

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

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

c. both

a ☒
b ☐
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 N/A

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 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 type="checkbox"/> |
| g. Events sponsorship with a domestic setting | g <input type="checkbox"/> |

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

Comments

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)?

CommentsNo

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?

CommentsNo

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?

These are not tobacco products so not appropriate for tobacco retailer register. Should be given a medicine category status with the appropriate penalties associated with these.

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?

It can be difficult to determine if someone is using an actual cigarette or an e-cigarette, so making it harder to reinforce no smoking policies. Until we are clear about what the visual impact of seeing people using an e-cigarette will have in terms of making it the norm, and any effects on uptake and possible concomitant smoking, then we should probably not encourage the replacement of one habit with another. We are still also unclear on the health risks associated with the long term use of nicotine via these devices.

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?

CommentsNo

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?

Only given the option of under 18 years old. As young people can drive from the age of 17 it may be more appropriate to have the age limited to vehicles carrying someone aged 16 years or under. Need to be clear what the age definition for a child will be. 16 & 17 year olds have been given the opportunity to vote

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?

No

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

.

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

While the idea of no-smoking NHS sites is good, we do not believe that legislation is necessarily the answer. Why just NHS grounds? Why not the grounds of schools, nurseries, private nursing homes etc? There would need to be some clear policy decisions setting out the rationale for targeting only NHS grounds. I think it will be extremely difficult to "police" this type of offence on NHS grounds which are extensive. This could also essentially put a legal onus on NHS staff to report a patient/work colleague/visitor for smoking, which may conflict with their healthcare relationship with patients and/or staff members. Providing advice to smokers that this habit is not good for their health is very different to reporting someone for a potential prosecutable/fineable offence.

There is a need to stop patients/visitors/staff smoking outside the front

doors of hospitals/clinics where others have to pass by but this might be achieved by other means.

Would this mean that hospitals and health boards could be prosecuted & fined if people are found smoking on NHS grounds? Is this a good way to use NHS resource?

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)?

Not sure how you would determine exemptions – why would a mental health patient in a mental health hospital be any different a mental health patient receiving treatment in an acute hospital, or a relative under severe distress following the death of a loved one who also has a mental health problem?

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

This is the big question. It is extremely unlikely that Police Scotland will wish to be called to hospital grounds every time some one is caught smoking. So there would need to be individuals designated to do this. Would this mean additional resources are required to pay for someone to monitor NHS premises?

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

Comments

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?

Any designated children's out door play areas

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?

Any adult in the store in a supervisory role

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)?

None

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

N/A

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

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?

Smoke free NHS sites will impact significantly on the NHS organisation. Cost of signage, enforcement, etc. depending on the actual steps which are implemented.

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?

At least 1 year lead in time and publicity in newspapers, TV etc.

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

No

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 with tobacco industry