

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?

Any product that may encourage or enable any person from using an ‘e-cigarette’ device from inhaling or otherwise consuming any addictive or psychoactive substance, whether or not such use is foreseen or overtly encouraged by the manufacturer, the vendor or the promoter of the product in question.

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 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?

Any form of promotion with the clear and explicit primary aim of directing those who may wish to use ‘e-cigarettes’ as a form of smoking cessation product to properly licensed and regulated healthcare products.

Tobacco strategy is about reducing tobacco uptake. Advertising and promotion is about enhancing uptake. Remove conflicting messages by removing advertising and promotion of eCigs and ENDS or any other tobacco product, except for licensed products for medical use to aid smoking cessation. Advertising through regulated channels.

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)?

It is our view that allowing these products to be advertised would create a culture that was present with tobacco cigarettes previously where this behaviour was considered not only acceptable but also normalised (eg chocolate cigarette for children) Allowing this advertising to take place is essentially promoting the behaviour, thus undermining the work that has been done to create a society where smoking behaviour is no longer seen as socially acceptable.

Evidence is the captivating power the tobacco industry has through the marketing of their products. Resources and standards that can not be matched by the NHS.

Advertising only to target current smokers as part of a smoking cessation campaign.

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?

The impact on business should be a lower priority than the impact on the health and well-being of our population

Many electronic cigarettes are manufactured by tobacco companies, this is allowing them to develop an alternative revenue stream and allowing a form of advertising for the company that has previously been tightly controlled.

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?

The question is if ENDS come under the Tobacco Retailers Register, especially if when they do not contain tobacco (but can be used for other substances)? If they would come under the Tobacco Retailers Register, same penalties as in line with a conventional tobacco product breach.

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?

To avoid the possibility of doubt or confusion, exactly the same regulations should apply to e-cigarettes as those currently in force for 'traditional' cigarettes (with a clear exemption for duly licensed and regulated smoking cessation products).

Keep it simple. We should not forget that ENDS can also be used for other substances than nicotine, legal or illegal. In addition the aim is to reduce uptake amongst the younger population, by minimising behaviour that they can mimic.

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 used 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?

There was a divided response on this question.

Some ALTA members believe that the offence can apply to younger perpetrators, eg in line with the seat belt legislation.

Why should any person be legally permitted to smoke in such a situation, where the risks of harm to the young person would be exactly the same as if it were a person over 18 who was smoking?

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?

But is that realistic? The alternative is citizens policing each other.

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?

It is not about the vehicle, it is about the children (or other passengers) in the vehicle or in enclosed spaces. So if there are children in the vehicle, either a transport vehicle or vehicle for accommodation, the person who smokes should be aware of the risk of second hand smoke to the children (or other passengers) and not be allowed to smoke.

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

We cannot foresee any legitimate defence in such a situation.

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

In view of the current Integration agenda, the same rules should apply to any premises used for the management or the delivery of Social Care services falling within the remit and the responsibility of the Integrated Health & Social Care Board in the area in each particular local government area in Scotland.

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)?

The majority of the ALTA supports that there should be one message and that there is no ethical justification for making exemptions in any of these areas. However a minority sees an exemption justifiable for residents within the grounds of mental health facilities and facilities with long stay patients where there are no under 18s present.

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

Various members mentioned; form within the organisation eg NHS or police Scotland.

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

Penalty can be adopted within the organisational policy and be in line with the misuse of other substances eg alcohol

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?

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

There is a need for a national framework to create clarity, which sets out the expectations. The whole population needs to be aware what the government (national tobacco strategy) tries to achieve to give support to those who have to implement it.

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

Area's designed for children to play or frequent (parks, outdoor sports facilities, school grounds, car parks, town squares 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-medicinal 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?

Given the SG's admirable commitment to avoid the 'normalisation' of smoking and addictive behaviours generally to those under 18, we are not clear why any person under the age of 18 should be allowed to sell tobacco at all, even with any form of 'authorisation' - or why tobacco should be allowed to be sold in any establishment in which those under 18 are working.

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)?

Not aware of any

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

By communicating the proposals extensively, so that people who wish to continue use tobacco have sufficient time and knowledge to access alternative nicotine products to help them manage their cravings for tobacco.

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

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?

For the organisation; time to involve staff to create ownership of tobacco control initiatives, cost in and around organisation and public grounds eg smoke free zone signage (there is a need for national branding of smoke free zones). Increased workload for LA officers eg trading standards, environmental health, licensing enforcement. Publicity and awareness raising about the new regulations to the wider population.

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

Taxing any tobacco product including ENDS is a potential source of income for the national government. These funds should be used to drive out the use of tobacco or support people who wish to stop. If there is a minimum pricing on ENDS, like other tobacco products, there will be a disincentive to buy the product. Licensed shop keepers can still keep selling ENDS, like other tobacco products, without advertisement. ENDS and tobacco products should not be driven underground, but remain accessible (against a price) to those who wish to continue using them. In that way monitoring and control can be exercised, while product use is discouraged

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

ASAP. Keep the momentum going, especially now vaporizers can be advertised. That is a step back in what we have achieved.

Keep the public informed through the media and popular soap opera's in Scotland (eg coronation street)

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

As a body working exclusively in the public interest, we do not believe that the vested financial or other interests of any person or organization should be weighed or considered against the overwhelming public interest in making Scotland a 'Tobacco-Free' Nation.

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.

The Aberdeenshire Local Tobacco Alliance (ALTA) or the members who contributed to this consultation, have no direct or indirect links to, nor does they receive funding from, the tobacco industry.