

Ministear airson Slàinte Phoblach is Slàinte
Bhoireannach
Jenni Minto BPA



Scottish Government
Riaghaltas na h-Alba
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Minister for Public Health and Women's Health
Jenni Minto MSP

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Clare Haughey MSP
Convener
Health, Social Care and Sport Committee
The Scottish Parliament
HSCS.committee@Parliament.Scot

Dear Convener,

Tobacco and Vapes Bill (the Bill) Legislative Consent Memorandum – Request for further information on Nicotine Vapour Products (NVPs) also known as Vapes.

Thank you for the opportunity to provide additional clarity on nicotine vapour products (NVPs), also known as vapes, and whether they would fall under the definition of “tobacco product” within the Bill.

NVPs do not fall under the definition of a “tobacco product” as defined within the Bill, because they do not contain tobacco.

Clause 63 of [the Bill](#) amends the definition of “tobacco product” within the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) to mean “a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed *or consumed in any other way*” [amendment in italics].

There is a separate definition for “nicotine vapour products” in the 2010 Act, which has allowed those products to be subject to a different regulatory regime to tobacco products.

Clause 64 and schedule 8 of the Bill amend this definition so that across the UK all of our statute book references to “nicotine vapour products” will become references to “vaping products”. The meaning given to “vaping products” is worded differently to that given to “nicotine vapour products” but it covers the same types of products. In summary “vaping products” covers all vaping devices that can vaporise substances other than tobacco for the purpose of inhalation through the mouth, as well as the substances that are vaporised by such devices. Medical devices and medicinal products are excluded from the scope of “vaping products”. And as is currently the case with “nicotine vapour products”, “vaping products” will cover nicotine and non-nicotine vapes.

This change is to ensure that terminology for vapes in legislation is the same across the UK, in order to provide greater clarity and consistency in the regulation of these products.

It may also be helpful to explain that the definition of “vaping products” does not cover nicotine products that cannot be vaporised and inhaled. Instead, the Bill introduces a new concept of “nicotine products”, which covers nicotine products that are not tobacco products or vaping products. For example, it will cover novel nicotine products such as nicotine pouches, allowing them to be regulated for the first time. Again, medicinal products and medical devices (for example, nicotine patches and gum) are excluded from this definition.

In relation to age of sale, the Bill does not change the age of sale for vapes (currently 18) but importantly it does introduce age of sale restrictions for nicotine products, which are currently not regulated. The age of sale for both vapes and nicotine products will be 18, if the Bill is passed.

As part of the first implementation plan of our Tobacco and Vaping Framework, the Scottish Government will consider whether there should be any change to the age of sale for vapes in future. We are working to build our evidence base on this issue, including a [scoping review](#) published by Public Health Scotland last year, looking at age-restriction interventions for tobacco and vapes in children and young people.

The Scottish Government’s position is clear that vapes and other nicotine products are part of a range of possible cessation tools available to existing smokers to help stop tobacco use, but we know that children and young people are using these products. Children and young people may not fully understand the risks and implications of using these products or be able to make informed decisions.

This is why the Bill also includes powers to reduce the appeal and availability of vapes to children and non-smokers, in line with some recent [Royal College of Physicians recommendations](#). These include powers to restrict flavours and to regulate packaging and point of sale displays of vapes.

I hope that the Committee finds this additional information helpful.

Your sincerely,

A handwritten signature in blue ink that reads "Jenni Minto". The signature is written in a cursive style with a large initial 'J'.

JENNI MINTO MSP