

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?

Comments

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?

Comments Simple explanatory/descriptive information in pharmacies/health care facilities on use to encourage tobacco use quit.

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 Young people/ children - like adults - are influenced by advertising which cleverly attracts attention and use.

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 It is not the role of government to encourage business profiteering from products that are either of proven detriment to health or that are

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?

Comments Same regulations as tobacco as it is not possible to determine if these products are not tobacco use 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 used of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?

Comments Just that bar staff in crowded / low lighting environments report, I believe, confusion.

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?

Comments

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?

Comments

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

Comments BUT THERE NEEDS TO BE DESIGNATED SMOKING SHELTERS IN HOSPITAL GROUNDS FOR STAFF AND PATIENTS AND VISITORS. - see my detailed email earlier

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)?

Comments AS WITH all hospitals, designated smoking shelter would overcome the issue for long-stay patients

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

Comments Health Boards need to designate enforcement staff with recourse to the police as per current legislation.

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

Comments Fines.

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

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

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

d. Other actions. Please specify in the box below

Comments Legislation (b) but also local level decisions (a) and (c) to go beyond the minimal as designated by law. eg local level decision on the whole of a park

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

Comments Beaches; play areas; play parks; roller blade/skate board areas; paths in parks; barbecue areas in public areas; real ponds in parks.

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-medicinal 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?

Comments The person who has registered the premises but authorisation should be rare and only for those aged 16 and above. (If they can vote in referenda, why can't they sell?)

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

- a. the penalty
- b. the enforcement arrangements

a
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 NONE

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

Comments They won't have any let alone ~~substantial~~ substantial negative implications on any of these groups

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

Comments NO

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?

Comments There setting up businesses to sell e cigarettes and the tobacco industry that is invest in their products will see profits fall but that's life!

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?

Comments As little as possible as this new marketing niche and its product lines are increasing very fast as there is NO regulation and NO safety

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

Comments

The e cigarette business is aimed in part at those who want to quit tobacco and that approach can be encouraged but it is also based on

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.

Comments NO links to tobacco industry but a fervent dislike of it and its methods.

addicting individuals to nicotine and marketed in a way to encourage that so to reduce the addiction it needs control and regulation



From: **Dr. Alan Rodger** alanrodger@f2s.com
Subject: Scottish Government Consultation - e-cigarettes; smoking in motor vehicles with children
Date: 22 October 2014 12:07
To: Tobaccocontrolteam@scotland.gsi.gov.uk

I would strongly recommend that the Scottish Parliament are asked to pass legislation that bans tobacco smoking in all vehicles in which children are also present.

The evidence is clearly apparent now that those exposed passively to tobacco smoke in the home over long periods are subject to detrimental effects on their health. A motor vehicle cabin is a more confined space with generally less circulation of air than a home. It would appear to me that, extrapolating from evidence of smoking in the home, passive smokers will be exposed in vehicles to greater concentrations of carcinogens and toxins. In addition, a nonsmoker has no ability to remove her or himself from the vehicle if another is smoking; and children certainly do not have the ability to object to the smoking of their parent(s). Therefore, to offer protection to vulnerable children, we should take steps to prohibit smoking in all motor vehicles where children are present.

With regards to electronic so-called cigarettes, again there is a place for banning the sale of these to those below 18 as we do cigarettes, not because of any fatal harms such as we know is true of tobacco use, but because the vapour in these new devices contains a strongly addictive chemical, nicotine. To allow the sale to the young would mean we agree that they should be permitted and even encouraged through advertising, to take steps to become addicted to nicotine. We allow this for no other product.

The electronic cigarettes should be seen as a medical product, like nicotine patches and other forms of nicotine replacement, to assist addicts of tobacco to give up the latter. Advertising to date of these products and the press coverage, perhaps encouraged by lobbyists for the tobacco industry which is now investing heavily in such alternatives to nicotine access, would suggest that the sole purpose of the e-cigarette is not to facilitate tobacco use cessation but as part of another addictive lifestyle. Furthermore, most of these clearly medical products containing unlicensed and often untested chemicals, are not tested for safety, dose delivery, efficacy in their primary role. To allow unfettered access by young people to these at this stage in their development is a disaster waiting to happen.

For all of those reasons, I believe that the use of, access to, sale of e-cigarettes should mirror exactly that of tobacco products under current and future legislation. They should be covered by the legislation on where tobacco may be smoked as owners of shops, bars, restaurants, travel facilities should not be left to decide this for themselves and their customers.

Lastly, I believe that you may also be consulting on smoking in NHS premises. I spent a career in the medical profession and most of that time in hospitals. I have seen the hospital service go from smoking in wards by staff and patients, night nurses smoking and using near ingenious ploys to hide their fags from Night Sister to increasing restrictions with designated smoking rooms like kipper factories to sheds for smokers in the grounds to attempts to make the grounds in the open air smoke-free. The latter has always seemed not just absurd to me but unenforceable and I feel at times only the religious verve of the true anti-smoking zealot demands this. It seems almost draconian to me that nowhere in the vast grounds of our hospitals a rule says that you may not smoke in the open air just because we are a health care facility. To see staff crowding on the main road in wind and rain for a smoke during a short break while the vast grounds are free of smokers does not in itself proclaim to the world that we are all out to improve health. I know how difficult it is to enforce such rules as, when medical director of Scotland's largest cancer centre, I tried almost daily to encourage smokers not to cluster around the main entrance while clutching their drip stands in one hand with a fag in the other. And it is rare that those who devise or pass legislation or who, sitting on health board committees, make rules to ban smoking in hospital grounds, ever see the need to try to talk to the smokers who openly defy the rules. Nor do many such see the life-long smoker patient wandering about trying to get a nicotine fix.

I believe that smoking must be banned within health service buildings and most of the adjacent grounds but I do believe there needs to be some common sense in all this and less piety: shelters should be provided for smokers - I saw them work well before the total ban and in an Australian hospital. And in Australia I saw effective measure in some hospitals to discourage smokers around main entrances, measures such as classical music (drives away many) and pleasant explanatory audio messages and not the heavy reluctant hand of some poor porter or car park attendant who's had this unpopular task added to his or her job spec!

I gather I am supposed to complete some form or other called a Respondent Information Form. Well, I cannot for the life of me find it on your unhelpful website. If you want one filled in, please email me one. (I am presuming you read all the way through this....) Meantime let me inform me who I am:

Dr Alan Rodger

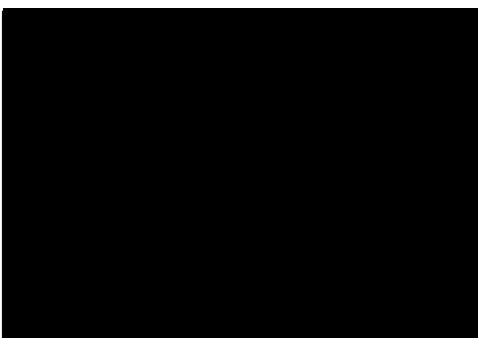
White, male, not disabled and aged 68 and retired. Do you need to know anything else?

Address and other contacts as below

No surprise that I do not work for the tobacco industry; I try not have shares in it though I have no control over Scottish Public Pensions Agency investments and my financial advisors know I do not wish to invest in that industry.

I support ASH Scotland financially.

I am a member of the Cross Party Group on Tobacco & Health of the Scottish Parliament and of Scottish Coalition on Tobacco (SCOT).



From: Dr. Alan Rodger alanrodger@f2s.com
Subject: Re: Scottish Government Consultation - e-cigarettes; smoking in motor vehicles with children
Date: 28 October 2014 11:53
To: Tobaccocontrolteam@scotland.gsi.gov.uk



Dear Mr Hoskins,

Thank you for your email.

Are you aware how difficult it is for someone with my limited computing skills to complete on an Apple computer the form you attached? Or now the time it will take in addition to what I have already spent on this exercise? I have so far today spent some time trying to get your form to take simple data like my phone number or even full postcode. I will in the end have to print it and fill it in by hand.

I do not for a minute imagine it is the intention of HM Government in Scotland to dissuade active involvement by the public in this consultation. However, while the website covering the issue and describing the process of responding to the consultation was, to say the least, less than helpful and generally tedious, it now seems to me it is contradictory. Nevertheless, I shall persist, print the form, fill it out like a good citizen and post it to you so you can sort it out.

