

## **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?**

As the extent of health information is limited on e-cigarettes it remains a distinct possibility that their fumes are dangerous to health, for both the smoker and others. Hence the same level of restrictions should apply to e-cigarettes as to nicotine products.

Apart from the health risks to the general population, consideration should also be given to those that have multiple chemical sensitivities; MCS can include to products of smoked nicotine and to products of heated alcohol as in e-cigarettes as well as other man-made chemical ingredients. The smoking legislation is certainly a boon to such sufferers, and e-cigarettes being smoked in public are starting to become a limitation to such sufferers.

**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?**

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

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

If there exemptions in nicotine related legislation then only the same.

**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?**

As the extent of health information is limited on e-cigarettes it remains a distinct possibility that their fumes are dangerous to health, for both the smoker and others. Hence the same level of restrictions should apply to e-cigarettes as to nicotine products.

Apart from the health risks to the general population, consideration should also be given to those that have multiple chemical sensitivities; MCS can include to products of smoked nicotine and to products of heated alcohol as in e-cigarettes as well as other man-made chemical ingredients. The smoking legislation is certainly a boon to such sufferers, and e-cigarettes being smoked in public are starting to become a limitation to such sufferers.

I therefore find it difficult to distinguish between the risks from nicotine/tobacco products and e-cigarettes as regards MCS sufferers and therefore the same restrictions should apply on where e-cigarettes should be used.

**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?**

Drivers of cars can be less than 18; passengers can be any age. Hence the offence should apply to everyone of any age – partly as a means of underlining how dangerous smoking is for any human.

**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?**

Who else could enforce it except Police Scotland. Certainly this would provide an additional workload, but rather than make it active policing, it should be allowed that if a vehicle is stopped for another reason and evidence of smoking is found – ash, partially burnt or activated (e-) cigarettes, that this should be evidence of the offence.

**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?**

The exemption for motorhomes or similar should only apply when those vehicles are parked off the carriageway.

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

It should be clear that "but I had the window open" or similar is not a defence.

**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 <input checked="" type="checkbox"/> |
| b. Only hospital grounds   | b <input type="checkbox"/>            |
| c. Only within a designated perimeter around NHS buildings         | c <input type="checkbox"/>            |

**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)?**

As there are alternatives to smoking for those that are addicted (eg patches) no exemptions should be allowed.

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

The NHS Manager for that site should have the responsibility for ensuring that smoking (of any kind) is not permitted on their site, with calling the police if they are unable to enforce it.

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

Similar to smoking in a car with under 18s in it.

**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 areas where children can be expected to spend any length of time; ie not just those with play equipment, but public parks, beaches etc.

**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?**

The manager, or whoever is acting manager at the time, provided that person is over 18.

**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)?**

The proposed changes offer a benefit to everyone, including those with protected characteristics.

**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?**

Sufferers of MCS are not those with a “protected characteristic” but can severely suffer from exposure to man-made chemicals. Surely these people should ensure a level of consideration from e-cigarettes that may not be generating a readily recognisable smell that has at least allowed avoidance of areas where someone is smoking tobacco products.

### **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

**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

**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.

Comments