

## TOBACCO AND VAPES BILL

### Introduction

1. The Tobacco and Vapes Bill was introduced to the UK Parliament on 5th November 2024. This Bill is an enhanced version of the previous Conservative Government Smoke Free Generation and Tackling Youth Vaping Bill, which fell following the announcement of the general election and subsequent dissolution of Parliament. A number of provisions contained within the Bill are transferred matters and fall within the legislative competence of the NI Assembly.
2. The Tobacco and Vapes Bill passed its second reading on 26th November 2024. It completed the Public Bills Committee in January 2025. On Wednesday 26 March 2025 the Bill Passed through the House of Commons, the report stage was completed, and the Bill passed its 3<sup>rd</sup> reading. The Bill was introduced to the House of Lords on Thursday 27 March 2025 and passed its 2<sup>nd</sup> reading on Wednesday 23 April 2025.
3. This paper sets out the background to the amendments to the Tobacco and Vapes Bill and explains why further legislative consent was not required.

### Amendments

4. **Vending machines (Wales, Scotland and Northern Ireland)**  
The amendment clarifies that the ban on tobacco, vaping and nicotine product vending machines also extends to machines which dispense products only (but the sale happens separately). DHSC commented that they are increasingly seeing such machines being used; for example, Asda has recently trialled using Strongpoint machines, whereby a customer purchases a receipt from a self-checkout which can be used to redeem a tobacco product from a machine. DHSC's view was that such machines should be prohibited under the current ban on tobacco vending machines, however this is arguable on the grounds that these machines dispense rather than sell products (this is an argument which Trading Standards is sympathetic to) and could be a potential loophole.
5. **Digital age verification (Wales, Scotland and Northern Ireland)**  
The Bill set out the physical forms of ID that can be used for the purposes of the defence for selling tobacco or vaping products to someone under the age of sale. The Department for Science, Innovation and Technology (DSIT) asked DHSC to amend the Bill to make it clearer that digital identities are equally valid, ensuring a consistent approach with the Data (Use and Access) Bill (which is broadly UK-wide), currently in Parliament, which establishes a framework for digital verification services and aims to enable the widespread use of digital ID. From discussions with OPC, and due to the nature of DSIT's age verification, it was decided that this was best left for regulations. As a result, DHSC proposed an amendment to remove the list of physical ID documents from relevant clauses in the Bill and instead provide Ministers with a power to set all forms of permissible ID through secondary legislation.
6. **Drug paraphernalia (Wales, Scotland and Northern Ireland)**  
This amendment clarifies the existing powers provided in the Bill to restrict the display of products to include tobacco related devices. This amendment ensures that the display of tobacco devices (such as bongs), where they could be argued as being used for tobacco, may be restricted.

## **Provisions which deal with a Devolution Matter**

7. The UK Government amendments mean the following provisions extend to Northern Ireland and are within the competence of the NI Assembly. These impacted the following clauses of the draft Bill as it reached report stage of the House of Commons:
- Part 3 - *Sale and Distribution: Northern Ireland*
  - Clause 70 (Tobacco vending machines) and clause 78 (Vaping and nicotine product vending machines),
  - Clause 68 (Age of sale for tobacco products etc.) and clause 76 (Sale of vaping or nicotine products to under 18s)
  - Clause 79 (Displays of products and prices in Northern Ireland)

## **Reasons for utilising the Bill rather than an Act of the Assembly**

8. There are operational advantages in a UK-wide approach to the primary legislation, not least the fact that any future litigation on the smoke-free generation proposal should fall to the UKG to address. It is also likely that local primary legislation or regulations may result in a delay in bringing NI in line with any provisions immediately available in other jurisdictions. The result of which would be that NI's population would be at a disadvantage in terms of public health. Whilst these are devolved matters, given the overwhelming public and NI Assembly support for the measures in NI, there would not appear to be any compelling reason to exclude NI from these amendments.

## **Legal Consultation**

In respect of the proposed amendments my Department sought the advice from the Department of Justice (DoJ), Departmental Solicitors Office (DSO), and the Office for Legislative Consent (OLC) before the scheduled debate of the Tobacco and Vapes Bill LCM to determine if these amendments would have any implications on the recently endorsed LCM. The advice received indicated that these amendments are within the scope of the existing LCM.

## **Conclusion**

Whilst these amendments do indeed deal with NI transferred matters, these do not fall outside the scope of the LCM approved by the Assembly on Monday 10th February 2025 and so a further LCM is not required.