

Health, Social Care and Sport Committee  
Tuesday, 17 December 2024  
36th Meeting, 2024 (Session 6)

## Tobacco and Vapes Bill LCM – Evidence from the Minister for Public Health and Women’s Health

### Note by the Clerk

#### Background

1. At today’s meeting, the Committee will be holding an evidence session with the Minister for Public Health and Women’s Health as part of its consideration of the Tobacco and Vapes Bill Legislative Consent Memorandum (LCM).
2. A Tobacco and Vapes Bill was originally introduced in the House of Commons by the Conservative UK Government at the time on 20 March 2024.
3. A Legislative Consent Memorandum related to this Bill was lodged on 2 April 2024 by Neil Gray, Cabinet Secretary for Health and Social Care, under Rule 9B.3.1(a) of the Parliament’s standing orders, and was supported by Jenni Minto, Minister for Public Health and Women’s Health. The Health, Social Care and Sport Committee was designated as the lead committee for consideration of the LCM.
4. At its meeting on [21 May 2024](#), the Committee took evidence on the LCM from the following stakeholders:
  - Scottish Grocers Federation
  - UK Vaping Industry Association
  - ASH Scotland
  - Public Health Scotland
5. At the dissolution of the 2019-2024 UK Parliament, the Bill fell on 30 May 2024. On this basis, the Committee subsequently decided to take no further action in relation to its scrutiny of the LCM.
6. Following the UK General Election on 4 July 2024, the newly elected UK Labour Government subsequently introduced a modified version of the [Tobacco and Vapes Bill in the House of Commons on 5 November 2024](#).
7. On 21 November, a Legislative Consent Memorandum related to the reintroduced Bill was lodged by Neil Gray, Cabinet Secretary for Health and Social Care, under Rule 9B.3.1(a) of the Parliament’s standing orders, and was supported by Jenni Minto, Minister for Public Health and Women’s Health.
8. The Health, Social Care and Sport Committee has been designated as the lead committee for [consideration of the new LCM](#).

9. The Health, Social Care and Sport Committee previously held an evidence session on the public health impact of vaping at its [meeting on 14 November 2023](#).

## Consultation on the Bill

10. To inform the previous version of the Bill, a four nations consultation on [Creating a Smoke Free Generation and Tackling Youth Vaping](#) was held in 2023. The consultation built on recommendations from the independent Khan review in 2022, which set out a set of recommendations to tackle smoking rates and youth vaping in the UK.
11. This consultation received nearly 28,000 responses from individuals and organisations across the UK. A joint government response was published on [29 January 2024](#).
12. There was no further consultation on the reintroduced version of the Bill.

## Content of the LCM

13. The main provisions of the reintroduced Bill requiring consent can be summarised as follows:

### Part 2 – Sale and distribution

14. This part of the Bill amends Scottish legislation to bring it in line with the provisions set out in part 1 of the Bill which extend to England and Wales. Some of these provisions repeal existing Scottish legislation and re-enact it:
  - Creates an offence to sell tobacco products to anyone born on or after 1 January 2009.
  - Repeals the offence of purchasing tobacco products by under 18s.
  - Repeals the power to confiscate tobacco products from persons under 18.
  - Creates an offence to sell cigarettes that are not in their original packaging.
  - Extends the tobacco legislation to cover herbal smoking products. This will, for example, bring them into line with the age of sale and proxy purchasing restrictions.
  - Introduces a new power which will allow Scottish Ministers to regulate the retail display of herbal smoking, vaping and nicotine products (including display of prices).
  - Bans the manufacture and supply of oral tobacco products such as ‘snus’.
  - Extends the restrictions on vaping to nicotine products more generally (e.g. to nicotine pouches). This would include the age of sale, proof of age schemes and proxy-purchasing provisions.
  - Extends the Tobacco and Nicotine Vapour Products register to include herbal smoking products and nicotine products more generally.
  - Provides powers for Scottish Ministers to make provision about the size or appearance of warning statements.

## Part 5 – Product and information requirements

- Provides regulation-making powers which would cover the production, importation, and supply of products. This would include broad powers to regulate various packaging elements such as markings, appearance, size, shape and other distinguishing features.
- Provides powers to regulate the flavours and content of products.
- Provides powers to regulate the nature and amount of substances emitted from tobacco products, tobacco related devices, herbal smoking products, cigarette papers, vaping and nicotine products.

## Part 6 – Advertising and sponsorship

- Repeals and replaces the Tobacco Advertising and Promotion Act 2002 (“TAPA”). TAPA prohibits the advertising of tobacco products and sponsorship agreements that promote such products. The Bill will re-enact those restrictions and extend them to herbal smoking products, cigarette papers, vaping products and other nicotine products. There is also a power for the Secretary of State to prohibit or restrict brand-sharing<sup>1</sup>.

## Part 7 – Smoke-free, vape-free and other free-from places

- Gives Ministers the power to broaden the types of places that can be designated smoke-free to those which are not ‘wholly or substantially enclosed’.
- Gives Ministers the power to extend smoke-free spaces to also be vape-free and heated tobacco-free.

15. The current LCM contains broadly the same core provisions as the first LCM but with some notable additions:

- the power for Ministers to make regulations to extend the smoking ban to spaces which are not ‘wholly or substantially enclosed’,
- the power for Ministers to make spaces ‘vape-free’ or ‘heated tobacco-free’ as well as smoke-free,
- the extension of the Tobacco and Nicotine Vapour Products retailer register to businesses that sell herbal smoking products,
- a ban on the manufacture, sale and possession of ‘snus’ (oral tobacco) with intent to supply.

16. To support implementation of the previous version of the Bill, the previous UK Government indicated that £8 million would be made available to Scotland through the Barnett formula in 2024-25. However, there is no indication of any likely consequentials from the current Bill.

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<sup>1</sup> Refers to the practice of using one brand's name, logo, or other identifying features on a different product or service. For example, a popular cigarette brand might share its branding with a line of snacks, or a clothing brand might extend its name to accessories.

## Further consultation

17. In preparation for today's meeting, the Committee wrote to those stakeholders from whom it previously took evidence on 21 May 2024, inviting them to share their views on the reintroduced Tobacco and Vapes Bill and the associated LCM. Links to their respective responses are provided below:

- [ASH Scotland](#)
- [Public Health Scotland](#)
- [Scottish Grocers' Federation](#)
- [UK Vaping Industry Association](#)

## Today's meeting

18. At today's meeting, Members will have an opportunity to put questions to the Minister for Public Health and Women's Health on the LCM and the potential impact of the reintroduced Tobacco and Vapes Bill in Scotland.

**Clerks to the Committee**  
**December 2024**