

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

All e-cigarettes devices and refills (e-liquids) and accessories. This would include shisha e- pipes and associated paraphernalia.

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. Leafletting | 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

None

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

As an organisation we have real concerns that e-cigarettes mimic and normalise smoking behaviours and their use undermines the huge effort made in Tobacco Control in Scotland. E-cigarettes could be a gateway product to the use of tobacco and nicotine addiction, especially to young people, ex smokers and never smokers. The rules regarding domestic advertising should therefore be stricter to ensure that all marketing should be explicitly targeted at smokers only. Young people in particular are very susceptible to “sexy” advertising and these products are promoted to apply to the senses.

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

We are aware that the regulation will ultimately have a negative impact on the sales distribution and manufacture of those e-cigarettes who do not meet the regulatory safeguards under the terms of the European Directive, which will come into force in 2016.

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

We are concerned that e-cigarettes re-normalise smoking behaviours which have been made socially unacceptable since 2006. Currently there is insufficient evidence whether or not second hand vapour is harmful and we do not know the long term health impact on e-cigarette users and those exposed to second hand vapour. Many organisations have already banned the use of e-cigarettes, to avoid confusion among staff and clients of services and because of safety concerns. We believe the Scottish Government should amend current smoke free legislation to include e-cigarettes and actively support organisations to implement and develop their own policies restricting the use of e-cigarettes. We also feel the Scottish Government (SG) should acknowledge the possibility of a new generation of nicotine addicts who will in future require support to deal with their nicotine addiction from e-cigarettes.

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

E-cigarettes are relatively new devices and there are still real concerns regarding their safety to both users and bystanders. We feel that as an organisation it will take until the European Directive come into force before they are properly regulated. Moreover, the SG should take on board the current fears from Scottish Fire and Rescue Services regarding fires associated with the use of these devices. Whilst the e-cigarette has been developed as an alternative to traditional tobacco products it is unclear of their purpose and unless they are sold as a cessation aid, then a clear definition of their purpose is required. The Tobacco Control strategy for Scotland aims to create a tobacco free generation for Scottish young people. E-cigarettes normalise smoking behaviours and therefore undermine current tobacco control measures.

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

It should be an offence for anybody who is smoking in a car regardless of their age.

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

None

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)?

Comments

We believe that because of the health harms caused by tobacco that there should be no exemptions. Also we believe that because e-cigarettes mimic traditional tobacco use and also because of a lack of information regarding their health effects on users and bystanders exposed to second hand vapour, that these should be treated the same as other tobacco products and be included in this legislation. The NHS is a health promoting organisation and has a duty of care to all patients, staff and visitors to provide a smoke free environment. Also, in line with recommendations set out in the Tobacco Control strategy for Scotland the NHS in Scotland is encouraged to demonstrate clear leadership regarding the creation of smoke free premises. Legislation would support the NHS with fiscal measures to enforce Smoke Free Policies.

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

Comments

The Scottish Police Service should enforce it along with Trading Standards who should have a supporting role in issuing fixed penalties if tobacco litter and accessories are dropped.

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

Comments

We recommend that there should be an on the spot fine for those breaching the policy.

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?

Comments

All public play areas, perimeter of schools and the surrounding areas used or visited by children.

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?

Comments

Another adult over the age of 18 who is working in the store would be most practical measure to oversee this.

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

We do not believe as an organisation that there will be any negative or adverse effects of these changes to people with protected characteristics. The health harms of tobacco are undisputed and therefore these changes will protect people and have a positive effect on health outcomes.

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

Comments

We do not believe that the proposed measures will have a substantial implication for equality.

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

Comments

We recommend that all communities are given clear, easy to understand guidance on the proposed changes and these should be available in a variety of formats for accessibility.

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

These measures will provide a significant and positive impact on the NHS in Scotland in terms of improved quality of life, increased health benefits, a further reduction in cardiac and respiratory tobacco events and a reduction in the number of patients using health services for tobacco related illnesses including those as a result of exposure to second hand smoke.

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

Comments

We strongly believe that these proposed measures will allow Scotland to flourish and achieve the ambition of a smoke free Scotland by 2034 and we also believe that Scotland will be a nation of people who are wealthier, healthier and smarter. Given the strong link between tobacco use and health inequalities these measures will have a huge impact on improving health and wellbeing in economically deprived communities and will impact positively on an individual's financial wealth. These measures would also support the work of the early years collaborative across Scotland to ensure future generations get the best start in life by growing up in a smoke free environment.

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

Comments

We believe the measures should come into force by December 2015. Use of national public awareness campaigns, with a strong focus on the use of social media, such as Facebook and twitter. For those who do not use modern technology information should be published through radio, TV adverts, bus shelters, bill boards, leaflet drops, flyers and newspapers. Local Authorities, NHS and voluntary organisations could promote through their internal communication systems. .

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

Comments

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.

Comments

None