

Harsh Vape Regulations Will Raise Healthcare Costs

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Background

The Control of Smoking Products for Public Health Act 2024 (Act 852) represents a significant milestone in Malaysia's efforts to regulate tobacco and vaping products. Controls will be applied in the form of licensing, advertising and promotion, product packaging, sale and purchase, as well as places of usage. It was passed in November 2023 and gazetted in February 2024. However, the Act has not been enforced as of today. The exact date is pending the implementation of accompanying regulations.

Key Features of Act 852

- 1) **Comprehensive Regulation:** Act 852 covers a wide range of smoking products, ensuring that all forms of tobacco and nicotine products are regulated under a single legal framework. This includes traditional cigarettes, heated tobacco products, e-cigarettes, vaping liquids, and shisha.
- 2) **Advertising and Promotion Restrictions:** The Act imposes strict limitations on the advertising, promotion, and sponsorship of smoking products to reduce their visibility and appeal, particularly to minors.
- 3) **Packaging and Labelling Requirements:** The legislation will impose packaging and labelling requirements for all smoking products, not only for tobacco products.
- 4) **Sales and Distribution Controls:** Act 852 includes measures to control the sale and distribution of smoking products, such as age restrictions, licensing requirements, and prohibitions on sales near schools and other youth-centric locations.

Smoking Prevalence in Malaysia

The Malaysian tobacco industry has been around for over 100 years with large international players making local investments in the manufacturing segment, making headways in economic development, exports, and job creation. The legalized landscape for smoking products changed since the early 2010s.

2015-2020: National Strategic Plan for Tobacco Control

Malaysia's effort in tackling tobacco consumption in 2015 with the launch of the National Strategic Plan for Tobacco Control 2015-2020 (NSPTC)ⁱ. The plan conveyed ambitious targets:

- 15% smoking prevalence by 2025 and a smoke-free nation.
- Less than 5% smoking prevalence, by 2045.

However, the policy yielded poor results as outcomes were annually reported by the National Health and Morbidity Surveys (NHMS).

- NHMS's Global Adult Tobacco Survey (GATS) 2023ⁱⁱ revealed that Malaysian smokers aged >15 years had reduced from **23.1% (2011)** to 22.8% (2015), to 21.3% (2019), and most recently to **19.0% (2023)**.
- These statistics are misleading as the total number of smokers remain largely unchanged over the past 12 years, with the current number standing at **4.8 million adult tobacco smokers**.

Historically, the Government has been using a fiscal approach to curbing smoking prevalence. Putting aside evidence-based solutions, excise duties were raised to deter consumer behaviour which grew tax revenue. This began in 2013 when excise duties increased from **RM220 per 1,000 cigarettes** to **RM400 per 1,000 cigarettes** in 2016ⁱⁱⁱ.

2021-Present: Generation End Game

Generation End Game (GEG) was a political campaign by the Malaysian Government to ensure the future generation is free of tobacco and its harmful effects. The topic was heavily debated in Malaysia's Parliament after New Zealand had announced plans "to make New Zealand smoke-free"^{iv} and to make it illegal to sell cigarettes to anybody born on or after January 01, 2007, and to take effect at the year 2027 – i.e. individuals aged 18 years old in the year 2027.

The law would mean future individuals of legal age would not have the option to purchase tobacco. The law came into effect in 2022 but failed as the government had no choice but to repeal the amendments as part of an election coalition agreement with the New Zealand First Party. This includes repealing amendments related to removing requirements for de-nicotisation, removing the reduction in retail outlets, and the generation ban as well to boost tax revenue.

The Cost of Not Switching to Vape

While numerous studies have shown that harm-reduced products such as vape proved to be effective for smokers to quit smoking, it is challenging to find research using a specific model to quantify the impact of harm-reduced products on smoking prevalence in a country.

Public Health England attributed in their 2021 report that vaping to be positively associated with quitting smoking successfully in the UK. The report points to **over 50,000 smokers who stopped smoking with a vaping product^v** who would otherwise have carried on smoking in 2017. The report referred to a research paper developed by local researchers to draw the causal link between vaping and smoking cessation.

In essence, the research concluded that every 1 percentage point increase in e-cigarette use in quit attempts in the UK would result in a **0.06 percentage point increase in quit success rate** with other things being equal^{vi}.

The Cochrane Review in its latest 2023 report showed that e-cigarettes, varenicline, and cytisine were most likely to help people quit smoking. **For every 100 people, 10 to 19 are likely to quit using an e-cigarette^{vii}.**

The UK has made extraordinary progress in reducing the public health burden of smoking-related diseases. Clear communication around the benefits to current smokers of switching to vape has had a material impact on smoking rates. The UK's regulatory framework successfully limits the appeal of nicotine products to youth while maximizing their potential to switch smokers to safer alternatives.

According to the Action on Smoking and Health (ASH) report^{viii}, in 2023, **e-cigarette use in Great Britain has risen to its highest level of 9.1% of total smoking population (with 57% or some 2.7 million users being ex-smokers and 43% or 1.7 million others current smokers)**. Only 320,000 or 1.1% of all e-cigarette users are those who never smoked before. According to a survey among ex-smokers, **31% said that the main reason why they opted for vaping was to help them quit**, while 22% of others cited the main reason as to prevent relapse.

Reducing Healthcare Costs in Malaysia

Khazanah Research Institute deduced that more Malaysians are dying because of non-communicable diseases (NCDs)^{ix}. These diseases, such as heart disease and cancers, constitute the leading causes of medically certified deaths in Malaysia, and many of these NCDs are often associated with lifestyle choices including tobacco smoking, and as such, are preventable, the report added. There is no denying that one of the major risk factors for NCDs is related to tobacco smoking with heart disease and lung cancer among the top diseases.

However, there is little evidence or study to suggest the actual health cost related to smoking in Malaysia. One report that has been referred to by the MoH dated back to 2007 whereby a cost-analysis study undertaken to estimate the cost of medical care for three smoking-related diseases. These diseases were chronic obstructive pulmonary disease, ischemic heart disease, and lung cancer and **the total smoking-attributable cost of the three selected diseases was estimated at RM2.92 billion^x** based on the study that was conducted.

Interestingly as the data was based on the year 2004, smoking health-related costs accounted for 16.5% of the National Health Expenditure in Malaysia^{xi} or 0.74 % of the GDP then. Today, based on the country's RM32 billion healthcare bill for 2023^{xii} and the country's GDP of RM1.83 trillion, the nation's healthcare bill of 1.7% of GDP is significantly higher.

In Malaysia, the government tends to equate health costs to smoking prevalence but at the same time, we must make efforts to reduce smoking prevalence via well-thought-out strategies that have worked elsewhere, like using vapes or e-cigarettes as a tool for tobacco harm reduction. **The government has said before that based on the current smoking prevalence the government will spend RM8.77bil by 2030 to treat tobacco smoking related diseases^{xiii}.** On the assumption that the nation's economy expands by 6% between 2023-2030 in nominal GDP terms, this RM8.77 billion figure will translate to approximately 0.3% of the country's GDP and approximately 20% of the nation's healthcare operating expenditure if healthcare expenditure grows in tandem with the growth of the economy.

Adapting the UK Model to Malaysia

To apply the same model in the United Kingdom^{xiv} to Malaysia, we analyze to see the potential absolute numbers in realizing the number of smokers quitting smoking per annum by switching to vaping. The results were astounding, with estimated approximately 155,000 – 294,000 Malaysian smokers could quit smoking every year through vaping translating into 3.2 – 6.1 percentage decline per annum based on current smoking prevalence.

This estimate is by assuming 48.9% of 4.8 million current adult smokers and the prevalence of e-cigarette use in a quit attempt by smokers at 66% which translates to 1,549,152 ($4,800,000 \times 0.489 \times 0.66$) smokers using e-cigarettes during a quit attempt. This translates to a range of between 154,915 – 294,339 ($1,574,228 \times 0.10 - 0.19$) quitters per annum.

This is as much as 28.5x more than the current quit smoking success rate where only 45.7% of the 22,601 smokers who visited quit smoking clinics have successfully quit smoking. Applying this estimation, and assuming we have a 225,000 quit rate per annum, we could potentially see Malaysia's smoking population drop to 3.45 million by 2030, which is a significant reduction from 4.8 million currently.

Potential RM2.47bil Savings

Considering that Malaysia will spend RM8.77bil by 2030 to treat smoking-related diseases based on the current smoking prevalence, a 28.1% or 1.35 million reduction in the number of smokers will reduce the government's health bill by a similar corresponding amount or approximately RM2.47 billion. In essence, the government saves RM18.3mil for every 10,000 reductions in the number of smokers, which can then be channelled for other social needs.

Illicit Trade of Cigarettes Remains Prevalent

While this caused retail cigarette prices to jump, it also had an undesired consequence of a higher incidence of illicit trade.

In 2009, Malaysia's illicit cigarette market share was estimated at 19%. Following a major excise duty increase in 2015, the illicit market expanded as consumers sought cheaper alternatives. By 2018^{xv}, this figure had surged to 59%, making Malaysia one of the countries with the highest levels of illicit tobacco

consumption globally. Recent estimates for 2019 suggest that illicit cigarettes accounted for between 38.2%^{xvi} and 72%^{xvii} of the market, depending on the methodology used.

By end-2020, illicit trade accounted for 63.8% of total cigarettes available in the market. **Countermeasures by the government, such as limitation of transshipment and re-export of cigarettes, yielded positive results as illicit trade dropped to 54.8% (2024)^{xviii}. But with more than half of the cigarettes out there being from the black market.**

How Nations Tackle Illicit Trade

There are three major and interrelated components when it comes to illicit trade involving the tobacco industry.

- 1) First, how goods are smuggled into a country.
- 2) Second, nations are also battling hard against counterfeit; and
- 3) Third, countries are facing products that are sold in the local market that avoid paying taxes altogether.

Illicit trade occurs globally, both in the rich nations and more so in poor countries and in countries where enforcement is lacking. Tobacco products, being items that are subjected to high taxes, are easy to transport and provide a generous risk-to-reward ratio to the peddlers of the trade.

Countries facing illicit tobacco trade have introduced many strategies to counter the impact of the rising incidence of illicit trade. Some nations have been successful, mainly due to the strict enforcement of the law, while others have failed, despite adopting similar strategies. Some of the strategies adopted by countries around the world include:

1. Tax and administration policies and processes.
2. Import/Export and Transit policies and processes.
3. Relevant health, labelling, and contents requirements that increase opportunities for fraud.
4. Enforcement capabilities and tools.
5. Penalties and the use of compounded settlements.
6. Public awareness/acceptance of the illicit trade.
7. Banning the sale, importation, purchase, use, and possession of imitation tobacco products.
8. Introducing and subsequently raising the minimum legal age at which tobacco products can be purchased; and
9. Licensing requirement for retailers involved in the sale of tobacco products.

Malaysia's Approach Towards Illicit Trade

The increase in illicit trade over the years can be traced back to the Government's NSPTC 2015-2020 plan when it outlined the various incentives that the government intends to undertake to control tobacco usage and consumption. In that report, several key concerns were highlighted with the acronym MPOWER. The key strategies were defined as follows:

M – Monitor tobacco use and prevention policies

P – Protect people from tobacco smoke

O – Offer help to quit tobacco use

W – Warn about the dangers of tobacco

E – Enforce bans on tobacco advertising, promotion, and sponsorship

R – Raise taxes on tobacco

It is key to highlight that the MPOWER model is part of general guidance by the World Health Organization (WHO)'s Framework Convention on Tobacco Control (FCTC). Disappointingly, Tobacco Harm Reduction (THR) was omitted from the MPOWER approach. The WHO projections also leave out potential improvements in the effectiveness of cessation services, as well as access to rapidly improving diagnostics and treatments for lung cancer.

Without providing an alternative to an already growing tobacco-addiction problem, the harsh steps of MPOWER may lead more people toward illicit tobacco instead of considering proven alternatives like vape.

Implementation of Tobacco Harm Reduction (THR) Policies Globally

World Health Organization (WHO) attributes deaths linked to tobacco use to as many as 8 million users each year. Complications that arise from tobacco smoking, both to smokers and non-smokers, via secondary smoke effects, have all been well documented. Main health complications are cancer, cardiovascular diseases, strokes, and even diseases related to skin and gum.

Due to this, other than directly addressing the issue head-on by discouraging smoking through laws and mechanisms to control and reduce tobacco use, researchers and scientists have also looked at other options and substitutes that can reduce tobacco smoking. This brings the attention to THR concept.

The origin of THR can be traced back 45 years ago when Professor Michael Russell wrote in his *“Low-Tar Medium-Nicotine Cigarettes: A New Approach to Safer Smoking”* where he was quoted as saying **“People smoke for nicotine but they die from the tar”**. Professor Russell believes that the key was lowering tar yields produced from smoking combustible cigarettes and this sets the tone for a potential pathway to eliminate key harms arising from tobacco use.

While many smokers are naturally attached to the act of smoking, providing more choices and availability of a range of both medicinal and consumer-reduced-risk nicotine-containing products is needed including Nicotine Replacement Therapy (NRT), e-cigarettes or vaping, snus, heat-not-burn products, along with a greater understanding of how products may complement each other.

According to Flor, L.S., Reitsma, M.B., Gupta, V. (2021) entitled *“The Effects of Tobacco Control Policies on Global Smoking Prevalence”*^{xix}, a wide spectrum of tobacco demand reduction policies has been effective in reducing smoking prevalence globally. The paper also highlighted that there is a growing body of research points to the effectiveness of tobacco control measures, and in high-income countries, stronger tobacco control efforts are also associated with higher cessation ratios (that is, the ratio of former smokers divided by the number of ever-smokers (current and former smokers)) and decrease in cigarette consumption.

Not Ideal for Malaysia

With illicit trade making up more than half of cigarettes sold in the market and with smoking prevalence at more than 19%, Malaysia is not ready to say “no” to smoking. In search of best practices, let's relook at New Zealand's case that was heavily referenced during the GEG political campaign.

New Zealand's smoking prevalence has dropped from 16.4% in 2011/2012 to just 6.8% in 2022/2023^{xx} – almost ten percentage points reduction. This is largely driven by their Tobacco Harm Reduction (THR) policy that allows cigarette smokers to quit the habit by using vape products, as daily vape users increased to 9.7% for 2022/2023 from less than 1% in 2015/2016.

New Zealand is now on track to achieve its target of becoming smoke-free by 2025 - which is having less than a 5% threshold in the country's smoking prevalence. New Zealand's success was mainly attributable to educating the public via the establishment of a website^{xxi} explaining "Vaping Facts" and a mass media education campaign "Vape to Quit Smoking".

There is no denying that smoking tobacco is harmful to consumers' health due to the thousands of chemicals produced by the smoke from tobacco products. Scientists do realise this impact and have over the years looked at alternative products by removing the impact from these chemicals themselves and introducing products that were proven scientifically to be less harmful.

Globally, various THR strategies are deployed, including e-cigarettes or **Vape, Smokeless Oral Tobacco, and Nicotine Pouches**. Other than THR policies, governments globally have also introduced various proposals to not only reduce smoking prevalence but also to tackle illicit trade with strict enforcement of the law.

In Malaysia, the GEG bill, which was tabled for first reading in 2022 had undergone few changes before the current bill known as the Control of Smoking for Public Health Act, 2024 (Act 852) was tabled and approved by both the Dewan Rakyat and Dewan Negara. Act 852 was gazetted as legislation on Feb 2, 2024, but not operational yet. Section 1(2) of Act 852 states that the Act comes only into effect on a date to be appointed by the Minister by notification in the gazette. Hence, until Act 852 is operationalised, nicotine vape products will remain legal for sale to those below the age of 18 years, as an order to remove liquid and gel nicotine from the Poisons List of controlled substances under the Poisons Act 1952 was removed in March 2023. The government had also dropped the tobacco and vape GEG ban from Act 852 on constitutional grounds.

Teething Problems

Operational Issues

While we welcome vape regulations that will govern and control what is sold in the market, the authorities must understand that vape products are not tobacco products. Vape products are known to be as beneficial as THR products and help smokers to kick the habit. This is evident from data that we have seen in New Zealand and the UK where vape products have resulted in significant reduction in smoking prevalence.

Second, the proposed display ban on vape products would not work as that would limit those who are dependent on vape products to kick the smoking habit from having direct access to vape products. Some may end up buying online or even via the black market where the government will lose out in terms of taxes collected and at the same time deepen the shadow economy.

Businesses Need Friendly Policies

Given the above data points, it is imperative that government policies be pro-business and one that is focused on reducing the smoking prevalence in the country. Hence, the government must deploy vape regulations that encourage smokers to switch to less harmful products and easily accessible. Vape e-liquids sold in the market too should be priced correctly in terms of excise duties that are imposed on these products and in line with the risk-proportionate nature of these products which are 95%^{xxii} less harmful.

Way Forward

Regulations Are Key

In conclusion, harsh policies on vape products will be detrimental to society and the economy. Expected reduction in the number of smokers will be difficult to achieve, and this will drive up healthcare costs. Malaysia will miss the opportunity to save RM2.47 billion.

The role of vape in tobacco harm reduction (THR) cannot be overlooked as it has yielded positive results in New Zealand, the same country that has pulled back on its “Generation End Game” equivalent. Malaysia should not miss an opportunity to avoid the same error.

Vape regulations are seen as positive for the industry to ensure the products sold meet the product content, the permissible types of products for sale, the maximum volume allowed, the acceptable level of nicotine, and the guidelines for packaging and selling. The ban on display will just be an overkill, as it defeats the purpose of regulating the industry in the first place.

As for regulation for vaping products, the Ministry must spell out what is the allowable nicotine content levels, to ban certain ingredients and discourage youth initiation. This will enable consumers to make informed and correct decisions and at the same time support those seeking to reduce or quit traditional cigarettes. The vape devices and e-liquids sold in the market must be of certain certified quality to ensure safety and security for the consumers.

Notes

- i [National Strategic Plan for Tobacco Control 2015-2020 report by Ministry of Health Malaysia](#)
- ii [Global Adult Tobacco Survey \(GATS\) 2023 by Ministry of Health, Malaysia](#)
- iii [Winning The War on Tobacco Black Market Report by Datametrics Research and Information Centre](#)
- iv [SmokeFree 2025 New Zealand](#)
- v [Vaping in England: 2021 evidence update summary by Public Health England](#)
- vi [A Time-Series Analysis of Population Trends 2007–2022 Report by Department of Behavioural Science and Health, University College London, London](#)
- vii [Cochrane Report 2023](#)
- viii [Smoking and Health Report 2023 by Action on Smoking and Health UK](#)
- ix [Tobacco Control: Curbing the Craving, Khazanah Research Institute](#)
- x [Healthcare Costs of Smoking in Malaysia Report, Universiti Kebangsaan Malaysia](#)
- xi [Malaysia National Health Account, Health Expenditure Report 1997-2019 by Ministry of Health](#)
- xii [Budget 2023: Public Health Services Capacity Strengthened, RM36.1bln Allocated to MOH, Bernama](#)
- xiii [Govt Expected to Spend RM369mln Per Year to Treat EVALI Cases, Bernama](#)
- xiv [Action on Smoking and Health, England](#)
- xv [59% of the Cigarettes Sold in Malaysia are Illegal and this is Driving Underage Smoking, The Rakyat Post](#)
- xvi [Improving Estimates of the Illicit Cigarette Trade Through Collaboration: Lessons from Two Studies of Malaysia, BMJ Journal](#)
- xvii [Improving Estimates of the Illicit Cigarette Trade Through Collaboration: Lessons from Two Studies of Malaysia, BMJ Journal](#)
- xviii [Confederation of Malaysian Tobacco Manufacturers Hails 2% Decline in Illicit Cigarettes VS 2023, Focus Malaysia](#)
- xix [The Effects of Tobacco Control Policies on Global Smoking Prevalence, National Library of Medicine](#)
- xx [New Zealand’s smoking rates continue to decline, Ministry of Health New Zealand](#)
- xxi [Vaping to quit smoking, National Health Service UK](#)
- xxii [E-cigarettes and Heated Tobacco Products: Evidence Review, Public Health England](#)