

CONSULTATION QUESTIONS

Age restriction for e-cigarettes

1. Should the minimum age of sale for e -cigarette devices, refills (e-liquids) be set at 18?

Yes X No ☐

2. Should age of sale regulations apply to:

a. only e-cigarette devices and refills (e-liquids) that contain nicotine or are capable of containing nicotine, or

b. all devices / refills (e-liquids) regardless of whether they contain or are capable of containing nicotine?

a ☐ b X

3. Whom should the offence apply to:

a. the retailer selling the e-cigarette

a X

b. the young person attempting to purchase the e-cigarette

b ☐

c. both

c ☐

4. Should sales of e -cigarettes devices and refills (e-liquids) from self-service vending machines be banned?

Yes X No ☐

5. Should a restriction be in place for other e-cigarette accessories?

Yes X No ☐

6. If you answered “ yes” to question 5, which products should have restrictions applied to them?

Nicotine containing products carry the risk of poisoning and supply should be restricted

Proxy purchase for e-cigarettes

7. Should the Scottish Government introduce legislation to make it an offence to proxy purchase e-cigarettes?

Yes ☒ No ☐

Domestic advertising and promotion of e-cigarettes

8. Should young people and adult non-smokers be protected from any form of advertising and promotion of e-cigarettes?

Yes ☒ No ☐

9. In addition to the regulations that will be introduced by the Tobacco Products Directive do you believe that the Scottish Government should take further steps to regulate domestic advertising and promotion of e-cigarettes?

Yes ☒ No ☐

10. If you believe that regulations are required, what types of domestic advertising and promotion should be regulated?

- | | |
|--|---------------------------------------|
| a. Bill boards | a <input checked="" type="checkbox"/> |
| b. Leafleting | b <input checked="" type="checkbox"/> |
| c. Brand-stretching (the process of using an existing brand name for new products or services that may not seem related) | c <input checked="" type="checkbox"/> |
| d. Free distribution (marketing a product by giving it away free) | d <input checked="" type="checkbox"/> |
| e. Nominal pricing (marketing a product by selling at a low price) | e <input checked="" type="checkbox"/> |
| f. Point of sale advertising (advertising for products and services at the places where they were bought) | f <input checked="" type="checkbox"/> |
| g. Events sponsorship with a domestic setting | g <input checked="" type="checkbox"/> |

11. If you believe that domestic advertising and promotion should be regulated, what, if any, exemptions should apply?

Marketing of e-cigarettes will have the effect of increasing consumer awareness of these products and of normalising smoking. I would not support any advertising.

12. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on children and adults (including smokers and non-smokers)?

I am aware of reports of e-cigarettes being advertised in places and at times where child and young people are likely to be exposed to the advertisements. Images of people smoking or using e-cigarettes should not be able to be shown on television programmes or films before the 9pm watershed.

13. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on business, including retailers, distributors and manufacturers?

Not aware

Inclusion of electronic cigarettes on the Scottish Tobacco Retailer Register

14. Do you agree that retailers selling e-cigarettes and refills should be required to register on the Scottish Tobacco Retailers Register?

Yes ☒ No ☐

15. Do you agree that the offences and penalties should reflect those already in place for the Scottish Tobacco Retailers Register?

Yes ☐ No ☒

16. If you answered 'no', to question 15, what offences and penalties should be applied?

The Scottish Tobacco Retailers Register does not provide sufficient powers to enable breaches of regulation to be managed. Further powers are required. In particular further powers are required to enable the number of retailers within a community to be managed and the proximity of retailers to sensitive areas such as schools. It should be possible for retailers not on the register to be prohibited from selling tobacco products and e-cigarettes

E-cigarettes – use in enclosed public spaces

17. Do you believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces?

Yes ☒ No ☐

18. If you answered 'yes' to Question 17, what action do you think the Scottish Government should take and what are your reasons for this?

E-cigarettes should be managed in the same way as tobacco-containing products and their use prohibited in enclosed public spaces

19. If you answered, 'no' to Question 17, please give reasons for your answer.

Comments

20. Are you aware of any evidence, relevant to the use of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?

The use of e-cigarettes in enclosed spaces exposes non-smokers to nicotine-containing vapours. This exposure is involuntary. Non-smokers should have the right to not be exposed to these vapours in enclosed spaces

Smoking in cars carrying children aged under 18

21. Do you agree that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18?

Yes X No ☐

22. Do you agree that the offence should only apply to adults aged 18 and over?

Yes X No ☐

23. If you answered 'no' to Question 22, to whom should the offence apply?

Comments

24. Do you agree that Police Scotland should enforce this measure?

Yes X No ☐

25. If you answered 'no' to Question 24, who should be responsible for enforcing this measure?

Comments

26. Do you agree that there should be an exemption for vehicles which are also people's homes?

Yes ☐ No X

27. If you think there are other categories of vehicle which should be exempted, please specify these?

Comments

28. If you believe that a defence should be permitted, what would a reasonable defence be?

The Scottish Government strategy "Creating a Tobacco-Free Generation" clearly identifies exposure to tobacco as a child protection issue. In the light of the way this is now framed, I do not think that a defence is permissible.

Smoke-free (tobacco) NHS grounds

29. Should national legislation be introduced to make it an offence to smoke or allow smoking on NHS grounds?

Yes ☒ No ☐

30. If you support national legislation to make it an offence to smoke on NHS grounds, where should this apply?

- a. All NHS grounds (including NHS offices, dentists, GP practices) ☒ a X
b. Only hospital grounds ☐ b
c. Only within a designated perimeter around NHS buildings ☐ c
d Other suggestions, including reasons, in the box below

NHS premises are places that should promote health. It is unacceptable for people to smoke in these places. Condoning of smoking is in direct opposition to the aims and purpose of the NHS.

31. If you support national legislation, what exemptions, if any, should apply (for example, grounds of mental health facilities and / or facilities where there are long-stay patients)?

I do not support exemptions

32. If you support national legislation, who should enforce it?

Trading standards should be given the ability to impose fines. I would assert that Police Scotland may also have a role in the management of smokers who persistently smoke within designated areas

33. If you support national legislation, what should the penalty be for non-compliance?

The penalty should be a fine. An increasing scale of fines should be available for repeat offences

34. If you do not support national legislation, what non-legislative measures could be taken to support enforcement of, and compliance with, the existing smoke-free grounds policies?

Comments

Smoke-free (tobacco) children and family areas

35. Do you think more action needs to be taken to make children's outdoor areas tobacco free?

Yes ☒ No ☐

36. If you answered 'yes' to Question 35, what action do you think is required:

a. Further voluntary measures at a local level to increase the number of smoke-free areas a ☐

b. Introducing national legislation that defines smoke-free areas across Scotland b ☐

c. That the Scottish Government ensures sufficient local powers to allow decisions at a local level as to what grounds should be smoke-free c ☒

d. Other actions. Please specify in the box below

Local Authorities should have the powers that enable them to fulfil their duty to protect children from second-hand smoke. Such powers should have the potential to be applied to all areas in which children might be exposed. i.e. areas around schools and community centres, areas where children play, areas that families utilise.

37. If you think action is required to make children's outdoor areas tobacco-free, what outdoor areas should that apply to?

Children should be protected from second hand smoke and should not be exposed to experiences in which smoking is normalised. All areas in which children play should become smoke-free and areas which families use should be smoke-free

Age verification policy 'Challenge 25' for the sale of tobacco and electronic cigarettes

38. Do you agree that retailers selling e-cigarettes, refills and tobacco should be required by law to challenge the age of anyone they believe to be under the age of 25?

Yes ☒ No ☐

39. Do you agree that the penalties should be the same as those which are already in place for selling tobacco to someone under the age of 18?

Yes ☒ No ☐

Unauthorised sales by under 18 year olds for tobacco and electronic cigarettes

40. Do you agree that young people under the age of 18 should be prohibited from selling tobacco and non-medical e-cigarettes and refills unless authorised by an adult?

Yes ☒ No ☐

41. Who should be able to authorise an under 18 year old to make the sale, for example, the person who has registered the premises, manager or another adult working in the store?

Young people under the age of 18 should be prohibited from selling tobacco and e-cigarettes

42. Do you agree with the anticipated offence, in regard to:

a. the penalty

a X

b. the enforcement arrangements

bX ☐

Equality Considerations

43. What issues or opportunities do the proposed changes raise for people with protected characteristics (age ; disability ; gender reassignment; race; religion or belief; sex; pregnancy and maternity; and sexual orientation)?

Many vulnerable groups may be more likely to smoke and so these measures provide the opportunity to reduce the health inequalities that they may experience

44. If the proposed measures are likely to have a substantial negative implication for equality, how might this be minimised or avoided?

These measures are likely to reduce inequalities and have a positive effect

45. Do you have any other comments or suggestions relevant to the proposals in regard to equality considerations?

Protecting vulnerable groups from the adverse effects of smoking should be a primary aim of any proposed legislation

Business and Regulatory Impacts Considerations

46. What is your assessment of the likely financial implications, or other impacts (if any), of the introduction of each of these proposals on you or your organisation?

Selling tobacco and e-cigarettes is likely to be a very small part of the business volumes of most retailers. Most people do not smoke in Scotland.

47. What (if any) other significant financial implications are likely to arise?

There should be significant savings to be made from reduced requirements for street cleaning, to remove the discarded cigarette tabs from public areas

48. What lead-in time should be allowed prior to implementation of these measures and how should the public be informed?

These measures should be brought in quickly, to maximise the

improvement that will be gained in the health of the population

49. Do you have any other comments on or suggestions relevant to the proposals in regard to business and regulatory impacts?

Businesses should be licensed to sell tobacco and e-cigarettes in a similar way and with similar measures to the licensing arrangements for alcohol

As a party to the World Health Organization's Framework Convention on Tobacco Control (FCTC), Scotland has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.

I have no direct or indirect links with the tobacco industry