In rules laid down pursuant to § 8, § 9,(1) and (2), 10a(2), 19(2), 19a(2), 21, 21a(3), 22c, 22d(2), 24(2), 30(2) or 30a(2), fines may be imposed for infringement of the provisions of the rules.’ |
|                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                     |
|                                                                                                                                                                                             | <b>§ 4.</b>                                                                                                                                                                                                                                                                         |
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|                                                                                                                                                                                             | The Act on electronic cigarettes etc. (see Consolidation Act No 1166 of 04 November 2024 as amended by § 2 of Act No 1669 of 30 December 2024) is amended as follows:                                                                                                               |

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|                                                                                                                                                                                                                                                                                               | <p><b>1.</b> Throughout the Act, ‘Danish Safety Technology Authority’ is replaced with: ‘Danish Business Authority’, and the ‘Danish Safety Technology Authority’s’ is changed to: the ‘Danish Business Authority’s’.</p>                                                                                                                                                                                                                                                                              |
|                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>§ 15. - - -</b></p> <p>(2) The professional selling of electronic cigarettes or refill containers with or without nicotine at physical outlets shall require the presentation of a valid photo identification if the seller has doubts that the customer has reached the age of 18.</p> | <p><b>2.</b> <i>Section 15(2)</i> is to be worded as follows:</p> <p>‘<i>Paragraph 2.</i> For the purpose of enforcing the age limit laid down in paragraph 1, anyone who commercially sells electronic cigarettes or refill containers with or without nicotine at physical points of sale may require the presentation of a valid photo ID or make use of an age verification system.’</p>                                                                                                           |
| (3) - - -                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>(4) The Minister for the Interior and Health shall lay down rules on the age control system, including requirements for the system and on the retailer’s obligation to provide the Danish Safety Technology Authority with information on the content and use of the system.</p>           | <p><b>3.</b> In <i>Section 15(4)</i>, the words ‘lays down rules on the age verification system’ shall be changed to: ‘may lay down rules on age verification systems, see (2) and (3)’, and ‘and on the retailers’ obligation to provide the Danish Safety Technology Authority with information on the content and use of the system’ is amended to: ‘, age verification solutions, and the retailer’s obligation to provide the Danish Business Authority with information on content and use’.</p> |

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| <b>Section 18 a. - - -</b>                                                                                                                 | <p><b>4.</b> In § 18a, the following shall be inserted as new paragraphs after (3):</p> <p>‘(4) Points of sale, including online, may, in connection with the selection of products, show the buyer a sign indicating the age limit for the sale of electronic cigarettes and refill containers with and without nicotine, see Section 15(1). The sign referred to in the first paragraph shall be created by the Danish Health Authority.</p> <p>(5) When selling on the internet, at the request of a purchaser, a single neutral image of one electronic cigarette or refill container with or without nicotine may be displayed in connection with and on the same page where the point of sale indicates the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d).’</p> <p>Paragraph 4 subsequently becomes paragraph 6.</p> |
|                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>§ 19. - - -</b>                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| (3) The Danish Safety Technology Authority may, in the period from 1 July 2024 up to and including 30 June 2026 as part of controls of the | <p><b>5.</b> In § 19(3), ‘30 June 2026’ is changed to: ‘30 June 2028’.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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| requirements laid down in Section 15(1) and (2), make use of young mystery shoppers with a hidden identity when there are no reasonable grounds beforehand for suspecting that sales are being made to persons under the age limit by the store involved in retail sales. |                                                                                                                                                                                                                                                                                                                                         |
| (4) - - -                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                                                                                                                                                           | <p><b>6.</b> In <i>Section 19</i>, the following is inserted as <i>paragraph 5</i>:</p> <p>(5) As part of their controls of electronic cigarettes and refill containers, with and without nicotine, as marketed through distance selling, representatives of the Danish Business Authority may demand access to the point of sale.'</p> |
|                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                         |
| <p><b>Section 33.</b> Unless higher penalties are stipulated under other legislation, fines will be imposed on those who:</p> <p>1) (1) infringes §§ 9(1), 9a(1) and (2), 10(1), 11 (1), 15(1)–(3), 16(1), 17, 18a(1), 18b(1) or 25a(1) and (2),</p>                      | <p><b>7.</b> § 33(1), No 1 is to be worded as follows:</p> <p>‘(1) infringes §§ 9(1), 9a(1) and (2), 10(1), 11 (1), 15(1)–(3), 16(1), 17, 18a(1), 18b(1) or 25a(1) and (2),’.</p>                                                                                                                                                       |
| Nos 2-4) - - -                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                         |
| 5) fails to comply with an order or an obligation to provide information based on §§ 11(2) or                                                                                                                                                                             | <p><b>8.</b> In § 33(1) no. 5, ‘that’ is replaced by: ‘which’.</p>                                                                                                                                                                                                                                                                      |

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| (3), 12(1), 19(2), 26, or 27c.                                                                                                                                                                 |                                                                                                                                                                                                                                                                                            |
| No 6) - - -                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                            |
| 7) fails to grant access to the Danish Safety Technology Authority in accordance with § 21 or                                                                                                  | <b>9.</b> In § 33(1)(7), the following is inserted after ‘product under’: ‘Section 19(5) and’.                                                                                                                                                                                             |
|                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                            |
| (2) In rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed. | <b>10.</b> Section 33(2) shall read:<br>‘ <i>Paragraph 2.</i> In rules laid down pursuant to § 7(2), § 8, § 9(2), § 9a(3), § 10(2), § 12(3), § 13(2), § 15(4), § 18 and § 18a(4), fines for infringements of the provisions of the rules may be imposed.’                                  |
|                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                            |
|                                                                                                                                                                                                | <b>§ 5</b>                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                                                                                | The Act banning tobacco advertising, etc. (see Act No 586 of 26 March 2021 as amended by § 4 of Act No 1669 of 30 December 2024) is amended as follows:                                                                                                                                    |
|                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                            |
| <b>§ 5 a.</b> - - -                                                                                                                                                                            | <b>1.</b> In § 5 a, the following shall be inserted as new paragraphs after (3):<br><br>‘(4) Points of sale, including online, may, in connection with the selection of products, show the buyer a sign indicating the age limit for the sale of tobacco products, tobacco substitutes and |

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|                                            | <p>herbal products for smoking, cf. Section 1 of the Act on the prohibition of the sale of tobacco and alcohol to persons under 18 years of age. The signs referred to in the first paragraph shall be created by the Danish Health Authority.</p> <p>(5) When selling on the internet, at the request of a purchaser, a single neutral picture of one tobacco product, one tobacco substitute, or one herbal product for smoking may be displayed in connection with and on the same page where the point of sale indicates the other information required by the General Product Safety Regulation (2023/988/EU) Article 19(1)(a) to (d) and Article 22(9)(a) to (d).’ Paragraph 4 subsequently becomes paragraph 6.</p> |
|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                            | <b>§ 6</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                            | Act No 1669 of 30 December 2024 amending the Act on tobacco products, etc. and various other Acts (the Third and last part of implementing the prevention plan targeted at children and young people – tobacco, nicotine, and alcohol), are amended as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>§ 1. - - -</b>                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>28. § 45(1), no. 1, is to be worded</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| as follows:<br>'1) infringes §§ 4(1), 5(1), 10, 13, 14(1) and (3), 15, 15a, 15b(1) and (2), 16, 17, 18(1), 18a(1), 19(1), 19a(1), 20(1) and (2), 21a(1) and (2), 22a, 22d(1), 24(1), 28(2), 30(1), or 30a(1),'                                                                                                                                             | <b>1. § 1, no. 28 is repealed.</b>                                                                                                                                                    |
|                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                       |
| <b>§ 12 - - -</b><br>(5) The Minister for the Interior and Health lays down the date of entry into force of § 1, No 28.                                                                                                                                                                                                                                    | <b>2. Section 12(5) shall be repealed; Paragraphs 6-10 shall then become paragraphs 5-9.</b>                                                                                          |
|                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                            | <b>§ 7</b>                                                                                                                                                                            |
|                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                            | The Health Act, see Consolidation Act No 275 of 12 March 2025, as amended by L 2024-12-30 No 1670, L 2024-12-30 No 1672, and L 2024-12-30 No 1673, the following amendments are made: |
|                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                       |
| <b>§ 88. - - -</b><br>(2) No later than eight working days after one of the region's hospitals has received a referral for a patient, the regional council must inform the patient whether the regional council can offer treatment at its hospital within the specified maximum waiting time and, if so, inform the patient of a date for the preliminary | <b>1. In § 88(2)(1), '8 working days' is changed to: '10 calendar days'.</b>                                                                                                          |

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| <p>examination. If the regional council of the region of residence is unable to offer treatment within the prescribed maximum waiting time, the patient shall, if possible, be offered treatment in a hospital in another region, in a private hospital in Denmark, or in a hospital abroad that can offer treatment within the prescribed maximum waiting time.</p> |  |
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