

## **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 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 type="checkbox"/> |
| d. Free distribution (marketing a product by giving it away free)                                                        | d <input type="checkbox"/> |
| e. Nominal pricing (marketing a product by selling at a low price)                                                       | e <input 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?

TV advertising of e-cigarettes should be subject to the Watershed rules

**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?**

Electronic cigarettes and e-liquid should not be sold to those of age 12 years and younger

**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

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

The use of an electronic cigarette is NOT smoking. Unbiased, no conflicts of interest, research by Profs Hayeck, West, Stimpson - all experts in their fields - shows no harm to bystanders.

**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 ☐ See below

**23. If you answered 'no' to Question 22, to whom should the offence apply?**

Slightly ambiguous as smoking under 18 years of age is already an offence

**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) | a <input 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)?**

Comments

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

Comments

**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

Politics and ideology far outweigh the very real health issues of pollutants from other sources encountered by children and adults in the open air in their everyday lives.

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

Comments

**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 store manager or another responsible adult over 18 years of age

**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

**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?**

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

**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.

Unless legally, widely available, lethal tobacco is to be banned children under 18 or their guardians, should have the opportunity of using electronic cigarettes to stop smoking as well as (the significantly unsuccessful) OTC nicotine replacement therapy.

A government supporting harm reduction, as in the case of Naloxone but conversely considering limiting the access to and availability of electronic cigarettes whilst the widely available but lethal alternative remains legally available must question their own ethics, ideologies and moral stance with regard to the large number of people who wish to stop smoking combustible tobacco. And those who, as long as tobacco is available, will start smoking.

Perhaps sincere empathy, knowledge, 21<sup>st</sup> century technology and a courageous leap of faith - not bullying, ostracization and prohibition of an everyday commodity and its consumers - could very well be the beginning to the end of combustible tobacco related death and illness in our lifetime?