



**Northern Ireland
Assembly**

**Windsor Framework Democratic Scrutiny Committee
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Parliament Buildings**

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**From: Sinead Kelly
Assistant Clerk, Windsor Framework Democratic Scrutiny Committee**

Date: 26 November 2024

To: Keith McBride, Clerk, Committee for Health

Subject: Tobacco and Vapes Bill

Dear Keith,

At its meeting on 21 November 2024, the Windsor Framework Democratic Scrutiny Committee (DSC) considered the attached correspondence from JTI UK, a tobacco and e-cigarette manufacturer, regarding the UK Government's Tobacco and Vapes Bill.

The issue does not fall within the scope of the DSC's purpose and functions. Therefore, the DSC agreed to forward the correspondence to the Committee for Health for information.

Sinead Kelly

**Assistant Clerk
Windsor Framework Democratic Scrutiny Committee**

From: Sanders, Jamie
Sent: 11 November 2024 20:16
To: +Windsor Framework Committee Public Email
<WindsorFramework.Committee@niassembly.gov.uk>
Subject: Tobacco and Vapes Bill

Dear Marie,

As Clerk to the Windsor Framework Democratic Scrutiny Committee, I am contacting you ahead of your next meeting on Thursday 14th November.

The UK Government's Tobacco and Vapes Bill had its first reading in Westminster last week. Alongside other measures, this Bill will introduce a generational smoking ban, with the minimum age at which an adult can be sold tobacco products increasing at daily intervals, effective from 1 January 2027. JTI has written to the First Minister to express our **concerns over the legality of the proposed generational smoking ban in Northern Ireland**. A copy of this letter is attached.

One of the provisions of EU law laid out in the Windsor Framework is the EU's second Tobacco Products Directive (TPD2). TPD2 therefore continues to apply in Northern Ireland. The purpose of TPD2 is to lay down various requirements which must be satisfied for tobacco products and vapes if they are to be marketed within the EU. Those requirements concern matters such as their ingredients, emission levels and packaging. The general rule under TPD2 is that there is to be free movement within the EU of products which satisfy those requirements. **A generational smoking ban is therefore incompatible with TPD2, being a restriction on the placing of tobacco products on the market.**

On 15th May 2024, the Department of Health of the Government of the Republic of Ireland announced that it would introduce legislation to raise the minimum age for sale of tobacco to 21. It stated in its [press release](#) that "preliminary legal advice suggests Ireland cannot pursue a 'smokefree generation' policy as has been suggested in other jurisdictions due to the EU's Single Market rules and Tobacco Products Directive".

TPD2 does not prevent an increase in the age of sale to 21, as the Republic of Ireland introduced last week (this new law comes into force on 1st February 2028). The UK DHSC's own modelling in last year's [Impact Assessment](#) of the Bill examines various alternatives to a generational smoking ban. Crucially, the modelling shows that an increase in the legal purchase age to 21 would also "eliminate smoking in the under 30s by 2050".

An increase in the minimum legal purchase age to 21 has the same long-term impact as a generational smoking ban but has none of the associated impracticalities. This alternative proposal would help deliver the same outcome, remove serious challenges pertaining to the legality of a generational ban in Northern Ireland, be consistent with the UK's international obligations and **ensure a consistent approach between Northern Ireland and the Republic of Ireland.**

You might also be interested in the attached Spectator [article](#) which was published yesterday. It notes the growing questions about how a generational smoking ban could be introduced in Northern Ireland.

I would be happy to discuss with you and members of the Committee further.

Best regards,

Jamie

Jamie Sanders
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JTI's UK trading company is Gallaher Limited.