



1

**INTRODUCTION AND OVERVIEW**

On Jan 26 2022, the health minister had announced an ambitious plan for public health.

The plan, dubbed the Generational End Game (GEG), will ban the use, possession and sale of cigarettes and vape products for those born after 2007.

It will be realised through the Tobacco and Smoking Control Bill 2022, which was tabled for the first reading in the Dewan Rakyat on July 27 and second reading on August 2nd 2022.

2

**INTRODUCTION AND OVERVIEW**

GEG marks the beginning of a new book regeneration, specifically those who are born from first January 2007 onwards.

With the implementation of GEG they are not allowed to buy or smoke any cigarettes, tobacco and vape products which can cause health issues like lung cancer, heart diseases, diabetes, and many more.

The main objective is to save the children and their generation from the smoking habit by avoiding them from smoking, including e cigarettes vape and shisha.

It will also create a smoke free environment where everyone can get fresh air.

3

**Tobacco and Smoking Products**

Cigarette and Vape or E-cigarette

4

Basic structure of a standard cigarette

- A cigarette is a thin cylinder of tobacco lined with smoking paper.
- Tobacco is a product made from the leaves of *Nicotiana sp.* plants.

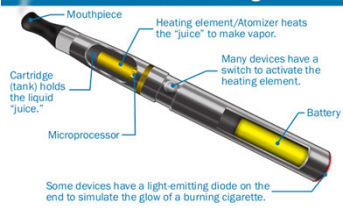
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**Cigarette**

- The tobacco in a cigarette is burned.
- This creates smoke containing thousands of toxic and carcinogenic chemicals.
- **Nicotine** and other chemicals are already present in *Nicotiana* plants as they grow.
- Cigarette smoke contains nicotine, tar, carbon monoxide and formaldehyde, and anywhere between 4000 to 7000 other chemicals. At least 69 of these chemicals are known to cause cancer, and many are toxic.
- **Tar** is a brown sticky substance that builds up in the lungs when cigarette smoke is inhaled. Tar can cause lung cancer and increase the risk of other lung diseases including chronic obstructive pulmonary disease (COPD).
- **Carbon monoxide** is a poisonous gas which can cause oxygen deprivation, leading to heart disease and stroke.

6


### Parts of an Electronic Cigarette



- Vape or e-cigarette is an electronic device (vaporizer) that aerosolized liquid.
- Generally, it consists of a battery, fuel oil, reservoir or tank and mouthpiece.
- The liquid vapour in the cartridge contains a solvent such as propylene glycol and/or glycerin and flavouring chemicals. Many contain varying levels of nicotine, the same addictive compound found in a cigarette.

7

- Vape, have become very popular globally especially among young people.
- In some countries vaping has been encouraged even by the health authorities and regarded as less harmful than conventional cigarettes; hence recommended to cigarette smokers for quitting.



- However, such view is not universally accepted.
- Emerging studies demonstrated negative consequences of vaping.
- In Malaysia there is lacuna in law regarding sale and purchase of vape.
- According to the Poisons Act 1952, nicotine in e-cigarettes is regulated as a Group C poison.
- However, such products are sold freely in retail shops in Malaysia.
- Subsequently, no protection is afforded to people against the negative impact of vaping.

8



## VGJ AND IFWF

**Sustainable Development Goal (SDG)**  
**Framework Convention on Tobacco Control (FCTC)**

9

### Sustainable Development Goal - SDG

The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future.

At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership.

They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

10



11

### Sustainable Development Goal - SDG

- Goal 3. Ensure healthy lives and promote well-being for all at all ages
- 3.a Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control (FCTC) in all countries, as appropriate .

12

### Framework Convention on Tobacco Control -FCTC

- The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first global public health treaty.
- It is an evidence-based treaty that reaffirms the right of all people to the highest standard of health.
- The WHO FCTC was developed by countries in response to the globalization of the tobacco epidemic.

Malaysia is a party to the WHO FCTC.  
 In September 2003 Malaysia signed the FCTC and ratified it in 2005.  
 The country became a party officially to the convention On 15 December 2005.  
 On the same date Malaysia's national FCTC Secretariat was formed and approved by the cabinet

13

### Framework Convention on Tobacco Control -FCTC

The Convention is divided into several sections:

- Articles 3-5 establish the objective, guiding principles and general obligations engendered by the treaty
- Articles 6 to 14: demand-side reduction measures
- Articles 15-17: supply-side reduction measures
- Article 18: protection of the environment
- Article 19: liability
- Articles 20-22: cooperation and communication
- Articles 23-26: institutional arrangements and financial resources
- Article 27: settlement of disputes
- Articles 28-29: development of the convention;
- Articles 30-38: "final provisions", covering statutory matters such as means of acceding to the Convention, entry into force, and so on.

14

## MALYSIAN LAWS ON CIGGARETTE AND VAPE

15

### Law and Cigarette in Malaysia

- Food Act of 1983 is currently a relevant law relating to tobacco control in Malaysia.
- The Control of Tobacco Products Regulations (CTPR) 1993 (Peraturan-Peraturan Kawalan Hasil Tembakau 1993-PPKHT 1993) were passed under the Food Act in 1993, and it was the main law to regulate tobacco use and product.
- The CTPR 1993 Regulations were replaced in 2004 by the CTPR 2004 (PPKHT 2004). orized to execute the law and regulations under the Food Act 1983 and the CTPR 2004.

16

### Law and Cigarette in Malaysia

- The CTPR 1993 does not allow any indoor smoking in healthcare institutions, public spaces including public lifts or toilets, theatres, and air-conditioned eating venues, as well as public transportation designated as 'no smoking zone'. All direct advertisements and sponsorships are prohibited. It also includes clear health warnings and a fixed maximum amount of tar (20 mg) and nicotine (1.5 mg). Children are also prohibited for any tobacco sales, possession, and smoking.
- Under the 2004 Regulations the law was improved and strengthened with the goal of making it more stringent by banning tobacco advertisements and sponsorship, restricting smoking in additional specified areas, prohibiting the selling of tobacco products to minors, and limiting the labelling, packaging and sale of tobacco products
- Sales Restrictions
- The law prohibits the sale of tobacco products via vending machines, the internet, small packets of cigarettes, and single cigarettes. There are no restrictions on the sale of tobacco products based on location.
- The sale of tobacco products is prohibited to persons under the age of 18.

17

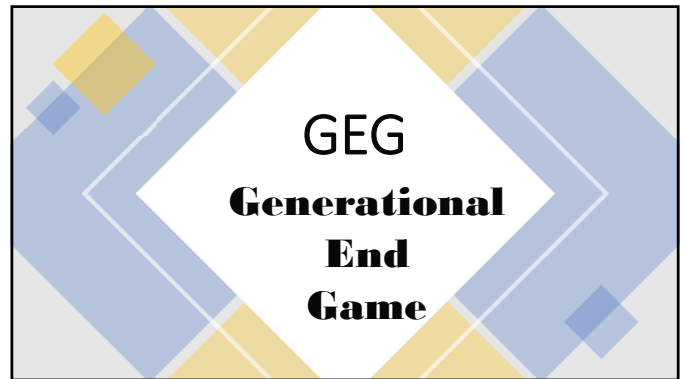
Artikel WHO FCTC	Jenis Kawalan	Peruntukan di bawah PPKHT / Program KKM
8	Protection from exposure to tobacco smoke	Peraturan 11 – Tempat Dilarang Merokok
11	Packaging and labelling of tobacco products	Peraturan 15 dan 16 – Pelabelan dan Pembungkusan
12	Education, communication, training and public awareness	Program promosi yang telah dijalankan contoh kempen "Tak Nak"
13	Tobacco advertising, promotion and sponsorship	Peraturan 4 dan 5 – Larangan mengenai iklan hasil tembakau
14	Demand reduction measures concerning tobacco dependence and cessation	Perkhidmatan program berhenti merokok mQuit. (Malaysia Quit Smoking program )
16	Sales to and by minors.	Peraturan 13 – Larangan Mengenai dsbnya terhadap orang belum dewasa

18

**Law and Vape in Malaysia**

- In Malaysia, the sale of vape liquids containing nicotine has been banned since 2015.
- Under the Poisons Act 1952 it is illegal for anyone other than a licensed pharmacist or a registered medical, dental or veterinary practitioner, to sell any form of preparation containing nicotine.
- The prohibition includes e- liquids.
- However, there are no specific regulations governing the sale and use of non-nicotine vaporizers and e-cigarettes. Thus, it is being transacted freely without any regulation.
- Ironically according to a study commissioned by the Malaysian Vape Chamber of Commerce, vape liquids containing nicotine make up about 97% of vape liquid retail sales in Malaysia.

19



**GEG**  
**Generational**  
**End**  
**Game**

20

### Generational End Game

**What is meant by Generational End Game?**

- The End Game is a target set by global experts to achieve a smoking prevalence of less than 5% (<5%).
- Generational End Game is a form of implementations to prohibit certain activities related to smoking for generation born on 1st January 2007 onwards.

21

### Generational End Game

What is the rationale of choosing the year 2007?

- The existing law prohibits any person who is under the age of 18 to use, to smoke or being in their possession any tobacco products.
- The year 2007 was chosen to ensure that the generation born on 1st January 2007 onwards are not permitted to smoke. This is to ensure that there is no discrimination since they are not permitted to smoke prior to the implementation of the new act.

The type of prohibitions are as follows:

- a) Prohibition to sell any smoking product to GEG
- b) GEG is prohibited from;
  - i. consuming (for example chewing);
  - ii. smoking;
  - iii. being in their possession;

any form of smoking products.

22

### Generational End Game

The prohibitions cover all types of smoking product as follows :

- a) All tobacco products including cigarette, cigars, loose tobacco, snus tobacco etc
- b) All heated tobacco products
- c) All tobacco products from other leaves, other than tobacco leaves
- d) All types of electronic cigarette or vape

The prohibition will include all electronic devices used for smoking.

23

## CONTROL OF TOBACCO PRODUCTS AND SMOKING BILL 2022

24

### The Control of Tobacco Products and Smoking Bill 2022

- The first and second readings for the bill were made on July 27 and Aug 1 respectively.
- The 2022 Bill is divided into 13 parts and comprised of 55 sections.

25

### The Control of Tobacco Products and Smoking Bill 2022

Part I – PRELIMINARY: Section 1 - 2  
 Part II – REGISTRATION: Section 3- 6  
 Part III - ADVERTISEMENT, PROMOTION AND SPONSORSHIP: Section 7- 9  
 Part IV - CONTROL OF SALE: Section 10 -13  
 Part V - CONTROL OF PRICE, PACKAGING, LABELLING, MANUFACTURING, ETC.: Section 14 - 15  
 Part VI - PROHIBITION OF SMOKING: Section 16-18  
 Part VII - LIABILITY OF THE MANUFACTURER, IMPORTER AND DISTRIBUTOR: Section 19- 20  
 Part VIII – ADMINISTRATION: Section 21-24  
 Part IX - ENFORCEMENT: Section 25-40  
 Part X - TRIALS AND PROCEEDINGS: Section 41-47  
 Part XI - GENERAL: Section 48 -53  
 Part XII SAVING AND TRANSITIONAL : Section 54 -55

26

### The Control of Tobacco Products and Smoking Bill 2022

#### Prohibition of sale of tobacco product, etc., to person born on 1 January 2007 onwards

##### Section 13.

- (1) No person shall—
- sell any tobacco product, smoking substance, substitute tobacco product or smoking device to any person who was born on 1 January 2007 onwards; or
  - provide any services for smoking to any person who was born on 1 January 2007 onwards.

27

### The Control of Tobacco Products and Smoking Bill 2022

- (2) Any person who contravenes subsection (1) commits an offence and shall, on conviction—
- where the person is not a body corporate—
    - for the first offence, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both; and
    - for the second or subsequent offence, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or to both

28

### The Control of Tobacco Products and Smoking Bill 2022

- (3) No person who was born on 1 January 2007 onwards shall purchase any tobacco product, smoking substance, substitute tobacco product or smoking device.

- (4) Any person who contravenes subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

29

### The Control of Tobacco Products and Smoking Bill 2022

#### Prohibition of smoking or possession of tobacco product, etc., on person born on 1 January 2007 onwards

##### Section 17.

- (1) No person who was born on 1 January 2007 onwards—
- shall smoke any tobacco product or substitute tobacco product;
  - shall use any smoking device; or
  - shall possess any tobacco product, smoking substance, substitute tobacco product or smoking device.
- (2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

30



### The Control of Tobacco Products and Smoking Bill 2022

- A motion to refer it to the Parliamentary Special Select Committee (PSSC) was introduced on August 2 and approved by the Dewan Rakyat.
- The PSSC which is made up of 13 MPs from the government and the Opposition and is chaired by the Minister of Health.
- The Parliament Special Select Committee (PSSC) was formed to review the Control of Tobacco Products and Smoking Bill 2022 for fine-tuning. The committee looked into the enforcement clause as well as proposed penalties under the Bill, and recommended improvements and study proposals mooted by Members of Parliament during debates and to select committees.
- It was also tasked with preparing proposed improvements to the Bill to control the sale of tobacco products, smoking items, tobacco substitutes and smoking devices within a month.

31

### The Control of Tobacco Products and Smoking Bill 2022

The PSSC had met five times with a bipartisan spirit to fine-tune the provisions in the bill.

The matters deliberated on and decided by the committee included issues of constitution, the need for a new act to regulate smoking products and activities involving smoking products, also discussed and fine-tuned the limits of enforcement and penalties for offences under the bill, as stipulated in its terms of reference.

On October 5, 2022 it had tabled a report containing details of its proceedings and recommendations to improve the bill. PSSC members have by consensus agreed on the statement report and proposed amendments that need to be made to the bill.

In the report twenty-three amendments have been proposed to the Control of Tobacco Products and Smoking Bill 2022. The proposed amendments for the resumption of debate on the bill involve the Long Title, clauses 1, 2, 5, 13, 17, 21, 24, 26, 27, 28, 29, 30, 31, 33, 34, 35, 38, 49, 53, addition of new clause 54 and renumbering of clauses 54 and 55.

32

### The Control of Tobacco Products and Smoking Bill 2022

- It has been reported the standard fines for GEG offenders has been reduced from RM5,000 to RM500, to introduce community service as an alternative to fines, and to remove body searches for minors below the age of 18.
- Section 17(1)(a) and (b) of the Control of Tobacco Product and Smoking Bill that prohibit those born from 2007 from smoking or vaping, or using tobacco or vape products is retained.
- However, Section 17(1)(c) that prohibits possession of these products by the next generation has been dropped.

33

## VIEWS ON GEG

34

### Views on GEG – Medical Fraternity

- There are different opinions on GEG among the medical fraternity with one calling for caution over the proposed law and the other urging Putrajaya to press on with it.
- Those who called for caution cite similar initiatives by Australia and New Zealand to bring about a generational ban on the use of tobacco products. The Federation of Private Medical Practitioners Associations Malaysia (FPMPAM) stated that developed nations have long established harm reduction programs. It was pointed out that Malaysia had yet to embark on any meaningful programs on tobacco harm reduction. The associations advised the government to consider making medical intervention the focus of its smoking and vaping cessation policy and not criminalization.
- However, the Malaysian Medical Association (MMA) said that the health ministry should proceed with the bill as protecting the health Malaysians was the right thing to do. Dismissing certain sectors is dissatisfaction with the bill MMA argues that the nation would have economic gains by saving people from bearing the burden of diseases associated with the use of tobacco and vape.

35

### Views on GEG - Former Chief Justice Zaki Azmi

The proposed generational ban on tobacco and vape under the Control of Tobacco Product and Smoking Bill 2022 may be unconstitutional, discriminatory, and affect civil liberties, said.

Article 5 of the Federal Constitution - the right to personal liberty  
Article 8 of the Federal Constitution - the right to equality and equal protection under the law.

Article 5 - there is no conflict with the tobacco control bill, the Federal Constitution permits the deprivation of personal liberty to a reasonable and non-arbitrary extent.

However, it was arguably discriminatory and in violation of Article 8 of the Federal Constitution. Although the government has the right to set a minimum legal age for various issues – such as marriage, voting, liability of crime, and capacity to contract – these age prerequisites act as a “temporary gatekeeper as opposed to the Bill’s permanent prohibition with the GEG”.

36

### Views on GEG - Former Chief Justice Zaki Azmi

Article 8 should be interpreted as the law having to "operate alike on all persons under like circumstances", rather than "all persons must be treated alike".

If two adults attempt to purchase and consume tobacco or a smoking device but one is prohibited for life from it on the basis that he was born on or after Jan 1, 2007 while the other is not because he was born on Dec 31, 2006, this against the principle of equality applying on individuals in 'like circumstances.

The GEG would effectively remove freedom of choice from adults who turn 18 in 2025, the year that the government intends to implement the generational ban on smoking and vaping.

The essence of a generational endgame can be argued to be discriminatory, as it deprives a generation of adults from exercising what they may claim to be their freedom of choice while other adults face no similar deprivation.

37

### CONCLUSION

There are diverse opinions on GEG and it is an issue being hotly debated in healthcare and policymaking.

The health of people as consumers must be protected and prioritized over profits.

The government should be able by now to make sound decisions on policy and laws by considering the health and welfare of the public.

Rather than exposing the public from known and unknown risk and lurking danger, it is prudent for the authority to strict precautionary measure for public good.

As the saying goes, prevention is better than cure.

*Salus populi suprema lex esto.*

38

