

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 x ☐ 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 x ☐

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 ☐x

4. Should sales of e -cigarettes devices and refills (e-liquids) from self-service vending machines be banned?

Yes x ☐ No ☐

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

Yes x ☐ No ☐

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

Comments All related paraphernalia/equipment

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"/> x |
| b. Leafleting | b <input checked="" type="checkbox"/> x |
| 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"/> x |
| d. Free distribution (marketing a product by giving it away free) | d <input checked="" type="checkbox"/> x |
| e. Nominal pricing (marketing a product by selling at a low price) | e <input checked="" type="checkbox"/> x |
| f. Point of sale advertising (advertising for products and services at the places where they were bought) | f <input checked="" type="checkbox"/> x |
| g. Events sponsorship with a domestic setting | g <input checked="" type="checkbox"/> x |

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

Comments None . (GP surgeries could promote any assumed health advantages)

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 The e-cigarette industry is growing exponentially

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 Harmonize the law with that governing traditional tobacco products.

However, we did not reach consensus on this point: some thought that the law should not apply to e-cigarettes in enclosed public spaces. It was thought that there needs to be evidence that this is detrimental to public health.

19. If you answered, 'no' to Question 17, please give reasons for your answer.

Comments See above.

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?

Comments Anyone smoking in the car (teenagers?), However, again we did not reach consensus on this point. It was thought that enforcement would be too difficult, and that people regard their cars as an extension of their home.

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 x☐ No x☐

27. If you think there are other categories of vehicle which should be exempted, please specify these?

Comments We did not reach consensus on this point. Some thought it was not practical to ban smoking in cars or vans. Others thought that police could well spot offenders, just as they would do for people using hand-held mobile phones. But if it were not an offence, children could well suffer from second-hand smoke.

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

Comments 'I have just arrived from abroad and was not aware of this law!'

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 x☐ 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 x☐
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 Seeing NHS staff smoking sets a really bad example to patients and others. On the other hand it was also thought that criminalising staff who smoke, and who may be under considerable stress in a hospital or GP environment, is not fair or practical. A suggestion is made that in the interim period before this is made law, counselling should be made available to all NHS staff who would like help to stop smoking. Those applying for NHS staff positions should be asked about their smoking: habitual smokers would be at a disadvantage in applying.

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 There should be exemptions for long-stay psychiatric patients in locked wards; and for inveterate smokers in care homes.

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

Comments Employers, assisted by police if required

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

Comments A fine, or where appropriate, 'treatment' (counselling 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 Some of us did not support national legislation on this point, and suggested designated smoking areas, and if these are breached then consider other measures.

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 x ☐
- b. Introducing national legislation that defines smoke-free areas across Scotland b x ☐
- 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 x ☐
- 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 Play parks, skateboard parks, fun fairs; play areas, picnic tables/al fresco areas outside pubs.

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 A majority of us felt that no adult should be able to authorise someone under 18 to sell these products; others felt that any adult working in the store should be able to authorise such sales.

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 Age and disability may require special dispensation with regard to NHS premises and care homes.

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

Comments Make special arrangements in care homes and NHS premises, where absolutely essential.

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?

Comments

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

Comments It may mean expense for NHS premises if special arrangements are necessary for certain groups of patients

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

Comments About one year. Television, billboards, social media could be used to publicise the measures.

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 We have no links to the tobacco industry