

Do you have any feedback on the draft regulations to prohibit the sale and supply of single use vapes in Scotland?

1. Given the alignment of Scottish and English policy on creating a smoke free society, disposable vapes may be used as a swap to stop scheme, which exists in England but not yet in Scotland. This poses two immediate questions:
  - Will those travelling from England to Scotland with their disposable vapes, which were given under NHS England Swap to Stop Scheme have them confiscated? These disposable vapes do not fall under section 2(b) of the draft regulation.
  - If Scotland were to follow England in the swap to stop scheme, which it is bound to if the generational smoking ban is to be implemented in Scotland, what provisions does this current regulation have on legalising disposable vapes for this particular use?
2. Has the Scottish government consulted with the British government as for the definition of a disposable vape? If other devolved administrations and England choose to define a disposable vape differently, would those individuals who carry their vapes into Scotland be prosecuted? If yes how can they safely and legally dispose of their disposable vapes once they are in Scotland?
3. Has the date been agreed with other devolved administrations, if not discrepancies on the Scottish-English border will be problematic for law enforcement.
4. I suggest an amendment which makes the Statutory instrument effective from 1 April 2028 only if the number of children vaping increase by 10%.

Do you have any concerns about how these regulations would work in practice?

- How is an officer capable of finding out whether a vape is disposable unless training is provided.
- Up to 60% of current disposable vapes are illegal/ counterfeit according to UKVIA, before the ban. A ban would amplify this. How will the Scottish Government enforce the ban?
- Widespread emergence of black markets: following from the existing issue of illicit vapes already being sold, this regulation would amplify the existing black market, increasing its demand and thus increasing burden on law enforcement.
- Substitution effect: This regulation would encourage those who were using disposable vapes back into cigarettes as they are perfect substitutes. Distorting consumer preferences would lead to worse health outcomes, which I can't see working in practice in tandem with the government's commitment to create a smoke free generation by 2030.