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The Scottish Parliament Edinburgh  
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26 January 2024

Dear Edward and Clare

**Exclusion for the sale and supply of single-use vapes from the market access principles of the UK Internal Market Act**

The Scottish Government, along with the UK Government, Welsh Government, and Department for Health and Department of Agriculture, Environment and Rural Affairs in Northern Ireland held a joint consultation on Creating a smokefree generation and tackling youth vaping which ran from October-December 2023. This consultation, whilst predominantly health focused, considered a ban on single-use vapes alongside other environmental measures.

The response to the consultation overwhelmingly favoured a ban on single-use vapes; in Scotland 82.3% of respondents supported restrictions on single-use vapes (79.3% UK-wide), and 73.4% favoured an outright ban (68.1% UK-wide).

As this is an area of devolved competence, decisions on whether to act in this area rest with the respective Governments in each part of the UK. I can confirm that I intend to bring forward Scottish regulations under the Environmental Protection Act 1990 to enact a ban on the sale and supply of single-use vapes in Scotland. In doing so, we will conduct a full impact assessment which, depending on its outcome in relation to the impact on different groups or communities, may require consideration of limited exemptions to a ban.

The UK Government has confirmed that it also intends to legislate for a ban in England, and I understand that Welsh Ministers have also confirmed this intent in Wales. Northern Ireland do not currently have a sitting Executive and Assembly, so may not be able to legislate a ban on single use vapes at this time. Officials across

the UK are working towards regulations that align as closely as possible, and I am seeking to agree a common coming into force date to ensure clarity for business and the public.

Nevertheless, there remains a risk that regulation will not be fully aligned across the UK. Legislation must be taken forward separately by each nation, and the sale and supply of single-use vapes may remain unrestricted in Northern Ireland for a considerable period after bans have been introduced in the rest of the UK. As a result of the market access principles in the United Kingdom Internal Market Act 2020 (IMA), any single use vapes imported into a part of the UK without a ban in place could still be legally sold in the rest of the UK. This would render any ban in respective nations ineffective.

Given this, an exclusion for single use vapes from the market access principles in the IMA is likely to be needed to provide certainty that we can deliver our commitment to end their sale and supply in Scotland, as well as in England and Wales.

I am therefore writing to inform you that my officials will engage with their counterparts within the Resources and Waste Common Framework group at its next meeting in February 2024 to commence consideration of an IMA exclusion, in line with the process agreed by all governments of the UK, published and placed before the UK Parliament in December 2021.

I trust that this update is helpful to the Committee and I will be in touch with further updates as appropriate.

Kind regards

**LORNA SLATER**