

FROM THE MINISTER OF HEALTH



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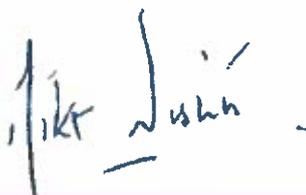
Dear Edwin

Tobacco and Vapes Bill – Memorandum to be laid in NI Assembly

In accordance with standing Order 42A (4b), I attach a memorandum for laying before the Assembly.

This memorandum sets out why a legislative consent motion is not sought for the above-mentioned Act.

Yours sincerely



Mike Nesbitt MLA
Minister of Health

MEMORANDUM

From: Minister Nesbitt

Date: 16 March 2026

To: Assembly Members

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 NI Assembly endorsed the inclusion of Northern Ireland in the UK Tobacco and Vapes Bill through an LCM in February 2025. Report stage in the House of Lords began on the 24th February 2026 and concluded on the 3rd March 2026, with the third reading taking place on 9th March 2026. UKG expects Royal Assent in the coming weeks.
3. During Report stage of the House of Lords, and following engagement and agreement with my Department, the UKG tabled a number of amendments to the Bill which extend to Northern Ireland. Detail of the amendments and policy rationale is attached at **Tab A**.
4. I agreed that the UKG amendments should extend to Northern Ireland. The amendments were debated and passed during Report stage in the House of Lords on 3rd March 2025.
5. This paper sets out the background to the amendments falling within the legislative competence of the NI Assembly and explains why supplementary legislative consent was not required.

Amendments

Filters

6. This amendment takes regulation-making powers that would allow ministers to extend certain provisions of the Bill to filters and to ban some or all filters in the future. As with the existing provisions in the Bill, where the Secretary of State is legislating on behalf of any of the Devolved Governments, their consent will be required. Cigarette filters provide a false perception of safety, and there is emerging evidence of wider health impacts. These powers would allow the Government to regulate these products in a range of ways through secondary legislation, allowing us to tailor our approach following further evidence-gathering.

Advertising for public health

7. This amendment introduces a defence to the ban on the advertising of vaping and nicotine products to allow businesses to promote non-branded vapes and nicotine products where this is done in arrangement with a public authority for public health reasons. It is anticipated that a Northern Ireland public health authority would not approve any such promotions or advertising. This is because, vaping products are not used as smoking cessation aids in Northern Ireland. This contrasts with England, where the 'Swap-to-Stop' programme supports smokers transition to vaping through the provision of free vape starter kits alongside behavioural support. In Northern Ireland, individuals seeking to stop smoking are instead offered access to medicinally licensed Nicotine Replacement Therapy (NRT) through Public Health Agency commissioned Stop Smoking Services.

Technology in devices

8. The amendment takes a power allowing us to regulate the technology present within products captured by the Bill (vaping devices and tobacco-related devices) and connected software. There is currently no evidence to support the need for mandatory age-verification technology in vaping and tobacco-related devices. This power would provide the flexibility to respond to future

technological developments, should new features emerge in vaping devices that present public health risks, regulations could subsequently be introduced to address them effectively.

Advertising ('effect is' vs 'effect will be')

9. These are minor and technical amendments to resolve an inconsistency within the clauses which create offences relating to free distribution, advertising, brand-sharing and sponsorship (most of which require consent). At present, one part of the offence refers to the effect an advertisement etc *has*, while another refers to the effect it *will have*. To resolve this inconsistency, the amendments replace “or effect is” with “is or effect will be”

Procedure for age verification regulations

10. This amendment changes the parliamentary procedure for the regulatory making powers relating to how retailers may verify the age of a customer from the negative to the affirmative procedure, for England, Wales and Northern Ireland. The affirmative procedure will ensure a higher level of scrutiny for any subsequent regulations concerning age verification requirements.

Enforcement powers (Part 5 of the Bill)

11. The Product Regulation and Metrology Act 2025 repeals certain enforcement powers in the Consumer Protection Act 1987 which regulations under Part 5 may have relied upon. This amendment allows for equivalent provision to be made without referring to the 1987 Act, to ensure regulations are fully enforceable. An additional amendment has been tabled to clause 102(5) which arises from the same point.

Definition of 'tobacco product' in the Tobacco Advertising and Promotion Act 2002 (TAPA)

12. The current definition of a 'tobacco product' is set out in the Tobacco Advertising and Promotion Act 2002 (TAPA), as: “*a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed.*” Cause 131 in the Bill seeks to future proof this by means of additional words

inserted at the end of this definition, so it reads “*a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way.*” This amendment changes the commencement date of the updated tobacco product definition from a current commencement date of 2 months post Royal Assent to commencement on the date of Royal Assent.

Legal Consultation

13. In respect of the proposed amendments my Department sought the advice from the Department of Justice (DoJ), Departmental Solicitors Office (DSO), Departmental Assembly Liaison Officer (DALO) and the Office of Legislative Counsel (OLC). All agreed that the provisions remained within the scope of the original LCM.

Conclusion

14. Whilst these amendments do indeed deal with NI transferred matters, these do not fall outside the scope of the LCM agreed by the Assembly on Monday 10th February 2025 and I am content therefore that a supplementary LCM is not required.

MIKE NESBITT MLA
MINISTER FOR HEALTH

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