



Committee for Health

Report on the Legislative Consent Memorandum on the UK Government Tobacco and Vapes Bill

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Report: NIA 69/22-27 Committee for Health.

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Powers and Membership

Powers

1. The Committee for Health is a statutory departmental committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Health and has a role in the initiation of legislation.
2. The Committee has power to:
 - consider and advise on departmental budgets and Annual Plans in the context of the overall budget allocation;
 - approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
 - call for persons and papers;
 - initiate inquiries and make reports; and
 - consider and advise on matters brought to the Committee by the Health Minister.

Membership

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is:

- Liz Kimmins MLA (Chairperson)
- Danny Donnelly MLA (Deputy Chairperson)
- Alan Chambers MLA
- Linda Dillon MLA
- Diane Dodds MLA
- Órlaithí Flynn MLA

- Nuala McAllister MLA
- Colin McGrath MLA
- Alan Robinson MLA

Introduction

1. The Tobacco and Vapes Bill (“the Bill”) was introduced in the UK Parliament by the UK Government on 5 November 2024. A copy of the Bill as introduced and accompanying explanatory notes are included at Appendix 1. The latest version of the Bill can be found at: [Tobacco and Vapes Bill publications - Parliamentary Bills - UK Parliament](#). The provisions in the Bill are similar to those proposed in an earlier Bill.
2. An earlier version of the Tobacco and Vapes Bill was introduced in the UK Parliament in March 2024 by the previous Government. The Northern Ireland Assembly agreed a legislative consent motion in respect of Northern Ireland’s inclusion in that Bill on 21 May 2024. Following the announcement of the UK general election on 22 May 2024, the Bill was not considered during the short wash up period for legislation¹ and consequently fell when the UK Parliament was dissolved.
3. A report of the Committee for Health’s consideration of the previous Bill can be found at: <https://www.niassembly.gov.uk/assembly-business/committees/2022-2027/health/reports/report-on-the-legislative-consent-memorandum-on-the-uk-government-tobacco-and-vapes-bill/>. That report sets out the background to the development of that Bill and its provisions which is not restated in this report.
4. The current Tobacco and Vapes Bill will introduce measures to stop people from ever starting smoking as well as introducing measures to reduce youth vaping. The Bill explanatory notes² state that the Bill will be a landmark step in creating a smoke-free UK. It will:
 - create a smoke-free generation, gradually ending the sale of tobacco products across the country and breaking the cycle of addiction and disadvantage;

¹ Before Parliament dissolves, a short 'wash-up period' allows the government to pass some legislation that is still in progress, subject to agreements with the opposition.

² <https://publications.parliament.uk/pa/bills/cbill/59-01/0121/en/240121en.pdf>

- strengthen the existing powers to ban smoking in public places to reduce harms of passive smoking, particularly around children and vulnerable people;
 - ban vapes and nicotine products from being deliberately branded, promoted, and advertised to children to stop the next generation from becoming hooked on nicotine;
 - provide powers to introduce a licensing scheme for the retail sale of tobacco, vapes and nicotine products, extend the retail registration scheme in Scotland, and strengthen enforcement activity to support the implementation of the above measures; and that
 - the Bill sits alongside wider support across the health service to support smokers to quit.
5. The Bill explanatory notes go on to set out that the Bill modifies, amends, extends, and re-enacts several existing tobacco and vaping control measures to create a consistent legislative framework and that these changes will help to ensure a consistent application of the law, close loopholes, improve readability and subsequent enforcement. Furthermore, the Bill broadly seeks to align provisions across the UK, building on the existing legislative frameworks that apply.
6. The second reading³ of the Bill took place on 26 November 2024 and, at the time of writing this report, the Bill has been referred to Committee stage.
7. There are a number of provisions contained within the Bill that are transferred matters and fall within the legislative competence of the NI Assembly. The NI Minister of Health wrote to the Committee on 14 November 2024 to advise of his intention to seek Executive agreement for Northern Ireland's inclusion in the UK Bill stating that he believed that there continued to be a compelling case for

³ The Hansard of the second reading debate: <https://hansard.parliament.uk/commons/2024-11-26/debates/6BDDDB4B2-ECAD-4540-992E-ECA12F9A1924/TobaccoAndVapesBill>

Northern Ireland's inclusion in the Bill. A copy of all correspondence from the Minister is included at Appendix 2.

8. The Minister laid a Legislative Consent Memorandum (LCM) in the Assembly on 18 December 2024 and it was referred to the Committee for Health for its consideration. A copy of the LCM is included in Appendix 2. The Memorandum sets out the Minister's intention to seek the Assembly's endorsement of Northern Ireland's inclusion in the UK Tobacco and Vapes Bill.

The Provisions of the Tobacco and Vapes Bill

9. The Bill is split into eight parts, corresponding to their application across the UK. Part 1 concerns the sale and distribution of tobacco, vaping and nicotine products in England and Wales; Part 2 concerns these arrangements in Scotland; and Part 3 concerns these arrangements in Northern Ireland.
10. Parts 4 to 8 of the Bill extends to the whole of the UK. Part 4 concerns the seizure and detention powers in relation to oral tobacco products (snus etc) which cannot lawfully be supplied in the UK; Part 5 contains regulatory making powers concerning product, standards and information requirements; Part 6 concerns advertising and sponsorship requirements; Part 7 includes provisions on smoke-free, vape-free and heated tobacco-free places; and Part 8 includes standard provisions for the effective functioning of the legislation.
11. The key features of the Tobacco and Vapes Bill are to: prohibit the sale of tobacco products to anyone born on or after 1 January 2009; and to enable product requirements to be imposed in connection with vapes and other nicotine products.
12. The LCM from the Department sets out that the Bill includes a range of measures covering: tobacco age of sale; and E-cigarette/vapes, which include regulation making powers to:

- Allow all administrations in the UK to regulate point of sale displays for vapes and other nicotine products (each administration will be required to bring forward regulations separately).
 - Allow all administrations in the UK to restrict vape and other nicotine product flavours and packaging, which will be achieved through UK wide regulations with consent of devolved administrations.
 - Allow all administrations in the UK to extend smoke-free places to additional places and to allow smoke free places to be vape and heated tobacco free places,
 - Allow all administrations in the UK to extend measures in the Bill to other emerging harmful products.
13. The Bill will also strengthen enforcement activity by extending the NI Tobacco Retail Register to include vaping products and nicotine products. The Bill will also allow the Department of Health to introduce a licencing scheme for the sale of these products following consultation.
14. The provisions of the Bill that deal with transferred measures are set out in detail in the Department's Legislative Consent Memorandum (paragraphs 14 to 25), a copy of which is available at Appendix 2 of this report. Detail on the territorial extent and application of the clauses of the Bill across the UK can be found in Annexe A of the Bill's explanatory notes.

Committee Consideration

15. The Chief Medical Officer and Department of Health officials attended the committee meeting on 14 November 2024 and provided written briefing in advance of that meeting. The Hansard of the briefing can be found at Appendix 4 and a copy of all the Department's papers are included at Appendix 2.
16. The officials set out the key changes since the previous version of the Bill:

- i. extension of existing robust tobacco advertising, sponsorship and brand sharing rules to cigarette papers, herbal smoking products, vaping products and other nicotine products,
 - ii. powers to allow regulations to be made to extend smoke-free provisions in public outdoor places (or workplaces) and to allow for regulations making smoke-free places also vape-free and heated tobacco-free;
 - iii. a number of provisions (relating to a ban on free distribution of vapes and nicotine products and sales of non-nicotine vapes to under 18s) were previously dealt with through regulation making powers for Northern Ireland and are now included within provisions on the face of the Bill,
 - iv. extension of the tobacco vending machine ban to cigarette papers, vapes and other nicotine products,
 - v. wider powers to allow for more significant changes to the tobacco and vapes notification schemes,
 - vi. an extension to Northern Ireland's Tobacco Retailers Register to vapes and other nicotine products, and
 - vii. the introduction of retail licensing provisions that will be commenced in the longer term.
17. At the briefing with the Chief Medical Officer and officials, the Committee asked for further information and clarification on a number of matters including:

North/South Engagement

18. This was an issue raised in consideration of the previous LCM and there were concerns in relation to the differing legislative frameworks north/south. Officials confirmed that work was ongoing in the Republic of Ireland in relation to legislation on the age of smoking/vaping and in relation to the banning of single use vapes.

19. The Department reiterated the Institute of Public Health in Ireland's view that the potential disruption in enforcement caused 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 the use of tobacco.
20. Officials also confirmed that DAERA were currently working on the issue of banning single use vapes, with a view of the ban coming into place in June 2025.

Regulation of vapes

21. Members asked for further clarity on the regulation of vapes and how vapes will be sold across Northern Ireland. Officials outlined that the Bill does provide that the Department can make regulations with regard to packaging and display similar to that of tobacco products.
22. Officials also advised that the retail sector is very supportive of the move to regulation and licensing of vapes and those who sell vapes.

Awareness and Education

23. Members asked for further information on what work can be taken forward in relation to raising awareness of the harms of vaping especially in school age children.
24. Officials advised that the PHA had undertaken some proactive work on raising awareness with health professionals and education sector, with resources shared across schools via CCEA.
25. Officials also outlined that there had been some modelling work undertaken by the Institute of Public Health on the impact of banning the sale of vapes and the other proposals in the Bill. A copy of that modelling data is included in the appendices of this Report.

Engagement

26. The Committee undertook significant engagement with the NI Youth Assembly on the earlier Tobacco and Vapes Bill and agreed to invite the Youth Assembly to provide an updated position on the new Bill. The Youth Assembly's written submission is included at Appendix 3.
27. Members of the Youth Assembly broadly welcomed the Bill and were supportive of its intention to create a smoke-free generation although Members felt that the benefits of the Bill would not be experienced by them and their peers, but rather by the next generation. Members were worried that young people already addicted to vapes would not be supported to stop.
28. The Youth Assembly Members were pleased that there was greater emphasis on vapes in this Bill than in the previous Bill. They reported that more of their peers use vapes than cigarettes. Members felt strongly that vapes should be banned for those under 18 and they welcomed the increased fines and prison sentences suggested in the Bill. Members felt that harsher penalties should be considered for those who supply, buy or use vapes which have been filled with class A or B drugs such as Spice.
29. The overwhelming majority of the Youth Assembly Members agreed that the manufacture and sale of snus should be illegal. Many of them had not heard of snus and felt awareness raising about the dangers was needed.
30. The Youth Assembly Members supported the introduction of retailer registration and licensing.
31. The Youth Assembly Members welcomed proposals to ban smoking and vaping in public spaces and to extend the current legislation to include banning vapes and heated tobacco in vehicles when children are present although they expressed concerns about how this would be enforced. They also had concerns about the availability of additional resource both to advertise the changes to the general public and for Councils to enforce the relevant provisions of the Bill.
32. The Youth Assembly welcomed the ban on online advertising but expressed concern about how this would be enforced, particularly on social media.

33. Finally, Youth Assembly Members were keen to know how the success of the Bill would be measured and how the Department will decide on the necessity for further regulation.
34. The Committee also received correspondence from Cancer Research UK including a copy of its written evidence to the Westminster Committee with responsibility for scrutinising the Tobacco and Vapes Bill. Cancer Research UK's papers are included at Appendix 3.
35. Cancer UK stated its support for the Tobacco and Vapes Bill and agreed that the measures contained should be adopted in a consistent way across the UK. It referred to the Bill as a '*historic opportunity to help prevent cancers, alleviate pressures on already over stretched services and pave the way for a smoke free UK.*'
36. The Committee also received correspondence from the Windsor Framework Democratic Scrutiny Committee (DSC). The DCS advised that it had considered correspondence from JTI UK, a tobacco and e-cigarette manufacturer regarding the Tobacco and Vapes Bill which had raised concerns about the legality of the proposed generational smoking ban in Northern Ireland. DSC advised that the issue raised by JTI UK did not fall within the scope of DSC's purpose and function.

Conclusion

37. At its meeting on 16 January 2025, the Committee agreed to support the Minister's Legislative Consent Motion asking the Assembly to endorse the principle of Northern Ireland's inclusion in the UK Tobacco and Vapes Bill.
38. The Committee wishes to reiterated the requests that it had made to the Department of Health when it had considered the earlier version of the Bill:
 - i. that the Department engage with the Committee at the earliest opportunity in relation to both the development of the local regulations

for which the Minister of Health has responsibility and the UK-wide regulations for which the Secretary of State has responsibility; and

- ii. in recognition of the particular interest that the Youth Assembly expressed in relation to vaping, the Committee recommends that the Department of Health engage with young people, and in particular the Youth Assembly, on the future regulation of vapes and vaping products.

Links to Appendices

Appendix 1: Bill Papers

[View the Tobacco and Vapes Bill as introduced and explanatory notes.](#)

Appendix 2: Memoranda and Papers from the Department for Health

[View Memoranda and Papers supplied to the Committee by the Department of Health.](#)

Appendix 3: Memoranda and Papers from Others

[View Memoranda and Papers supplied to the Committee from the Northern Ireland Youth Assembly and Cancer Research UK.](#)

Appendix 4: Minutes of Evidence

[View Minutes of Evidence from the Department of Health briefing on 24 November 2024.](#)

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