

FROM THE MINISTER OF HEALTH



Ms Liz Kimmins

Chair, Committee for Health

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Dear Liz,

I wrote on 15th November to advise of my intention (subject to Executive agreement) to lay a Legislative Consent Memorandum in the NI Assembly in relation to Northern Ireland's inclusion within the Westminster Tobacco and Vapes Bill, which was introduced to Parliament on 5th November 2024.

Thank you for inviting Departmental officials to brief the Committee on the Tobacco and Vapes Bill on Thursday, 14th November. This provided an opportunity to outline the new provisions included in this Bill and I hope members found this informative.

There was a discussion at the meeting around the differences of approach being taken in Northern Ireland and the Republic of Ireland. The Public Health (Tobacco) (Amendment) Bill 2024 (known as '*Tobacco 21*') was passed on 7th November 2024, making Ireland the first EU country to raise the minimum age of sale of tobacco products to 21, although this legislation will not impact the minimum legal age of sale of nicotine inhaling products or vapes. The long-term impact of the tobacco-free generation measures in the UK Bill is expected to deliver a more sustained impact on reducing smoking initiation and is the preferable option for eliminating the prevalence of smoking.

Both *Tobacco 21* and *Smoke-Free Generation* measures aim to achieve the same end, acting on the same population group, over the same time period - to protect children and young people from ever becoming addicted. Whilst adoption of *Tobacco 21* in Ireland will create a cross-border divergence, in time it will still mean that no-one on the island under the age of 21 will be able to legally buy cigarettes. As the Committee was advised by officials, beyond the age of 21, the chances of becoming a regular smoker are significantly reduced.

The introduction of new laws on legal age of sale in both jurisdictions is likely to drive more vigilance on age verification and the Institute of Public Health (IPH) has concluded that any potential disruption in enforcement due to different legislative approaches is likely to be minor and should be considered carefully in the context of the known negative impacts of delaying legislation aimed at reducing use of tobacco.

It is intended that the *Tobacco 21* measures will come into full operation in Ireland by 1st February 2028, whereas the *Smoke-Free Generation* measures are expected to come into operation across the UK on 1st January 2027, if passed by the UK Parliament.

The table at **Appendix 1** outlines the expected implementation timetable in Northern Ireland and Ireland. It is existing best practice that retailers in the UK and Ireland apply age verification to any customer seeking to purchase tobacco who looks like they might be younger than 25 years. Assuming best practice is in place in the Northern Ireland retail sector, there will be no substantive difference in age verification requirements for retailers in Ireland and Northern Ireland prior to approximately 2032. This will allow time for the retail sector to adjust to changing age verification to support the tobacco-free generation measures in the long-term.

Modelling Data

In RoI, modelling estimates for raising the minimum legal age of sale of tobacco from 18 to 21 in Ireland have not yet been produced and the IPH has not produced modelling data on the impact of raising the minimum legal age of sale of tobacco to 21 years in Northern Ireland.

The IPH is currently working with the University of Stirling to investigate the possible development of estimates of the impact of tobacco-free generation in the Northern Ireland population, focussing on smoking in pregnancy and second-hand smoke exposure. This work would require additional resourcing in the 2025-26 financial year.

Smoking remains the number one preventable cause of death, disability and ill health and is a major cause of health inequalities in Northern Ireland. In addition, during 2019/20, £218m was spent treating smoking related conditions in our NI hospitals. The Tobacco and Vapes Bill provides us with a unique opportunity to save lives.

I hope that the Health Committee will provide its support once again, in bringing forward this important legislation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mike Nesbitt', with a stylized flourish at the end.

Mike Nesbitt MLA
Minister of Health

Provision in Republic of Ireland

1. We share the same strategic goals reducing smoking prevalence and reducing the level of tobacco harm in the population. Health Minister Donnelly recently stated in the Dáil⁶ that, *“the Bill has one purpose, to increase the minimum age of the sale of tobacco products to 21. It is also a signal that we as a country are moving from regulation of these products to beginning the elimination of the use of them”*. This aligns with World Health Organisation (WHO) and EU aims. The UK is a party to the WHO Framework Convention on Tobacco Control (FCTC)⁷, which encourages countries to introduce measures such as restricting the sale of tobacco. The EU endgame is elimination, with a target of less than 5% of the population using tobacco by 2040.
2. The legislative framework in respect of tobacco is broadly the same as this jurisdiction, including the age of sale for tobacco products currently 18; comprehensive bans on advertising, sponsorship and promotion; comprehensive regulatory framework in respect of packaging and labelling; cigarette contents and disclosures. Smoking is prohibited in indoor workplaces, public places, and on public transportation with limited exceptions. Smoking is also prohibited in outdoor places with a roof and more than 50% of the perimeter surrounded by more walls.
3. In respect of vapes there is similar provisions, approach, and direction of travel. The sale of vapes to under 18s is prohibited; the banning of single use vapes is planned. Most forms of advertising, promotion and sponsorship of e-cigarettes and refills are prohibited.
4. The **Public Health (Tobacco Products and Nicotine Inhaling Product) Act 2023** provides for the:
 - introduction of a **licensing system** for the retail sale of tobacco and nicotine inhaling products.
 - prohibition of the sale of tobacco products from self-service vending machines, temporary or mobile units and at events for children.
 - prohibition of the sale of tobacco products and nicotine inhaling products by persons under 18 years and prohibit the sale of tobacco products and nicotine inhaling products to persons under 18 years.
 - introduction of additional enforcement powers and sanctions including fixed penalty notices for retailers convicted of offences.

⁶ <https://www.oireachtas.ie/en/debates/debate/seanad/2024-11-07/12/>

⁷ The WHO FCTC is the world's first public health treaty and has been ratified by 183 countries (known as “Parties” to the Convention). The treaty was signed by the UK in 2003 and came into force in 2005 and has obligations in meeting the various articles⁷ of the Treaty, which encourages countries to introduce measures such as restricting the sale of tobacco.

- prohibition of the sale of nicotine inhaling products from self-service vending machines, temporary or mobile premises, and at events for children.
 - prohibition of the advertisement of e-cigarettes on public transport, in cinemas, and near schools.
5. The **Public Health (Tobacco) (Amendment) Bill 2024** (known as ***Tobacco 21***) aims to accelerate the decline in adult smoking prevalence, which has plateaued at 18% for several years and is one of a series of measures designed to reduce smoking prevalence among children to zero. The Bill is currently before the Oireachtas and completed Seanad Éireann, Fifth Stage, on 7 Nov 2024. It is currently awaiting enactment and will make RoI the first EU country to raise the minimum age of sale of tobacco products to 21. A lead-in time will be implemented so that those already entitled to be sold tobacco products, that is, persons over 18 but under 21, will not be affected. The proposed legislation will not impact the minimum legal age of sale of nicotine inhaling products or vapes.
6. In September 2024⁸, the Minister for Health, Stephen Donnelly, welcomed the approval from Government to draft legislation introducing further restrictions on nicotine inhaling products or vapes. The **General Scheme for a Nicotine Inhaling Products Bill** proposes:
- a prohibition on point-of-sale display and advertising in shops other than those who only or primarily sell these products;
 - restrictions on colours and imagery on packaging and devices, as well as a ban on devices resembling or functioning as other products, such as toys or games;
 - a prohibition on all flavour descriptors and language other than basic flavour names;
 - a limit on flavours in nicotine inhaling products to tobacco, with provisions to amend the list of allowed flavours as new evidence presents, and;
 - a prohibition on the import, manufacture and sale of single-use or disposable vapes.
7. The Committee heard from the Institute of Public Health in Ireland earlier this year in respect of the previous Bill. IPHI concluded that the potential disruption in enforcement occasioned by different legislative approaches is minor and should be considered carefully in the context of the known negative impacts of delaying legislation aimed at reducing use of tobacco.
8. The EU endgame is elimination, with a target of less than 5% of the population using tobacco by 2040.

⁸ <https://www.gov.ie/en/press-release/69e19-minister-for-health-secures-government-approval-to-introduce-greater-restrictions-on-vapes/>

Appendix 1

Table 1 - Who can be legally sold tobacco? An updated scenario in Northern Ireland/UK and Ireland based on the current status of UK and Irish legislation (November 2024)

	2026	2027	2028	2029	2030	2031	2032	2033
Tobacco-free generation UK	Aged 18 and over	Aged 19 and older	Aged 20 and older	Aged 21 and older	Aged 22 and older	Aged 23 and older	Aged 24 and older	Aged 25 and older
Minimum legal age of sale of tobacco 21yrs Ireland	Aged 18 and older	Aged 18 and older	From 01 Feb – Aged 21 and older	Aged 21 and older	Aged 21 and older	Aged 21 and older	Aged 21 and older	Aged 21 and older