

New health implementing regulation related to tobacco industry ^{P1}

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I. Introduction

The Indonesian tobacco industry plays a significant dual role in the nation's economy and public health landscape. On one hand, it makes substantial contributions to the economy by generating government revenue. In 2024 alone, excise taxes on tobacco products contributed at least IDR 143.3 trillion to state revenue.¹ Although this target is set to decrease in 2025, the Government still expects to collect IDR230.09 trillion in excise revenue.²

On the other hand, the industry poses considerable public health risks, with smoking-related illnesses placing a heavy burden on the healthcare system and leading to high mortality rates.³ The economic costs of treating these health issues often exceed the industry's financial contributions, resulting in a net economic burden.⁴

In an effort to balance these positive and negative impacts, last year the Government of the Republic of Indonesia issued Government Regulation No. 28 of 2024 on the implementing regulation of Law No. 17 of 2023 on Health (**GR 28/2024**). This new regulation includes revisions to Government Regulation No. 109 of 2012 on the Control of Addictive Substances in the Form of Tobacco Products (**GR 109/2012**), which outlines rules governing the tobacco industry.

Outlined below are the key points introduced in this new regulation related to the tobacco industry.

¹ Source: <https://ekonomi.bisnis.com/read/20240923/259/1801774/pendapatan-bea-dan-cukai-rp1832-triliun-per-agustus-2024-rokok-sumbang-terbesar>

² Source: <https://www.idnfinancials.com/id/news/51661/tobacco-excise-target-lowered-tobacco-firms-collectively-strengthen>

³ Source: <https://academic.oup.com/jpubhealth/article/46/1/e177/7238816>

⁴ Source: https://tobaccocontrol.bmj.com/content/tobaccocontrol/31/Suppl_2/s133.full.pdf

II. Overview of new control and restrictions of tobacco products and electronic cigarettes in GR 28/2024

1. Reinforcement of addictive substance control

The newly enacted regulation, GR 28/2024, strengthens the framework for controlling addictive substances, with a primary aim of mitigating the harmful effects of smoking and preventing the rise of new smokers. This regulation builds upon previous guidelines, which primarily focused on the usage of addictive substances, by now extending to their manufacturing and distribution.

The definition of addictive substances has been expanded from any substance that causes addiction to include any product, whether or not it contains tobacco, that poses a risk to individuals or society. These products can be in solid, liquid or gaseous forms and include items such as cigarettes and other addictive variants.

Additionally, the definition of tobacco products has been revised. Previously defined as “any products made partially or entirely from tobacco leaves intended for burning, smoking, inhaling or chewing,” the definition now states: “any products made partially or entirely from tobacco leaves intended for burning, heating, evaporating, smoking, inhaling, chewing or any other method of consumption.”

This updated definition addresses a significant shortcoming in the previous regulation, which did not account for emerging products such as vapes and electronic cigarettes. Unlike traditional cigarettes, these products are consumed through heating or evaporation rather than burning and do not contain tar. The revised definitions now effectively encompass these increasingly popular alternatives.

2. Electronic cigarettes (e.g., vape, electronic cigarettes)

Before the enactment of GR 28/2024, regulations specific to electronic cigarettes (**E-Cigs**), including vapes, were either minimal or nonexistent, despite their increasing popularity among Indonesian smokers in recent years. **The new regulation introduces explicit provisions to govern the manufacture, use and distribution of E-Cigs. Consequently, all requirements previously applicable to conventional cigarettes—such as licensing, nicotine testing and compliance with nicotine threshold levels—are now extended to E-Cigs.** This also includes the establishment of nicotine threshold requirements for conventional cigarettes.

The additional obligations and restrictions related to E-Cigs are outlined below.

3. Tar and nicotine limits

Under GR 28/2024, a critical obligation for manufacturers, importers and distributors of tobacco products is to comply with tar and nicotine thresholds. **This requirement was originally established in Government Regulation No. 81 of 1999 on the Control of the Impacts of Tobacco on Health but was subsequently revoked by GR 109/2012. GR 28/2024 seeks to reintroduce these limitations,** although the specific threshold values have not yet been established. The regulation stipulates that the determination of these thresholds will be managed by the Coordinating Ministry for Human Development and Cultural Affairs.

4. Additional substances

GR 28/2024 establishes new provisions that restrict the use of substances in conventional cigarettes and E-Cigs as prohibited by the Minister of Health. This approach represents a shift from previous regulations, which allowed only those substances explicitly approved by the minister. Additionally, the regulation requires manufacturers of both cigarettes and E-Cigs to conduct comprehensive testing for additional substances both before and during the distribution process. **This testing must be carried out in two separate accredited laboratories, introducing a new compliance requirement.** Failure to adhere to this mandate may result in administrative sanctions, including the removal of products from distribution at the manufacturer's expense.

5. Maximum quantities of products per package

GR 28/2024 sets packaging limits for tobacco products and E-Cigs to meet health standards.

For sliced tobacco, packages cannot exceed 50 grams. For E-Cigs, closed systems are limited to 2 ml of liquid nicotine per cartridge, with a maximum of two cartridges per package. Open systems must use 10- or 20-ml containers. Solid E-Cigs must be packaged in sets of 20 sticks.

These regulations aim to standardise packaging and enhance consumer safety, with non-compliance potentially leading to administrative penalties.

6. Stricter prohibitions on sale of tobacco

GR 28/2024 introduces stricter controls on the sale of tobacco products, including conventional cigarettes and E-Cigs.

Key prohibitions include banning sales through vending machines, restricting sales to individuals under 21 and prohibiting the sale of individual cigarette sticks (except cigars and E-Cigs). Additionally, tobacco products cannot be displayed near entrances or high-traffic areas, nor sold within 200 metres of schools and play areas. **Online sales are restricted unless robust age verification is implemented.**

These measures aim to enhance public health by limiting access and visibility, with non-compliance subject to penalties.

7. Inclusion of health warning and new packaging and labelling requirements

Under GR 28/2024, **new labelling requirements mandate that all tobacco products and E-Cig packages feature a health warning image and narrative covering 50% of the packaging, an increase from the previous 40%.** This adjustment requires producers and importers to comply by providing clear and legible information on every package.

The packaging must include the following details: (a) production code, along with the date, month and year of production; and (b) mandatory statements such as “contains nicotine and tar” and “prohibited from selling or giving to individuals under 21 years and pregnant women.”

For tobacco products specifically, additional labels must state: “No safe limit” and “Contains more than 7,000 chemicals and over 83 cancer-causing substances.”

These measures aim to enhance consumer awareness and safety, reinforcing the regulation's focus on public health.

8. New restrictions and limitation on advertisement of tobacco products and E-Cigs

GR 28/2024 introduces new restrictions on advertising activities related to tobacco products and E-Cigs:

- a) **Social media:** Advertising on digital-based social media is prohibited.
- b) **Online platforms:** Ads on commercial websites and applications require an age verification process, allowing access only to those 21 and older.
- c) **Point-of-sale locations:** Ads and sales are banned at entry and exit points, except in places like modern supermarkets.
- d) **Outdoor advertising:** Must include a health warning covering at least 15% of the ad space and is banned within 500 metres of schools and playgrounds.
- e) **Print and broadcast media:** Ads must feature a health warning. In broadcasts, it should cover the full screen for at least 10% of the ad duration and be displayed for a minimum of two seconds. In print, it must occupy at least 15% of the ad space.

These rules apply to manufacturers, distributors, marketers and sellers, focusing on enhancing public health awareness and safety.

9. Sanctions for non-compliance

Non-compliance with GR 28/2024 can lead to several sanctions:

- a) **Packaging violations:** Exceeding the maximum quantities for sliced tobacco and solid E-Cigs may result in a written warning and product withdrawal.
- b) **Health warning omission:** Failing to include required health warnings can lead to product withdrawal and/or financial penalties.
- c) **Digital advertising violations:** Improper advertising on social media or online platforms may result in access termination to related electronic information on the Ministry of Health's recommendation.
- d) **Print and broadcast advertising violations:** Non-compliance in print or broadcast media advertising can result in ad withdrawal/correction, a written warning, and potentially a temporary advertising ban for repeated or serious offenses.

III. Next steps

GR 28/2024 represents a significant step forward in addressing public health concerns by regulating the evolving landscape of tobacco products and E-Cigs. The implementation of key provisions concerning (a) additional substances, (b) maximum quantities for tobacco products and E-Cigs per package, (c) the inclusion of health warnings and new packaging and labeling requirements, (d) sales of tobacco products or E-Cigs via social media, and (e) advertising at points of sale, is set to take effect in 2026. This timeline is designed to provide stakeholders with sufficient time to adapt to these changes.

We will continue to monitor updates from the Ministry of Health and other relevant authorities regarding the implementation of GR 28/2024.

This Legal Alert provides an overview of the tobacco control measures and E-Cig regulations under GR 28/2024. It may not encompass all aspects of the regulation. Please feel free to contact us if you require more detailed advice or have specific questions.



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