

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 ☒ 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 ☒

3. Whom should the offence apply to:

a. the retailer selling the e-cigarette

a ☐

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 ☒ No ☐

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

Yes ☒ No ☐

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

Not familiar with what “accessories” are available but anything that would further promote use of e-cigarettes should be restricted as we need to ensure that any type of smoking (be it normal tobacco products or e-cigarettes) is not glamourised.

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

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

I don't think any exemptions should apply. Until proven absolutely safe then I think the Scottish Government have a duty to take action and ensure public health is protected. I think that e-cigarette products should not be promoted in any way and should not be glamourised/normalised as less harmful than conventional smoking products. If we are to really tackle the harm that smoking does and reduce the levels of people smoking then a strong stance has to be made sooner rather than later. A lot of people, whether they choose to smoke or not, are being exposed and harmed and e-cigarettes also have the potential to do this too if they are found to contain harmful ingredients.

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)?

Comments

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?

Comments

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?

Comments

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?

Whether it's conventional or e-cigarettes my view is that it is still smoking and potentially harmful and also not a good image. Whether it's real smoke from a cigarette or "fake" smoke from an e-cigarette I think it is unfair on people who do not choose to smoke that they should have to inhale any vapour or "fake" smoke. As yet there has been no evidence to definitively prove that e-cigarettes are not harmful so I would prefer a strong stance was taken and that they were covered under the smoking ban like any conventional smoking products.

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?

Comments

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 ☒ No ☐

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

Yes ☐ No ☒

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

Should apply to anyone smoking in a vehicle as it is likely that younger people will smoke e-cigarettes so this should equally apply to them—ultimately this is still a confined, enclosed space and should be covered under the smoking ban.

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

Yes ☐ No ☒

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

I've answered no however I'm not 100% sure who should enforce this. It is difficult to enforce the smoking ban – on a daily basis I still see people in workplace vehicles smoking and so this part of the smoking ban is not currently being enforced. I'm not aware of anyone ever being stopped or fined over smoking in a vehicle covered under the smoking ban so if this is not being enforced at the moment it's unlikely that it will be for e-cigarettes.

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

Yes ☐ No ☒

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?

Comments

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 ☒ |
| b. Only hospital grounds | b ☐ |
| c. Only within a designated perimeter around NHS buildings | c ☐ |
| d. Other suggestions, including reasons, in the box below | |

Comments

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)?

Making exemptions prioritise the rights of smokers over the rights of those that don't smoke including exposure to second hand smoke of staff, other patients who don't smoke, visitors, etc. Would need to be dedicated spaces not on view to general public and sited well away from buildings.

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

Difficult to suggest as public sector agencies (e.g. Police) already have capacity issues never mind adding on more responsibility. Needs to be

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

On the spot fines, the right to confiscate product (e-cigarette/cigarette/pipe, etc.)

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

Comments

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

Anywhere where it is visible to children. It's not just about the breathing in of smoke it's also the continued normalisation of smoking that is harmful – children are more likely to want to try smoking or will smoke and we need to reduce exposure of children to smoking in it's widest sense.

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?

Whoever is responsible for the premises in question at the time of the sale being made. Can't necessarily make this the person who has registered the premises as they may own and be registered keeper but not work there e.g. have a manager to run the premises.

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

a. the penalty

a ☒

b. the enforcement arrangements

b ☒

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)?

Comments

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

Comments

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

Comments

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?

In the long term hopefully a reduction in costs to NHS services in relation to impact of smoking on population health.

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

Comments

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

Because the smoking ban already exists I don't think there should be a long

lead time and that the existing ban should be extended to include e-cigarettes.

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

Comments

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.

No links