

Research Briefing

14 February 2025

By Bukky Balogun,
Lorraine Conway

Tobacco and Vapes Bill 2024-25: Progress of the Bill



Summary

- 1 Second reading
- 2 Committee stage
- 3 Part 1: Sale and distribution: England and Wales
- 4 Part 2: Sale and distribution: Scotland Sale of tobacco etc
- 5 Part 3: Sale and distribution: Northern Ireland
- 6 Part 4: Snus etc: Seizure and detention powers (clause 89)
- 7 Part 6: Advertising and sponsorship
- 8 Part 7: smoke-free places, vape-free places and other free-from places
- 9 Part 8: general

Image Credits

Attribution: Adobe Stock image 223765200 – Cigarettes and a vaping device and in a man's hand by Balint Radu – Adobe Stock (<https://stock.adobe.com/uk/>). Adobe Stock License © 2024 Adobe / image cropped.

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing '[Legal help: where to go and how to pay](#)' for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Sources and subscriptions for MPs and staff

We try to use sources in our research that everyone can access, but sometimes only information that exists behind a paywall or via a subscription is available. We provide access to many online subscriptions to MPs and parliamentary staff, please contact hoclbraryonline@parliament.uk or visit commonslibrary.parliament.uk/resources for more information.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

The bill	5
Commons second reading debate	6
Commons public bill committee	6
1 Second reading	8
2 Committee stage	13
3 Part 1: Sale and distribution: England and Wales	14
3.1 Raising the age of sale for tobacco to 25 (clause 1)	14
3.2 Reducing penalties for first age of sale offences (clause 2)	15
3.3 Sale of tobacco products from automatic collection lockers (clause 3)	17
3.4 Age verification requirement for online sales (new clause 10)	18
3.5 Displays of products or prices (clauses 13 and 14)	19
3.6 Free distribution and discounts (clause 15)	21
3.7 Retail licensing (clauses 16-22, 85 & schedules 1-4, 11-13)	22
3.8 Restricted premises orders (clauses 23 to 27)	25
3.9 Restricted sale orders (clauses 28 & 29)	27
3.10 Enforcement and fixed penalties in England and Wales (clauses 32 to 34 and 81)	29
3.11 Powers of ministers to take over enforcement functions and proceedings (clauses 35 & 36)	31
3.12 Fixed Penalty Notice (FPN) (clause 37)	32
3.13 Fixed penalties: use of proceeds (clause 38)	35
3.14 Power to change the value of an FPN (clause 39)	36
3.15 Power to amend lists of identity documents (clause 46)	36
4 Part 2: Sale and distribution: Scotland Sale of tobacco etc	38

4.1	Extension of retailer register (clause 65 & schedule 9)	38
5	Part 3: Sale and distribution: Northern Ireland	39
5.1	Extension of retailer register (clause 84)	39
6	Part 4: Snus etc: Seizure and detention powers (clause 89)	40
7	Part 6: Advertising and sponsorship	42
7.1	Publishing advertisements (clauses 114 to 119)	42
7.2	Advertising: defences (clause 120 to 122)	45
7.3	Brandsharing (clause 123)	46
7.4	Sponsorship: tobacco products (clause 124) and vaping and nicotine and other products (clause 125)	48
7.5	Audiovisual services and radio broadcasting (clause 126)	49
7.6	Enforcement authorities (clauses 129, 130 & 131)	50
7.7	Power to extend part 6 and Communications Act 2003 to other products (clause 133)	51
8	Part 7: smoke-free places, vape-free places and other free-from places	52
8.1	Widening restrictions on smoking in private vehicles in England (clause 136)	52
8.2	Limiting the designation of new smoke-free places in England (clause 136)	53
9	Part 8: general	56
9.1	Requirement to consult on registration and information requirements (new clause 7)	56
9.2	Reports on the illegal sale and availability of tobacco and vaping products (new clause 8)	57
9.3	Commencement dates (clause 168)	58
9.4	Transitional and saving provision (clause 170)	59

Summary

The [Tobacco and Vapes Bill 2024-25](#) is a government bill. It was introduced in the House of Commons on 5 November 2024. The government has [called the bill the “biggest public health intervention in a generation”](#).

Provisions in this bill are similar to those proposed in the [Tobacco and Vapes Bill 2023-24](#), introduced by the Conservative government in April 2024. It did not complete its parliamentary stages prior to the general election, and consequently fell when Parliament was dissolved.

Policy background to the bill as it was introduced is set out in the Library briefing, [Tobacco and Vapes Bill 2024-25](#) (22 November 2024). The briefing includes a summary of all the clauses in the bill.

This briefing covers the second reading and committee stage of the bill.

The bill

The [Labour Party made a manifesto commitment](#) to “ensure the next generation can never legally buy cigarettes” and to “ban vapes from being branded and advertised to appeal to children”.

If enacted, the bill would create the first “smoke-free generation” by ensuring children born on or after 1 January 2009 can never be legally sold tobacco. The bill includes other provisions which focus on making vaping less attractive and accessible to children and young people, strengthening smoke-free restrictions, and strengthening enforcement around the sale of tobacco and vaping products.

In summary, the bill contains provisions:

- on the supply of tobacco, vapes and other products, including prohibiting the sale of tobacco to people born on or after 1 January 2009,
- on the licensing of retail sales and the registration of retailers,
- to enable product and information requirements to be imposed in connection with tobacco, vapes and other products,
- to control the advertising and promotion of tobacco, vapes and other products, and
- on smoke-free places, vape-free places and heated tobacco-free places.

Commons second reading debate

The bill received its second reading in the House of Commons on 26 November 2025.

Members expressed general support for the bill's aim to phase out tobacco use in young people, but some raised concerns about civil liberties, the practicality of enforcing a 'moving' age restriction and the impact on small retailers.

There was broad support for the bill's measures to address youth vaping by introducing powers to restrict flavours, advertising and sponsorship.

The bill passed its second reading by 415 votes to 47.

Commons public bill committee

Commons committee stage comprised 16 sittings, including oral evidence and line-by-line scrutiny, in January 2025.

Four technical amendments to the bill were made, all of which were tabled by the government:

- Technical amendment 1 to clause 122, which was passed without a division. The amendment would ensure that no offence was committed under the advertising provisions by displays of prices that were subject to regulation under [section 3 of the Tobacco and Primary Medical Services \(Scotland\) Act 2010](#). This amendment, which makes the approach for Scotland consistent with the rest of the UK, had been requested by the Scottish Government.
- Technical amendments 15 and 98 on clause 168 to ensure the Welsh Government and Department of Health in Northern Ireland would be able to commence certain parts of the bill as intended.
- Technical amendment 16 to clause 170, which would provide a standard power for transitional and saving provision regarding bringing the bill's provisions into force.

Challenges and proposed amendments to the bill included:

- Dr Caroline Johnson, shadow minister for health and social care, moved amendment 87 to clause 114, to allow vapes to be advertised and promoted as a quit aid or public health measure. The amendment was withdrawn.
- Dr Caroline Johnson also moved a group of amendments, tabled by Helen Maguire (LD) which would increase the age of sale for tobacco to

25 years. It would replace the bill's proposal to prohibit the sale of tobacco to those born on or after 1 January 2009. Following committee debate, Dr Johnson withdrew the lead amendment.

- Dr Caroline Johnson tabled amendment 94, which would reinstate an existing provision in the [Health Act 2006](#), meaning that the Secretary of State could only make this designation if they considered there was a significant risk that a person would be exposed to a significant amount of smoke. The amendment was disagreed upon division with 4 votes for and 8 votes against it.
- Dr Danny Chambers, Liberal Democrat spokesperson for mental health, moved amendment 95. It would restrict the Secretary of State so that they would only be able to apply a smoke-free designation to open or unenclosed spaces outside an NHS property, children's playground, nursery, school, college or higher education premises. The amendment was disagreed upon division with 5 votes for and 8 votes against it.
- Clause 46 would enable the Secretary of State and Welsh Ministers to make regulations amending the definition of identity documents in relation to age verification for the sale of tobacco, vaping and nicotine products. In response to concerns about the range of documents that would be accepted for this purpose, the then minister for public health prevention Andrew Gwynne, said the government was willing to strengthen this element of the bill and revisit it at report stage. Clause 46 remains part of the bill.

During the final sitting in committee, Dr Caroline Johnson moved five new clauses, including:

- New clause 6, which was considered alongside amendments 50 and 51. Together, they would require the government to publish draft licensing regulations within two months of the bill receiving Royal Assent, with a report on a mandated call for evidence to be laid before both Houses six months after Royal Assent. New clause 6 was rejected by 9 votes to 2.
- New clause 7, which was considered alongside amendments 52 and 53. Together, they would require the Secretary of State to publish and consult on draft regulations relating to the registration and information requirements set out in clauses 95 and 98. New clause 7 was rejected by 10 votes to 2.

The date for Commons report stage is yet to be announced.

1 Second reading

The bill had its second reading in the House of Commons on 26 November 2025. It passed second reading by 415 votes to 47.

Wes Streeting, Secretary of State for Health and Social Care, spoke about the public health benefits of the bill:

Smoking takes 80,000 lives a year and causes one in four deaths from cancer in England, a hospital admission almost every minute and 100 GP appointments an hour. It is the leading cause of sickness, disability and death in our country.

[...]

The Bill will come down on the vaping industry like a ton of bricks, to prevent a new generation of children and young people from getting hooked on nicotine. Taken together, these measures add up to the most significant public health intervention in a generation.¹

By raising the legal age of purchase of tobacco by one year every year, the minister said the bill would create the first smokefree generation. He confirmed that the government would consult on banning smoking outside schools, playgrounds and hospitals but would not extend the powers to outdoor hospitality spaces.²

Focusing on economic benefits, Wes Streeting said that without the bill, “people will pay a higher price for their healthcare” and the harm caused by smoking would continue to “fuel welfare dependency”.³ He identified smoking as a leading cause of health inequality across the UK.⁴

On the provisions to tackle youth vaping, Wes Streeting said the government was delivering on its manifesto commitment:

Action is long overdue. We promised to stamp out youth vaping in our manifesto, and the Bill delivers the change that we promised. It will close loopholes that allow vapes to be sold or given away to children, provide powers to regulate the flavours, packaging and display of vapes, and introduce on-the-spot fines of £200 for under-age sales. Just as we took action on the advertising and sponsorship of tobacco products, we will bring the law into line for vaping products, too.⁵

¹ [HC Deb 25 November 2024 c683](#)

² [HC Deb 25 November 2024 c684](#)

³ [HC Deb 25 November 2024 c688](#)

⁴ [HC Deb 25 November 2024 c688](#)

⁵ [HC Deb 25 November 2024 c690](#)

Wes Streeting said that this was a “four-nations bill”, and through it, “we have an opportunity to create a smokefree generation in every corner of our country”.⁶

Key issues raised during the debate are outlined below.

1 Phased smoking ban

Helen Morgan, Liberal Democrat spokesperson, described the introduction of a phased smoking ban as problematic, raising concerns about retailers suffering abuse.⁷ She also said a phased ban raises issues of practicality and civil liberties.⁸

Lee Dillon (LD) and others suggested it would be difficult for retailers to enforce the age of sale tobacco restrictions, especially for the cohort of individuals who are just either side of the threshold.⁹

2 Increasing the demand for illicit cigarettes

Helen Morgan, James Macleary (both LD) and others raised concerns that progressively banning tobacco products would increase demand on the illicit market.¹⁰

3 Proof of age ID & impact on small retailers

Helen Morgan said the bill “raised the spectre of ID cards”. She said her party was ideologically opposed to people being required to carry around forms of ID.¹¹ She also noted that retailers are already subject to abuse because of the enforcement of age legislation for products such as alcohol and tobacco. Ms Morgan said it was necessary to ensure that retailers are fully protected, and that the bill creates an “extra risk” for them.¹²

⁶ [HC Deb 25 November 2024 cc696-698](#)

⁷ [HC Deb 25 November 2024 cc699-701](#)

⁸ [HC Deb 25 November 2024 c704](#)

⁹ [HC Deb 25 November 2024 c727](#)

¹⁰ [HC Deb 25 November 2024 c699](#)

¹¹ [HC Deb 25 November 2024 c699](#)

¹² [HC Deb 25 November 2024 c699](#)

Some members noted that most retailers already follow recommended practice and regularly ask customers for ID.¹³

4 Additional smoke-free public places

Edward Argar, shadow Secretary of State, referenced page 64 of the [delegated powers memorandum](#) (PDF), which states:

Under Section 4 of the 2006 [Health] Act, the Secretary of State could make regulations to designate additional places as smoke-free provided that they were of the opinion that there was a significant risk persons present in such a place would be exposed to significant quantities of smoke without a smoke-free designation [...]

Clause 136 [of the bill] amends the existing power in section 4 of the 2006 Act by omitting the risk condition.¹⁴

Edward Argar asked why clause 136 of the bill would remove the risk condition in section 4 of the [Health Act 2006](#). This is the condition that a place can only be designated as smoke-free if there is significant risk that people in the place would be exposed to significant quantities of smoke.

He argued it was there for a reason: to give a sense of proportionality to anything that was done. He argued that its removal would effectively give the secretary of state much greater discretion to do as they wish at a future date.¹⁵

5 Advertising restrictions

Bob Blackman (Con) and others welcomed the proposed ban on vape advertising and sponsorship. However, he questioned whether the Advertising Standards Authority would work with public health organisations to ensure that vapes could still be promoted as a quit aid.¹⁶

¹³ [HC Deb 25 November 2024 c737](#)

¹⁴ Department of Health & Social Care, [Tobacco and Vapes Bill- Delegated Powers Memorandum](#) (PDF), 5 November 2024

¹⁵ [HC Deb 25 November 2024 c694](#)

¹⁶ [HC Deb 25 November 2024 c711](#)

6 Tobacco industry levy

Bob Blackman (Con) and others called for the implementation of a “polluter pays” levy on the profits of the tobacco industry.¹⁷ Andrew Gwynne said that all fiscal matters were for the Treasury.¹⁸

7 Licensing regime

On the introduction of a retail licensing scheme, Edward Argar said there was a risk “of piling an unknown number of regulations on to retailers”. He argued that “what the licensing schemes will look like, the specific impact they will have on businesses, or the detailed impact they will have on smoking and vaping rates” would not be known until secondary legislation is passed.¹⁹ He asked if local authorities would have the capacity and resources to enforce the bill and administer a licensing scheme.²⁰

8 Vaping restrictions

There was broad cross-party support for provisions that would tackle youth vaping. Dr Caroline Johnson, shadow minister for health and social care, said that as a children’s doctor she was concerned about the sharp rise in children addicted to vaping and, more recently, to other nicotine products such as pouches.²¹ Mary Kelly Foy (Lab) said regulations to reduce the appeal of vaping products to children must be enforceable, robust and fit for purpose.²² She called for a detailed policy paper, setting out the government’s policy objectives on vaping and how new regulations would be delivered against those objectives.²³

Mary Glendon (Lab) supported the introduction of a licensing scheme but questioned how restricting the number of shops and supermarkets selling vapes would increase regulatory compliance.²⁴ She argued that shops and supermarkets that sell vapes responsibly should not be penalised.²⁵

¹⁷ [HC Deb 25 November 2024 cc710-711](#)

¹⁸ [HC Deb 25 November 2024 cc736](#)

¹⁹ [HC Deb 25 November 2024 c694](#)

²⁰ [HC Deb 25 November 2024 c695](#)

²¹ [HC Deb 25 November 2024 c732-733](#)

²² [HC Deb 25 November 2024 c697](#)

²³ [HC Deb 25 November 2024 c697](#)

²⁴ [HC Deb 25 November 2024 c701-702](#)

²⁵ [HC Deb 25 November 2024 c701-702](#)

9 Enforceability of the bill in Northern Ireland

Jim Allister (TUV) sought clarity on the enforceability of the bill in Northern Ireland, which is still subject to the EU's tobacco directive under the Windsor Framework. He referred to [article 24 of the tobacco directive \(2014/40/EU\)](#) which says:

Member States may not...prohibit or restrict the placing on the market of tobacco or related products.²⁶

He asked if the bill would restrict the placing on the market of tobacco and, if it did, if it would fall foul of the tobacco directive and therefore be unenforceable in Northern Ireland.²⁷ He referred to Denmark having to withdraw almost identical legislation in 2022 for the same reason.²⁸

Andrew Gwynne, then Parliamentary Under-Secretary of State for Health and Social Care, said the bill would cover all four nations of the UK. He said the government had been assured that it complies with the requirements of the Windsor Framework, and that “this law will stand”.²⁹

10 Enforceability of the bill in Scotland

Seamus Logan (SNP) said it was vital that the UK Secretary of State set out his plans to make best use of the various UK-wide powers contained in the bill as soon as possible after the passage of the bill, and in consultation with the Scottish Government and other devolved governments.³⁰ He said it was particularly important for the powers relating to the specifications and sale of vapes, which are vital in tackling youth vaping.³¹

Most of these issues were revisited in committee.

²⁶ EU Directive 2014/40/EU, article 24

²⁷ [HC Deb 25 November 2024 c724](#)

²⁸ [HC Deb 25 November 2024 c724](#)

²⁹ [HC Deb 25 November 2024 c725](#)

³⁰ [HC Deb 25 November 2024 c717](#)

³¹ [HC Deb 25 November 2024 c717](#)

2 Committee stage

The bill was considered by a public bill committee over eight sittings between 7 and 30 January 2025, which included 2 sessions of oral evidence and 14 sessions of line-by-line scrutiny.

The committee also received [written evidence](#) from a range of health, industry and local government stakeholders.

108 amendments were tabled, of which four government amendments were agreed and 27 amendments were disagreed on division.

The government's amendments were technical ones, relating to commencement dates in the bill, transitional and saving provisions, and ensuring that offences relating to advertising in Scotland are consistent with the rest of the UK.

Clause numbers referred to in this briefing align with those in the bill as introduced.

3 Part 1: Sale and distribution: England and Wales

3.1 Raising the age of sale for tobacco to 25 (clause 1)

Clause 1 would make it an offence to sell a tobacco product, herbal smoking product or cigarette paper to a person born on or after 1 January 2009.

Dr Caroline Johnson, Shadow Minister for health and social care, moved a group of amendments tabled by Helen (LD).³² They sought to amend the age of sale restriction set out in clause 1, to the age of 25 years. Dr Johnson noted that she did not agree with the amendments, but moved the lead amendment so that the debate could be heard in full.³³

Jack Rankin (Con) noted that while he disagreed on the principle of clause 1 because it would create “two tiers of adults”, it was preferable to the proposed amendments because “when that generation dies out, every adult will be one tier again”.³⁴

Members discussed associated challenges with age verification at point of sale, with Dr Caroline Johnson noting that the amendments would simplify enforcement because retailers would only need to confirm whether a person is under 25 years.³⁵

Dr Caroline Johnson also noted that the amendments would shift the approach from “creating a tobacco-free generation to implementing a uniform age limit that applies universally, regardless of the buyer’s birth year”. She said this would simplify enforcement because sellers would only need to confirm that a person was under the age of 25.³⁶

³² Amendments 17, 18, 22, 23, 24, 44, 48, 45, 46, 47, 39, 40, 41, 42, 43, 25, 26, 27, 28, 29, 30, 31, 32, 33, 38 and 49

³³ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 94

³⁴ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 94

³⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 98

³⁶ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 99

Andrew Gwynne, then Parliamentary Under-Secretary of State for Health and Social Care, said simply raising the age of sale to 25 would only raise the age at which people start smoking, and would not meet the current and previous governments' ambition to make the UK smoke-free.³⁷

Amendments 17 (on raising the age of sale to 25) and 18 (which would make provision for corresponding proof of age) were put to a vote and both were rejected with 2 votes for and 14 against.

Dr Caroline Johnson moved amendment 56, which alongside amendments 57, 58 and 59, would allow for a lower level of fine or a discretionary police caution, for those committing their first offence concerning the age of sale. Dr Caroline Johnson said the amendment would separate first-time offenders from repeat offenders.³⁸

Amendment 56 was discussed with other amendments tabled by Dr Caroline Johnson, which would allow for similar provisions across England, Scotland, Wales and Northern Ireland.³⁹

The minister noted that trading standards officers already apply discretion when deciding who to impose a fine on.⁴⁰ Dr Johnson subsequently withdrew amendment 56.

Professor Sir Chris Whitty, Chief Medical Officer for England, told the committee that changing the age of sale restriction to 21, 25 or 30 years was “no better than the logic of the current situation”. He suggested that the cigarette industry would simply “regroup” around whichever new age restriction was implemented, and expressed support for the policy that would be provided through clause 1.⁴¹

3.2 Reducing penalties for first age of sale offences (clause 2)

Clause 2 would make it an offence for a person aged 18 years or over to make, or attempt to make, a proxy purchase of tobacco products, herbal smoking products or cigarette papers for a person born on or after 1 January 2009.

Shadow health minister Dr Caroline Johnson moved amendment 58, which would amend clause 2. It would allow for a lower level of fine or a

³⁷ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 118

³⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 121

³⁹ Amendments 57, 67, 73, 74, 75 and 76

⁴⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 9 January 2025, page 118

⁴¹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 7 January 2025, page 8

discretionary police caution, for those committing a first offence under clause 2.

Alongside amendment 58, the committee also discussed amendments 75 and 76 which would also have allowed for more lenient penalties for offences committed under clause 69 (proxy purchase of tobacco etc on behalf of others).

The minister expressed similar sentiments as those he set out in response Dr Johnson's amendments to clause 1.⁴²

Gregory Stafford (Con) asked why the minister did not make a differential in the law to ensure that, once the bill is in place, there would be a more separate and serious offence of buying tobacco products for someone under 18 years.⁴³

The minister said the clause would allow for a differential over time and would not allow for any ambiguity in law in the future.⁴⁴

Dr Caroline Johnson expressed concern over clause 2(3), and specifically its provision for the proxy sale of cigarette papers. This would allow a defence against the offence of proxy sale of cigarette papers to be providedDo not type over or delete this non-printing text

if the person attempting or making the purchase had no reason to suspect that the papers were to be used for smoking.

Dr Caroline Johnson noted two potential uses for cigarette papers separate to tobacco smoking; cannabis smoking and the cleaning of woodwind instruments.⁴⁵ Noting the availability of alternative products for woodwind instruments, Dr Johnson questioned the need to provide an exemption for the proxy sale of cigarette papers.

The minister acknowledged legitimate, alternative uses for cigarette papers and said the government did not want to restrict those uses.⁴⁶ He said that the restrictions provided a proportionate balance.

Dr Caroline Johnson suggested the minister could introduce legislation that sought to ban cigarette papers without preventing a market in a similar

⁴² [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 180

⁴³ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 181

⁴⁴ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 181

⁴⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 183

⁴⁶ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 188

product that would be ineffective as a cigarette paper, but useful for other legitimate uses.⁴⁷

The minister indicated that he would give this further consideration, if powers in the bill provided for it. He suggested that they return to that point at report stage.⁴⁸

Clause 2 was ordered to stand part of the bill.

Amendment 58 was subsequently withdrawn.

During the oral evidence session, Lord Michael Bichard, Chair of National Trading Standards said that penalties proposed by the bill were low in comparison to some other legislation.⁴⁹ However, he noted that trading standards are able to prosecute retailers where they are repeat offenders, and in such cases, the fines would be up to £2,500.⁵⁰

Wendy Martin, Director of National Trading Standards, noted that the issuing of a fixed penalty notice was not automatic, and that a lot of work was done to support businesses on compliance with the law, especially in the case of first offences.⁵¹

3.3

Sale of tobacco products from automatic collection lockers (clause 3)

Clause 3 would make it an offence for a person to have management or control of a premises where a tobacco vending machine is available for use in England and Wales.

Shadow health minister, Dr Caroline Johnson raised the question of how this clause might be applied to collection machines from which consumers can collect products purchased online.⁵²

The minister said the government was aware of these new types of machines, and was concerned by their presence. He said the department was looking to ensure that “there are no loopholes in this legislation, and that these

⁴⁷ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 190

⁴⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 190

⁴⁹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 7 January 2025, page 50

⁵⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 7 January 2025, page 51

⁵¹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 7 January 2025, page 50

⁵² [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 191

machines which may seek to bypass the age of sale restrictions, are not able to”.⁵³

Clause 3 of the bill was ordered to stand part of the bill.

3.4 Age verification requirement for online sales (new clause 10)

Dr Caroline Johnson tabled new clause 10. It would introduce a requirement on businesses selling vaping products online, to operate an ‘age verification policy’ to ensure a person attempting to buy a vaping product was not under 18 years of age. The new clause would allow for the ‘appropriate national authority’ to publish guidance to support age verification policies and specify what documents may be used as evidence of a customer’s age. It would also allow for the national authority to publish guidance on training that should be undertaken by the person selling vaping products.

Existing clause 10 would make it an offence to sell a vaping product or nicotine product to a person under the age of 18.⁵⁴

The minister said he was sympathetic to Dr Johnson’s intention but emphasised that the bill would already make it an offence in England and Wales to sell a vaping or nicotine product to anybody aged under 18 years.⁵⁵

The minister said online retailers must take all reasonable steps to avoid selling vaping products to anyone underage, as with in-person retailers.⁵⁶

Alongside the bill, he said the Department of Health and Social Care (DHSC) was exploring how it could enhance online age verification to further address online underage sales. He noted that the office for digital identities and attributes, which sits within the Department for Science, Innovation and Technology (DSIT), is creating a framework of standards and governance, underpinned by legislation which will “enable the widespread use of trusted digital identity services”.⁵⁷

⁵³ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 192

⁵⁴ New clause 10 was tabled as an entirely new clause. It was not tabled as an amendment to existing clause 10, which would make it an offence to sell a vaping product or nicotine product to a person under the age of 18.

⁵⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 234

⁵⁶ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 234

⁵⁷ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 234

The minister said DHSC was working closely with DSIT to consider how its work to enable the use of digital identities can best support retailers selling tobacco and vapes, whether online or in person.⁵⁸

Dr Johnson subsequently withdrew her amendment.

The minister also explained why the government was not seeking to introduce a generational age of sale restriction on vapes. He said that while vaping is not free of harm, the government did not believe that such a restriction would be an appropriate response to the current evidence in relation to health harms.⁵⁹

Instead, the minister noted provisions in the bill which aim to stop the promotion and advertising of vapes to children, and so “bring about definitive and positive change to stop future generations from becoming hooked on nicotine”. He said it may be the case that greater evidence emerges, in the coming years, about the harms of nicotine.⁶⁰

3.5 Displays of products or prices (clauses 13 and 14)

The bill would give the secretary of state (clause 13), the Welsh Ministers (clause 14), and the Department of Health in Northern Ireland (clause 79) the power to make regulations on shop displays of tobacco, herbal smoking products, cigarette papers, vaping and nicotine products (“relevant products”). As well as the products themselves, the new regulations could cover the display of empty retail packaging and prices. Their scope may also extend to other products.

Tobacco product displays are currently regulated under the [Tobacco Advertising and Promotion Act 2002](#) (TAPA 2002). If enacted, the bill would repeal and replace that act.

Clause 61 would provide Scottish Ministers with identical powers to regulate displays of herbal smoking products, vaping products and nicotine products, and their prices in shops in Scotland. Tobacco products are not included in clause 61, because Scotland has made its own provision on tobacco displays under the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#).

Professor Linda Bauld (the Bruce and John Usher professor of public health, Co-head of the Centre for Population Health Sciences, University of

⁵⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 234

⁵⁹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 235

⁶⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 14 January 2025, page 235

Edinburgh) was asked about the delivery of improved public health. On the in-store promotion of vaping products she said:

[...] let me just give you one figure from a recent study conducted by my colleagues at the University of Stirling—the Cancer Research UK-funded vaper study. When they asked young people where they were seeing the promotion of vaping products, it was on shop fronts and in shops. At almost two thirds, that is the most common area where they see advertising promotion, and then on posters and billboards. There are also concerns about social media and so on. So, again, if you are thinking about what you might implement first, some of those in-store promotions are important.⁶¹

There was a stand part debate on clause 13, and consideration of clauses 14, 61 and 79.

The then minister, Andrew Gwynne, argued that vapes and nicotine products were too easily seen and too readily available to children in shops.⁶² The clauses would, he said, provide each of the devolved governments with the power to regulate in-store displays subject to consultation.⁶³

The shadow minister, Dr Caroline Johnson, said the opposition supported the display clauses. She agreed there was a need to remove displays of brightly coloured vaping products from the shop floor, from countertops and from shop windows where children could see them.⁶⁴ However, Jack Rankin (Con) thought it incongruous to treat tobacco and vaping products in the same way under clause 13.⁶⁵

Referring to clause 13(6), the shadow minister asked the secretary of state to engage with the tobacco and vape industries before introducing display regulations.⁶⁶ The minister said that under the [World Health Organisation Framework Convention on Tobacco Control](#) (FCTC), the UK was required to protect the development of public health policy from the vested interests of the tobacco industry.⁶⁷ In line with the requirements of [article 5.3 of the FCTC](#),⁶⁸ he said that when reporting on consultations, the government summarises the views of respondents with disclosed links to the tobacco industry.⁶⁹

The shadow minister asked how the government intended to strike the right balance between public health objectives and the interests of businesses.⁷⁰

⁶¹ [Public Bill Committee 7 January 2025 c49](#)

⁶² [Public Bill Committee 14 January 2025 c252](#)

⁶³ [Public Bill Committee 14 January 2025 c252](#)

⁶⁴ [Public Bill Committee 14 January 2025 c254](#)

⁶⁵ [Public Bill Committee 14 January 2025 c254](#)

⁶⁶ [Public Bill Committee 14 January 2025 c253](#)

⁶⁷ The FCTC is an international treaty focussed upon the health impacts of tobacco

⁶⁸ Article 5.3 states: "In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law."

⁶⁹ [Public Bill Committee 14 January 2025 c256](#)

⁷⁰ [Public Bill Committee 14 January 2025 c254](#)

Andrew Gwynne said that the measures contained in clause 13 (and clauses 14, 79 and 61) were “appropriate and measured”.⁷¹

3.6 Free distribution and discounts (clause 15)

Clause 15 of the bill is concerned with the free distribution and discount of relevant products. The clause would make it an offence to:

- give away any relevant products (tobacco, herbal smoking, vaping or nicotine product or cigarette papers) or coupon, or
 - sell a product or coupon at a substantial discount,
- if the purpose or effect is to promote those products to a member of the public of any age in England and Wales.

The maximum penalty for any offence would be imprisonment for up to two years, a fine, or both.

There are identical provisions for Scotland (clause 62) and for Northern Ireland (clause 80). Clause 62 also includes a power for Scottish Ministers to create additional offences.

There was a stand part debate on clause 15 along with consideration of clauses 62 and 80.

The opposition agreed with the government that it should never have been the case that addictive nicotine and vaping products could be legally handed out for free.⁷² However, Jack Rankin (Con) argued there should be scope for “legitimate, responsible vaping companies” to offer free distribution and discount of products:

We do not want to create new vapers, but vaping is a powerful tool to realise the aim of a smoke-free generation. As with most products, it is possible to promote price savings in a responsible way.⁷³

Andrew Gwynne said the government was taking “a balanced” approach, both in terms of its measures in the bill and its wider work on tobacco control.⁷⁴ The bill would, he argued, bring about “definitive and positive change” to prevent future children from becoming addicted to nicotine.⁷⁵ However, smoking cessation services would be able to continue to support

⁷¹ [Public Bill Committee 14 January 2025 c256](#)

⁷² [Public Bill Committee 16 January 2025 c263](#)

⁷³ [Public Bill Committee 14 January 2025 c257](#)

⁷⁴ [Public Bill Committee 16 January 2025 c264](#)

⁷⁵ [Public Bill Committee 16 January 2025 c264](#)

adult smokers to quit smoking, for example by providing free smoking cessation quit aids where appropriate.⁷⁶

3.7 Retail licensing (clauses 16-22, 85 & schedules 1-4, 11-13)

Clauses 16 to 22 and schedules 1 and 2 would set out a new retail licensing scheme for England, with the creation of personal and premises licences.

Clause 16(1) would prohibit the sale, exposure for sale, or possession for the purpose of sale (by the individual or another person) of tobacco products, herbal smoking products, cigarette papers, vaping or nicotine products (“relevant products”) by an individual in England, except under a personal licence.

Clause 16(2) would prohibit a person from using or permitting the use of premises in England to store for the purpose of their sale (by the person or another person), expose for sale, or supply “relevant products” to retail customers except under a premises licence.

The structure and detail of the new licensing regulations (including the fee structure and licence conditions) are to be developed by the secretary of state following consultation (subsection (2)). Schedule 1 sets out detail on what the licensing regulations could include. The new regulations would be subject to the affirmative resolution procedure.

Under clause 17, a person who breaches the prohibitions set out in clauses 16(1) and 16(2) would commit an offence. It would also be an offence for a person to:

- provide false or misleading information to a licensing authority in, or in connection with, an application for the grant of a personal or premises licence, or
- in carrying out of any other obligation imposed by or under licensing regulations (subsection 17(2)).

A person who commits an offence would be liable on summary conviction to a fine. However, instead of pursuing a criminal prosecution, Trading Standards could issue a fixed penalty notice (FPN) (clause 37).

Clause 18 would create civil financial penalties for breaches of licensing conditions in England. The value of the civil penalty could not exceed £2,500 (level 4). However, a civil penalty could not be issued if the breach of the

⁷⁶ [Public Bill Committee 16 January 2025 c264](#)

licence condition already constitutes a criminal licensing offence as set out in clause 17.

The bill provides for an identical licensing scheme in Wales. Clauses 19 to 21 (concerning the detail of licensing regulations, the creation of licensing offences, and the creation of civil financial penalties for breaches of licensing conditions in Wales) are identical to clauses 16 to 18 and the approach taken in England. However, clause 22 is specific to Wales, it would amend the [Public Health \(Wales\) Act 2017 \(section 30\)](#), repealing the existing power that Welsh Ministers have to introduce a retailer register in Wales.

Clause 85 would amend the [Tobacco Retailers Act \(Northern Ireland\) 2014](#) to give the Department of Health in Northern Ireland an identical power to make retail licensing regulations, schedule 11 would establish the same regulatory framework. The new licensing scheme would replace the current registration scheme in Northern Ireland, subject to public consultation.

Scotland already has its own licensing scheme up and running, which it considers successful and does not wish to change.⁷⁷

David Fothergill (Chair of LGA Community Wellbeing Board, Local Government Association (LGA)) was asked if local government had sufficient resources to establish the retail licensing scheme set out in the bill. He suggested the government should not “over complicate this”:

We believe that licensing is the right route to go. While we think the legislation should be consistent, we do think there need to be local variations we can look at, so that we can bring in what works for our communities, very much as we do with the alcohol schemes.⁷⁸

David Fothergill suggested that local councils should have discretion in how they implement the licensing scheme in their locality:

If you tried to legislate for every single local authority to implement it in the same way, we would run into some quite difficult conversations and difficult times; it would make enforcement more difficult. Allowing local councils to do what is right for them is the route to go.

People who sit on licensing committees have local understanding. I can give you an example. Should we ban the sale of tobacco within 100 metres of a school? That would be quite easy to do in an urban area, but I look after villages. If you do that, they have lost their only shop. People would not be able to go to that shop to buy legally. So you have got to have local knowledge.⁷⁹

He also suggested that aligning the cost of personal and premises licensing fees with alcohol licensing would reduce the burden on small retailers:

We need to work with our businesses to reduce the cost of applying for those licences, which is why we need the consultation period over the next few

⁷⁷ [Public Bill Committee 16 January 2025 c279](#)

⁷⁸ [Public Bill Committee 7 January 2025 cc36-37](#)

⁷⁹ [Public Bill Committee 7 January 2025 cc37-38](#)

months, before we bring in legislation, to ensure that we have worked with our retailers, the public and our communities in order to deliver a scheme that actually works.⁸⁰

Inga Becker-Hansen (Policy Adviser, British Retail Consortium (BRC)) agreed that the main concern for smaller retailers was increased bureaucracy and increased costs.⁸¹

There was a stand part debate on clause 16 of the bill, along with consideration of clauses 17 to 22, 85 and schedules 1-4, 11-13.

There is currently no legal requirement for retailers to have a licence to sell tobacco, vaping or nicotine products. Andrew Gwynne argued this was a major gap in enforcement:

Introducing a licensing scheme will strengthen enforcement of the law, acting as a deterrent to rogue retailers who breach sales regulations, supporting legitimate businesses and ultimately supporting public health outcomes. Retail licensing is a highly popular intervention, [...] the polling shows that 81% of retailers and 83% of the public are supportive of tobacco retail licensing [...].⁸²

Dr Caroline Johnson supported the clauses but argued that online retailers should be held to the same standards as in-store retailers.⁸³ She also asked how local government reorganisation in the future would impact on a licensing scheme. Andrew Gwynne explained the position:

[...] For a period of time, the outgoing local authority will be the licensing authority because it is the local authority until the date that it moves to new arrangements. From day one of the new arrangements, the new authority will be the licensing authority.⁸⁴

Andrew Gwynne confirmed that the local authority, not the parish council, would be (and would remain) the licensing authority.⁸⁵

The minister also confirmed that the fee structure of the new licensing scheme would be set at a local level, the fee to be retained by the local authority. He said the government intends for the licensing scheme to be “cost-neutral”.⁸⁶

The opposition supported the mechanism for civil financial penalties for breaches of licensing conditions in England (clause 18). However, Dr Caroline Johnson suggested that the power to increase the fine in line with inflation (subsection (3)) should be more flexible. If necessary, the government should be able to raise the fine by more than inflation to provide a greater

⁸⁰ [Public Bill Committee 7 January 2025 cc39-40](#)

⁸¹ [Public Bill Committee 7 January 2025 cc59-60](#)

⁸² [Public Bill Committee 16 January 2025 cc275-276](#)

⁸³ [Public Bill Committee 16 January 2025 c270](#)

⁸⁴ [Public Bill Committee 16 January 2025 c276](#)

⁸⁵ [Public Bill Committee 16 January 2025 c277](#)

⁸⁶ [Public Bill Committee 16 January 2025 c277](#)

deterrent.⁸⁷ Andrew Gwynne explained that the bill “merely rolls over the existing fines” and to “uprate the fines beyond the current values” would be a complex exercise.⁸⁸ However, he stressed that if there were criminal charges, there would be no maximum fine.⁸⁹

During the final sitting in committee, Dr Caroline Johnson moved new clause 6, which was considered alongside amendments 50 and 51 to clause 168. Together, they would require the government to publish draft licensing regulations within two months of the bill receiving Royal Assent, with a report on a mandated call for evidence to be laid before both Houses six months after Royal Assent. In explaining why new clause 6 was needed, Dr Caroline Johnson said:

If we allow the time taken to bring in the regulations and consult to drag out, more children and adults will become addicted to these products, and that will be bad for the public health of the nation. The new clause provides a reasonable timetable to ensure the regulations are brought in swiftly [...].⁹⁰

Andrew Gwynne opposed new clause 6, arguing it would “place an unreasonable and impractical constraint on government” and risked creating inconsistencies with licensing regimes in Wales and Northern Ireland.⁹¹ If enacted, the bill would impose on the secretary of state a duty to consult ahead of the introduction of any licensing regulations. The minister argued that through this process, the government would be able to consider the views of stakeholders, including the retail sector.⁹²

On division, new clause 6 was rejected by 9 votes to 2.

3.8 Restricted premises orders (clauses 23 to 27)

Clause 23 would enable an enforcement authority to apply to the magistrates’ court for a restricted premises order against a ‘persistent offender’, someone who commits a ‘relevant offence’ in relation to the premises on at least two other occasions within a two-year period. As set out in subsection (3), a ‘restricted premises order’ would prohibit a retail business at the location where the offences took place from selling one or more of the following: tobacco products, herbal smoking products, cigarette papers, vaping products, and any nicotine products (“relevant products”).

The prohibition attaches to the premises. It would apply to sales whether made by the offender or any other person, or by means of any machine kept

⁸⁷ [Public Bill Committee 16 January 2025 c278](#)

⁸⁸ [Public Bill Committee 16 January 2025 c278](#)

⁸⁹ [Public Bill Committee 16 January 2025 c278](#)

⁹⁰ [Public Bill Committee 30 January 2025 cc583-585](#)

⁹¹ [Public Bill Committee 30 January 2025 c585](#)

⁹² [Public Bill Committee 30 January 2025 c585](#)

on the premises or any other means. However, the order would not affect other businesses within the same group or chain.

Clause 24 says that enforcement authorities must, when applying for a restricted premises order, notify ‘interested persons’. For the purposes of this clause, an interested person could mean the occupier of the premises or any other person who has an interest in the premises where tobacco or vaping products are sold (for example, the manager or owner of the business).⁹³

Under subsection (3), if a restricted premises order is made without an interested person having been given notice, and without them having made representations to the court, the person may apply to vary or discharge the order. It would be for the court to decide whether to do so.

Under clause 25, interested persons would be allowed to make representations to the Crown Court to try to prevent a restricted premises order from being issued, or at least to try to vary it.

Clause 26 would make it an offence to breach a restricted premises order in England and Wales. A person guilty of an offence under this section would be liable on summary conviction to a fine (no maximum amount is specified). However, it would be a defence for a person to prove that they took all reasonable steps to avoid the commission of the offence.

Finally, clause 27 would enable the Welsh Ministers, by regulations, to amend clause 23 so as to add an offence to the definition of “relevant offences” for the purposes of restricted premises orders, where that offence is committed in Wales. This clause re-enacts existing powers in [section 51 of the Public Health \(Wales\) Act 2017](#).⁹⁴

In committee, there was a long stand part debate on clause 24, and consideration of clauses 25 to 27.

Dr Caroline Johnson asked how the clauses would apply to online sales. She argued there was a risk of creating a legal loophole whereby someone buys tobacco, vaping or nicotine products online but collects it from a shop.⁹⁵ The shadow minister also asked about the operation of a restricted premises order in circumstances where the business is a commercial tenant and vacates the premises. She asked whether the act of the landlord renting to a new tenant would trigger the removal of the order.⁹⁶

Sarah Bool referred to clause 23(6) of the bill, which would treat a restricted premises order as a local land charge for the purposes of the [Local Land Charges Act 1975](#). She said there was a risk that the commercial tenant would

⁹³ Clause 24 is based on the approach outlined in [section 12A of the Children and Young Persons Act 1933](#) for restricted premises orders for breaches of the tobacco legislation

⁹⁴ [Public Bill Committee 16 January 2025 c287](#)

⁹⁵ [Public Bill Committee 16 January 2025 c284](#)

⁹⁶ [Public Bill Committee 16 January 2025 c284](#)

simply leave the premises after the order was made, meaning it would be landlord who is punished rather than the tenant who committed the offence.⁹⁷

Some members of the committee asked why restricted premises orders would only prevent the sale of tobacco and vapes, not other products.⁹⁸ Others asked why not shut businesses down. In response, Andrew Gwynne said:

We believe that it would not be proportionate to prevent a business that has breached tobacco and vapes sale regulations from being able to conduct other types of business.

For serious cases where criminal behaviour occurs on a premises, local authorities can apply to the court for a closure order under [section 80 of the Anti-social Behaviour, Crime and Policing Act 2014](#).⁹⁹

3.9 Restricted sale orders (clauses 28 & 29)

Under clause 28, Trading Standards would be able to apply to the magistrates' court for a restricted sale order. This order would prohibit a "persistent offender" from selling tobacco, herbal smoking, vaping or nicotine products as well as cigarette papers ("relevant products"). It would also prohibit them from having any management functions related to the sale of such products (whether by a person or a machine).

A restricted sale order would apply to a named individual regardless of where they are employed or whether they change employment. They are different to restricted premises orders, which are applied to retail premises.

For the purposes of this clause, a 'persistent offender' would be someone who has committed a 'relevant offence' on at least two other occasions within two years. A 'relevant offence' would include those under the following clauses of the bill: clause 1 (sale of tobacco), clause 3 (tobacco vending machines), clause 10 (sale of vaping products to under 18s), and clause 12 (vaping and nicotine product vending machines).

Relevant offences would also include the following existing offences up until the point they are repealed:

- [section 7 of the Children and Young Persons Act 1933](#) (sale of tobacco, etc to under 18s).
- [section 3A of the Children and Young Persons \(Protection from Tobacco\) Act 1991](#) (tobacco vending machines).

⁹⁷ [Public Bill Committee 16 January 2025 c285](#)

⁹⁸ [Public Bill Committee 16 January 2025 c284](#)

⁹⁹ [Public Bill Committee 16 January 2025 c287](#)

- [section 92 of the Children and Families Act 2014](#) (sale of nicotine products to under 18s).

The duration of the order would be determined by the court but could not exceed 12 months.

Clause 29 of the bill would give a right to appeal to the Crown Court against a restrictive sale order made by a magistrates' court under clause 28.

Clause 30 would make it an offence to breach a restricted sale order issued in England and Wales. A person guilty of an offence under this clause would be liable on summary conviction to a fine (no maximum amount is specified). It would, however, be a defence for someone charged with the offence to prove that they took all 'reasonable' steps to avoid committing the offence.

There was a stand part debate on clause 28 together with consideration of clauses 29 and 30.

Dr Caroline Johnson repeated the questions she asked in the previous stand part debate on restricted premises orders (clauses 24 and 25-27), arguing she had the same concerns with regard to restricted sale orders:

If one appeals to the Crown court, how much will it cost? The Minister did not answer the question about the phraseology of "on the premises" and how that would relate to the collection of items bought online. In the debate on the previous clauses—the same question applies to these ones—he did not answer why the offences in clauses 4 to 6 and 13 to 15 are not considered relevant. Will he also clarify that a different relevant offence can occur on each of the three occasions within the two years?¹⁰⁰

On the cost of appeal applications, Andrew Gwynne said it was a matter for the Crown Court to deal with appeals.¹⁰¹ On why the offences in clauses 4 to 6 and 13 to 15 were not considered relevant for a restricted sale order, the minister said the orders were designed to deal with persistent offences committed by an individual.¹⁰²

The opposition questioned the appropriateness of an unlimited fine for a breach of a restricted premises order or restricted sale order. Andrew Gwynne explained that the fine needed to reflect the severity of the offence and the fact that the offender is persistently breaching the regulations.¹⁰³

Alex Barros-Curtis (Lab) asked how the government would ensure that local authorities share information about persistent offenders.¹⁰⁴ Andrew Gwynne said Trading Standards already had good record-keeping.¹⁰⁵

¹⁰⁰ [Public Bill Committee 16 January 2025 cc288-289](#)

¹⁰¹ [Public Bill Committee 16 January 2025 cc290-291](#)

¹⁰² [Public Bill Committee 16 January 2025 c290](#)

¹⁰³ [Public Bill Committee 16 January 2025 cc289-290](#)

¹⁰⁴ [Public Bill Committee 16 January 2025 c289](#)

¹⁰⁵ [Public Bill Committee 16 January 2025 c290](#)

Andrew Gwynne made a commitment to write to the committee to clarify the position with regard to restricted sale orders and online businesses.¹⁰⁶

3.10 Enforcement and fixed penalties in England and Wales (clauses 32 to 34 and 81)

Clause 32 would place a legal duty on Trading Standards to enforce the tobacco and vaping measures in part 1 of the bill and any display regulations in England and Wales. It would also provide Trading Standards with the power to use the investigatory powers under the [Consumer Rights Act 2015](#) (CRA 2015) to conduct their enforcement activity.

Clause 33 would require Trading Standards in England, to “consider a programme of enforcement action” for offences under part 1 of the bill and display regulations, on a yearly basis.

Clause 34 would make the same provision for programmes of enforcement action in Wales. Clause 81 would make similar provision for district councils in Northern Ireland. There are no equivalent provisions for Scotland. Scottish Ministers advised that they did not want the UK Government to legislate on this.¹⁰⁷

Councillor David Fothergill (Chair of LGA Community Wellbeing Board, Local Government Association) was asked by the shadow minister if local authorities had sufficient resources to enforce the measures in the bill. He said local authorities would need time:

We have to be sure that it is not a new burden—on either local authorities or retailers—that we cannot fund. Therefore we would ask that we have time to implement, because we need to be able to consult with our retailers and our public to make sure that we implement in the right way. We would ask that it is viewed as a new burden, so that we can have additional moneys coming into the local authorities.¹⁰⁸

When challenged on what sort of timeframe he had in mind, David Fothergill suggested government consultation with local authorities was key:

The important thing is that we have the right consultation and the right plan for bringing through new trading standards. I think we would be alarmed if you said you were going to introduce this on 1 January next year, but if you said we had two years or slightly longer to implement it I think we would be much more comfortable.¹⁰⁹

¹⁰⁶ [Public Bill Committee 16 January 2025 c291](#)

¹⁰⁷ [Public Bill Committee 16 January 2025 c293](#)

¹⁰⁸ [Public Bill Committee 7 January 2025 c36](#)

¹⁰⁹ [Public Bill Committee 7 January 2025 c36](#)

Lord Bichard (Chair of National Trading Standards) suggested that any additional funding made available to Trading Standards to enforce the bill should be ringfenced:

Trading standards resources have been reduced by about 50% over the last decade, and staffing in local authority trading standards has gone down by about 30% to 50%, so we start from a very low base.

The suggestion that has been made is that trading standards should get £10 million to implement and enforce the legislation. That sounds like a not unreasonable figure, but the way in which it is distributed is quite important. If it is going to be done on a one-year rolling basis, that makes it difficult for local authorities to employ staff; you need some stability if you are going to employ staff. We think that, if it will be £10 million, it needs to be on a four-year cycle so we know that for four years we have that money and can employ the staff.

The other issue to be concerned about is that local authorities [...] have been under huge pressure. There is always a temptation to take whatever money is there and use it on the highest priority. If this money is to go to tobacco and vaping, I am afraid that it probably needs to be ringfenced.

Lord Bichard also advocated for some investment at ports of entry, explaining that Trading Standards relied on UK Border Force to provide the intelligence to target enforcement.¹¹⁰

When asked by Andrew Gwynne if Trading Standards had the right powers to enforce the bill, Lord Bichard said they did. In fact, they were already doing some of this work quite successfully:

We seized something like 2 million vapes last year; we carried out 400,000 test purchases—which is how we check whether or not the legislation is being enforced—and we seized, I think, 19 million illegal cigarettes. So in a way, this is not new stuff for us; it is just bigger. We have the powers, and we use them quite effectively.¹¹¹

There was a stand part debate on clauses 32 to 34 and clause 81.

Gregory Stafford challenged the minister on what was meant by “consideration” in subsection (1) of clause 33, which says,

Each local weights and measures authority in England must, at least once a year, consider—

(a) (b) whether it is appropriate to carry out a programme of enforcement action in its area, and

(b) if so, what that programme should involve.

He argued that the government must have some “benchmark” as to what that consideration would be, “otherwise how on earth will it enforce that part of

¹¹⁰ [Public Bill Committee 7 January 2025 cc52-53](#)

¹¹¹ [Public Bill Committee 7 January 2025 cc53-54](#)

the Act once passed?”¹¹² Andrew Gwynne said the clause merely reaffirmed the current position:

It is very clear, with the set of measures we are dealing with in this Bill, what those considerations should be and what local councillors and the executive or the mayor should consider on behalf of the local authority. Every local authority Trading Standards has a programme of enforcement that is approved by that local authority; this Bill will request of them that that is extended, within the scope of the measures in the Bill—hopefully to be an Act—to include what we expect for the enforcement of tobacco and vape regulations. The Bill will also ensure that they continue to review the action they take on a regular basis.¹¹³

3.11 Powers of ministers to take over enforcement functions and proceedings (clauses 35 & 36)

Clause 35 would provide a power for the secretary of state or the Welsh Ministers to take over the enforcement duty (imposed by clause 32) from a local enforcement authority for certain cases.

Clause 36 would empower the secretary of state or the Welsh Ministers to take over the conduct of any proceedings from a local enforcement authority in respect of an offence committed under part 1 of the bill or regulations made under clause 13 or 14 (displays of products or prices in England and Wales).

Both clauses would apply only to England and Wales – not to Scotland and Northern Ireland. Scotland has a similar, separate power, but Scottish Ministers have said they do not want it to be part of the framework in the bill.¹¹⁴

Jim Dickson (Lab) asked Councillor Fothergill (Chair of LGA Community Wellbeing Board, Local Government Association) if he could envisage any circumstances where local enforcement would not be enough, and the secretary of state would need to intervene utilising the powers granted under clauses 130 and 131. David Fothergill spoke of the difficulty of taking enforcement action against illegal sales online:

[...] I think the area we would be most concerned about is illegal sales online. Our local teams could not get into those, and therefore we might need more national resources to break into how people are bringing illegal substances into the UK.¹¹⁵

Lord Michael Bichard (Chair of National Trading Standards (NTS)) also raised concerns about online sales:

¹¹² [Public Bill Committee 16 January 2025 c293](#)

¹¹³ [Public Bill Committee 16 January 2025 c293](#)

¹¹⁴ [Public Bill Committee 16 January 2025 c295](#)

¹¹⁵ [Public Bill Committee 7 January 2025 c40](#)

It is a difficulty for us and for local authorities, because no single local authority thinks it should be responsible for enforcing legislation in an online marketplace.

We have a solution to that, which is that we have a lead authority that we think could deal with this and avoid the problem with individual local authorities. I think that will become an increasingly important element of the vape marketplace.¹¹⁶

There was a stand part debate on clauses 35 and 36, resulting in two divisions.

Andrew Gwynne confirmed that there were no known cases where ministers, or the secretary of state in the case of England, had to interfere in either the duty to enforce or the proceedings in respect of a tobacco or vape offence.¹¹⁷ However, he said it was important to keep the powers contained in clauses 35 and 36 in reserve:

We acknowledge as a Government that it is highly unlikely that these powers will ever need to be used, but it is important to have them to ensure that there is consistency in enforcement, if there is ever an occasion where a local authority is unable to conduct enforcement activity. We believe these powers act as a useful safeguard for very extreme circumstances.¹¹⁸

Dr Caroline Johnson suggested that ministers intervening in a particular case could be “a sensitive issue” - there was a risk of the measures being used for political purposes.¹¹⁹ She gave the example of an opposition politician running a business that had committed an offence, she suggested the secretary of state could intervene “to make proceedings much harder and harsher” than they would have been.¹²⁰

There were separate divisions on clauses 35 and 36. On an identical vote of 12 to 4, both clauses were ordered to stand part of the bill.¹²¹

3.12 Fixed Penalty Notice (FPN) (clause 37)

Under clause 37(1), Trading Standards in England and Wales would have the option to issue a FPN where they have reason to believe that a person has committed an offence under (or under regulations made under) any of the following provisions of part 1 of the bill:

- clause 1 (sale of tobacco etc to people born on or after 1 January 2009)

¹¹⁶ [Public Bill Committee 7 January 2025 c54](#)

¹¹⁷ [Public Bill Committee 16 January 2025 cc293-294](#)

¹¹⁸ [Public Bill Committee 16 January 2025 c294](#)

¹¹⁹ [Public Bill Committee 16 January 2025 c294](#)

¹²⁰ [Public Bill Committee 16 January 2025 c295](#)

¹²¹ [Public Bill Committee 16 January 2025 c296](#)

- clause 2 (proxy purchase of tobacco etc on behalf of others)
- clause 5 (age of sale notice at point of sale: England)
- clause 6 (age of sale notice at point of sale: Wales)
- clause 10 (sale of vaping or nicotine products to under 18s)
- clause 11 (purchase of vaping or nicotine products on behalf of under 18s)
- clause 13 (displays of products or prices: England)
- clause 14 (displays of products or prices: Wales)
- clause 15 (free distribution and discount of products)
- clause 17 (offences in connection with retail licences: England)
- clause 20 (offences in connection with retail licences: Wales).

For the purposes of subsection (2), a FPN is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by payment of a specified amount within the relevant period. For offences in connection with retail licences (clauses 17 and 20) the FPN would be set at £2,500 (level 4). For all other offences, the fine would be set at £200.

Trading Standards can already impose a FPN for the proxy purchase of tobacco and vaping products under [section 91 of the Children and Families Act 2014](#). If enacted, this provision in the 2014 act would be replaced by the FPN regime in the bill.

Referring to the previous iteration of the bill where the amount of a FPN was set at £100, Andrew Gwynne asked if doubling the FPN to £200 struck a better balance with Trading Standards. Lord Bichard (Chair of National Trading Standards) said it did, but suggested the government might also consider an increase for second offenders before moving to prosecution which was a “time-intensive process”.¹²²

Councillor David Fothergill (Chair of LGA Community Wellbeing Board, Local Government Association) thought a FPN of £200 was still too low:

If you pay within 10 days, it goes from £200 to £100. If you sell 40 vapes in one day, you have paid your fine. Some retailers—very few, because the vast majority are scrupulous—will take the view that they could sell more vapes to under-age people and those they should not be selling to - and pay that £100 fine within 10 days. So yes, we view it as too low. We would like to see a review brought in within a year to see whether it should be increased.¹²³

¹²² [Public Bill Committee 7 January 2025 c54](#)

¹²³ [Public Bill Committee 7 January 2025 cc39-40](#)

Wendy Martin (Director of National Trading Standards) suggested that the issuing of a FPN for a part 1 offence would not be automatic:

It is not the case that, immediately you find something wrong, there will be a fixed penalty notice. There are a lot of drivers for compliance, especially with legitimate businesses that want to comply. As we said, prosecution is an option and you have the £200 fixed penalty, but for longer-term or egregious offences—definitely for repeat offences—prosecution through the magistrates’ court is likely to be an option.¹²⁴

Lord Michael Bichard agreed that educating retailers not to offend was a better, more proportionate outcome than issuing FPNs:

For local authorities in particular, with their resource situation being what it is, the last thing they want is more bureaucracy around fixed penalties, prosecutions and all the rest.

[...] It is our task to take a proportionate position. Some people make mistakes, and there is probably no point in even a fixed penalty notice if someone has just made a mistake. [...] training is probably a better option. However, if someone is clearly determined to flout the law, you need to increase the penalties.¹²⁵

Dr Caroline Johnson, shadow health minister, moved amendment 54 to clause 37. Alongside this amendment, there was consideration of amendment 55 to clause 50, and a stand part debate on clause 37.

Amendment 54 would ensure that FPNs for an offence under sections 37(1) would not be issued if it is a first offence in England and Wales. Amendment 55 to clause 50 would achieve a similar effect in Scotland. Speaking to the amendment, Dr Caroline Johnson said she was testing the proportionality of penalties, particularly where an offence has occurred inadvertently because someone had innocently misjudged the age of an individual.¹²⁶

Andrew Gwynne opposed the amendment. He argued he did not want to cause confusion by creating different rules for first-time offenders.¹²⁷

On the use of FPNs, Dr Caroline Johnson said a persistent offender might receive recurrent FPNs. However, for the purposes of applying for a restricted sale order, Trading Standards would need to prosecute. She suggested that issuing FPNs might delay obtaining a restricted sale order against a person who is deliberately selling cigarettes to young people.¹²⁸ The minister said he trusted Trading Standards to take the most appropriate action.¹²⁹

Dr Caroline Johnson withdrew the amendment.

¹²⁴ [Public Bill Committee 7 January 2025 c51](#)

¹²⁵ [Public Bill Committee 7 January 2025 c51](#)

¹²⁶ [Public Bill Committee 16 January 2025 c297](#)

¹²⁷ [Public Bill Committee 16 January 2025 c298](#)

¹²⁸ [Public Bill Committee 16 January 2025 c300](#)

¹²⁹ [Public Bill Committee 16 January 2025 c300](#)

3.13 Fixed penalties: use of proceeds (clause 38)

Under clause 38, monies received from FPNs issued for licensing offences in England (clause 17) and Wales (clause 20) must be paid into the relevant consolidated fund once the cost of investigation and issuing fines have been deducted. For all other offences carrying a FPN fine of £200, the proceeds would be retained by local authorities to be used for the enforcement of the tobacco and vape controls in the bill.

Liz Jarvis (LD) moved amendment 2 to clause 38. This amendment sought to ringfence the proceeds from the £2,500 FPN for licensing offences for public health initiatives, determined by local health and wellbeing boards. Amendment 3 to clause 38 was also considered; this amendment was consequential upon amendment 2. Speaking to the amendment, Liz Jarvis argued that it would ensure that the penalties imposed for regulatory breaches “contribute directly to mitigating the broader harms caused by tobacco and vaping”.¹³⁰

The shadow health minister opposed the amendments. Dr Caroline Johnson argued that to have a separate fund receive and manage the proceeds from FPNs “would add an extra layer of bureaucracy”.¹³¹ Barros-Curtis (Lab) also opposed the amendment because it failed to consider the devolved position in Wales - health and wellbeing boards do not exist in Wales.¹³²

Andrew Gwynne argued that councils already have a ringfenced budget for public health in England and it would be inappropriate for them to retain FPN proceeds in this way:

The fixed penalty notice is introduced to support the enforcement of the future licensing scheme and tobacco and vape sales regulations. It should continue to be the choice of trading standards officers to determine the appropriate enforcement action to take in a given case to achieve compliance. Enabling retention of fixed penalty notice proceeds for a different purpose, risks distorting the operational priorities of the licensing scheme.

The £200 fixed penalty notice introduced by the Bill for offences, such as underage sales, are an exception. We worked carefully with His Majesty’s Treasury during the development of the Bill to enable trading standards to retain that relatively small value in order to support their procedures.¹³³

The amendment was rejected without a division.

¹³⁰ [Public Bill Committee 16 January 2025 c302](#)

¹³¹ [Public Bill Committee 16 January 2025 c302](#)

¹³² [Public Bill Committee 16 January 2025 c302](#)

¹³³ [Public Bill Committee 16 January 2025 cc303-304](#)

3.14 Power to change the value of an FPN (clause 39)

Clause 39 of the bill would give the secretary of state and the Welsh Ministers regulation making powers to change the amount of FPNs and the percentage discount for early payment to ensure they remain proportionate. However, the scope of this power would not extend to changing the amount of the FPN for licensing offences.

For all other offences, the maximum amount the FPN could be changed to would be equivalent to level 3 on the standard scale of fines for summary offences (currently £1,000). Regulations made under clause 39 would be subject to the affirmative procedure..

There was a short stand part debate on clause 39. The shadow minister, Dr Caroline Johnson, said the powers seemed sensible, as does having an overall limit.¹³⁴

3.15 Power to amend lists of identity documents (clause 46)

Clause 46 of the bill would enable the Secretary of State and Welsh Ministers to make regulations amending the definition of an 'identity document'. Identity documents would be required under clause 1 (sale of tobacco etc) and clause 10 (sale of vaping or nicotine products to under 18s) of the bill.

The bill would permit the use of:

- a) a passport,
- b) a UK driving licence
- c) a driving licence issued by any of the Channel Islands or the Isle of Man,
- d) a European Union photocard driving licence, or
- e) an identity card issued by the Proof of Age Standards Scheme and bearing its hologram (a PASS card).

Clause 46 would allow changes to be made to this list of accepted identity documents.

¹³⁴ [Public Bill Committee 16 January 2025 c305](#)

The shadow minister, Dr Caroline Johnson, suggested the list of acceptable documents was too short.¹³⁵ Dr Caroline Johnson said that individuals with disabilities may be less likely to hold a driving licence, and asked the minister if the government had made assessment of this.¹³⁶

The minister said most of the forms of ID are things that most people have, and said alternatively, people could obtain a PASS card.¹³⁷

The minister noted that the earlier [Tobacco and Vapes Bill 2023-24](#) did not include a list of the forms of ID, and “that came in for criticism by the then Bill Committee, which thought there ought to be a list”.¹³⁸

The minister said he had already had discussions with officials about reducing ambiguity in relation to ID requirements. The minister said he was willing to revisit and strengthen this aspect of the bill:

We hope to reassure members of this Committee, probably on Report, that we can strengthen this element of the Bill – we do not want to weaken it – so that there is no ambiguity over ID. We will have a robust mechanism for retailers so that they have confidence in what is and is not an acceptable form of ID. We will get this right. I am determined that we will get these measures right and that they will be enforceable.¹³⁹

Clause 46 was ordered to stand part of the bill.

¹³⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 16 January 2025, page 309

¹³⁶ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 16 January 2025, page 309

¹³⁷ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 16 January 2025, page 309

¹³⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 16 January 2025, page 310

¹³⁹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 16 January 2025, page 310

4 Part 2: Sale and distribution: Scotland Sale of tobacco etc

4.1 Extension of retailer register (clause 65 & schedule 9)

There is no equivalent provision in the bill to introduce a retail licensing scheme in Scotland. This is because health is a devolved matter, and under the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#), Scotland already operates a national [Register of Tobacco and Nicotine Vapour Products Retailers](#).

Schedule 9 of the bill would amend the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#). It would extend chapter 2 of part 1 of the act so that retailers in Scotland selling herbal smoking products and nicotine products are subject to the same registration requirements as retailers who sell tobacco and vaping products.

There was a stand part debate on clause 65 and schedule 9.

Andrew Gwynne said it was the Scottish Government's view that introducing a new licensing scheme at this time would put undue pressure on local authorities and the retail sector.¹⁴⁰ Instead, in line with the Scottish Government's tobacco and vaping framework, the technical infrastructure of the existing register would be improved, a step that had been welcomed by stakeholders.¹⁴¹ Andrew Gwynne stressed that each of the nations of the UK was taking forward an approach that best suits its population.¹⁴²

¹⁴⁰ [Public Bill Committee 21 January 2025 cc399-340](#)

¹⁴¹ [Public Bill Committee 21 January 2025 cc339-340](#)

¹⁴² [Public Bill Committee 21 January 2025 cc339-340](#)

5 Part 3: Sale and distribution: Northern Ireland

5.1 Extension of retailer register (clause 84)

Under the [Tobacco Retailers Act \(Northern Ireland\) 2014](#), anyone selling tobacco products, herbal smoking products and cigarette papers must be registered on the [Tobacco Retailers Register](#). It is an offence not to be registered, punishable by a fine (up to a maximum of £5,000). Alternatively, a FPN might be issued.

Clause 84 of the bill introduces schedule 10. Schedule 10 would amend the [2014 act](#), extending provisions about the registration of tobacco retailers to retailers of vaping products and nicotine products.

There was a short stand part debate on clause 84 alongside consideration of schedule 10. Assuming the bill is enacted, Andrew Gwynne confirmed that the register would be expanded while the new licensing regulations are introduced, “ensuring a stronger and consistent enforcement regime at all times”.¹⁴³

¹⁴³ [Public Bill Committee 21 January 2025 c344](#)

6

Part 4: Snus etc: Seizure and detention powers (clause 89)

Part 4 of the bill only contains clause 89. This clause deals with the power of a Revenue and Customs (HMRC) officer to seize and detain snus, which the bill defines as an oral tobacco product that “is not intended to be inhaled or chewed”.

Clause 89 would enable an HMRC officer to seize and detain any “relevant oral tobacco products” that have been imported in order to enable an “enforcement authority” to carry out any of its functions in relation to the enforcement of a “relevant offence”. For the purposes of the bill, an “enforcement authority” would mean Trading Standards in relation to England and Wales; a council constituted under [section 2 of the Local Government etc. \(Scotland\) Act 1994](#) in relation to Scotland; and a district council in relation to Northern Ireland. A “relevant offence” would mean an offence relating to the possession of relevant oral tobacco products with intent to supply.

Under subsection (2), customs officials would have complete discretion as to how the oral tobacco products are dealt with during their period of detention. However, they may not be detained for a period of more than 48 hours (not including weekends or bank holidays).

There was a lengthy stand part debate on clause 89.

Dr Caroline Johnson pointed out that the bill treats snus differently from all other tobacco products; there is a much heavier penalty for its illegal sale. It is not illegal to possess snus for personal use, but it is an offence to manufacture it (clause 7), to sell it or to offer it for sale (clause 8) or to possess it with intent to supply (clause 9). The shadow minister asked what amount of snus would count as being for “personal use” and how would people prove that.¹⁴⁴

Andrew Gwynne said this would be a matter for customs officials:

Border Force officials will decide on a case-by-case basis—on the evidence in front of them in any particular case and on the intelligence that they might have—whether the goods that they have seized are likely to be for personal use. I imagine that given the quantities that would likely be needed, in the case of seizing illicit goods, we would be talking about large quantities of a product that clearly would not be for personal consumption.¹⁴⁵

¹⁴⁴ [Public Bill Committee 21 January 2025 c.346](#)

¹⁴⁵ [Public Bill Committee 21 January 2025 cc349-350](#)

In response to a question asked by Gregory Stafford (Con), the minister confirmed that detaining suspected illicit goods for a period of up to 48 hours was standard practice. After 48 hours the enforcement agency would be able to decide on what action it wishes to take.¹⁴⁶

¹⁴⁶ [Public Bill Committee 21 January 2025 c346](#)

7

Part 6: Advertising and sponsorship

7.1

Publishing advertisements (clauses 114 to 119)

Clauses 114 to 117 would make it an offence for a person, “acting in the course of a business”, to publish, design, print or distribute an advertisement in the UK “whose sole purpose or effect” is to promote a “relevant product”, and the person knows or has reason to suspect that (i) what they are publishing, designing, printing or distributing is or contains the advertisement, and (ii) that the advertisement has that purpose or will have that effect.

Clause 118 would make it an offence to cause the publication, designing, printing or distribution of a “relevant product” advertisement knowing this will be published or distributed in the UK.

Clause 119 would make it an offence to provide an internet service in the course of a business by which means an advertisement to promote a “relevant product” is published or distributed in the UK.

For clauses 114 to 119, a relevant product would be a tobacco product, herbal smoking product, cigarette papers, vaping product or nicotine product.

Upon conviction, anyone who has committed an offence under part 6 would be liable to a fine, imprisonment or both.

Lord Michael Bichard (Chair of National Trading Standards) was asked how the ban on advertising vapes would be enforced on the high street, locally and in small shops. He said it would be enforced in the same way trading standards currently enforce the advertising ban for tobacco products:

This is not new. Trading standards officers employed by local authorities are constantly visiting premises, and they will therefore deal with any offences that are being committed. They also have their own local intelligence networks.

We cannot afford, because we do not have enough staff, to just have a random system where we pop in every now and then. We depend on people giving us intelligence. Some of those people are members of the public, and some are from other agencies. We try to target what we do.¹⁴⁷

Inga Becker-Hansen (policy adviser at the British Retail Consortium (BRC)) responded to a question about the challenges the BRC may face with implementing the restrictions on advertising and shop displays:

¹⁴⁷ [Public Bill Committee 7 January 2025 c57](#)

Some of the challenges with the restrictions on advertising will be at the point of sale of products for some retailers. There is also a query from retailers about how recycling schemes for vapes can be implemented if they cannot be advertised, and about how the Bill and the Government can support recycling initiatives alongside the reduction in advertising of vapes. Retailers appreciate the need to restrict advertising. Again, there is this idea of creating a level playing field among all retailers, rather than focusing on specific ones.¹⁴⁸

Dr Caroline Johnson moved amendment 87 to clause 114, which would allow vapes to be promoted as a quit aid or public health measure. Alongside this amendment, there was consideration of identical amendments 88 to 91 on clauses 115 to 118 respectively, and amendments 92 to 93 to clause 119. There was also a lengthy debate on clauses 114 to 119 stand parts.

Speaking to amendment 87, Dr Caroline Johnson said the opposition supported the advertising restrictions contained the bill, arguing that children needed to be stopped from taking up any form of nicotine. However, she questioned how smoking cessation services would be able to continue to promote vapes and nicotine products as a quit aid tool to smokers.¹⁴⁹

Tristan Osborne (Lab) argued that the amendment would create a legal loophole, whereby adverts for nicotine and vaping products could still be published provided they included some form of notice that they were “smoking cessation devices”.¹⁵⁰ The shadow minister stressed that the opposition was seeking confirmation from the minister that health professionals would not commit an offence under clause 114.¹⁵¹

In opposing the amendment, Andrew Gwynne argued that it would be difficult to target adverts for vapes only to tobacco smokers, without the risk of children and non-smokers seeing the promotional material.¹⁵² In addition, he argued that the amendment would complicate enforcement. Research had shown that comprehensive advertising bans were “significantly more effective than partial restrictions in reducing smoking rates”.¹⁵³

Jack Rankin (Con) asked why the government was introducing the advertising restrictions without public consultation.¹⁵⁴ He raised concerns about imposing “burdensome restrictions on compliant small businesses, particularly convenience stores”.¹⁵⁵ He also asked if aligning vapes with tobacco in this way could contribute to misconceptions that vapes are just as harmful as tobacco.¹⁵⁶

¹⁴⁸ [Public Bill Committee 7 January 2025 c62](#)

¹⁴⁹ [Public Bill Committee 23 January 2025 c444](#)

¹⁵⁰ [Public Bill Committee 23 January 2025 c444](#)

¹⁵¹ [Public Bill Committee 23 January 2025 c445](#)

¹⁵² [Public Bill Committee 23 January 2025 c454](#)

¹⁵³ [Public Bill Committee 23 January 2025 c454](#)

¹⁵⁴ [Public Bill Committee 23 January 2025 c451](#)

¹⁵⁵ [Public Bill Committee 23 January 2025 c451](#)

¹⁵⁶ [Public Bill Committee 23 January 2025 c451](#)

Andrew Gwynne pointed out that stopping the advertising of vapes to children was a manifesto commitment.¹⁵⁷ He also confirmed that future vape measures would be carefully considered so that there is a clear difference between these products.¹⁵⁸

Dr Caroline Johnson asked who would be the publisher of an advert for the purposes of the part 6 offences. Giving the example of a TikTok video, she asked if the publisher would it be the individual who uploaded it or TikTok.¹⁵⁹ She also asked if a relevant product would need to be explicitly promoted to commit an offence under part 6 of the bill. She gave the example of an advertisement for a lifestyle product which featured in the background someone smoking, she asked if that background image would be sufficient for the advert to be caught by clause 114.¹⁶⁰

The shadow minister questioned the reliance of clauses 114 to 119 on “subjective knowledge or suspicion”. Specifically, that a person commits an offence if they “know or have reason to suspect” that the advert has the purpose or effect of promoting a relevant product. She asked if an individual involved in the publication of an advert does not have direct knowledge of, or did not suspect, the advert’s purpose, would they commit an offence.¹⁶¹

On what would constitute an advert and how liability for an offence would work, Andrew Gwynne said that it would be a matter for the Advertising Standards Authority (ASA). He said the ASA would make decisions on a case-by-case basis, taking a proportionate approach:

The ASA is experienced in making decisions on tobacco restrictions at the moment, and the provision merely extends the powers and responsibilities that it is already undertaking with regard to a variety of other products. On social media influencers, it depends on how the ASA approaches the matter; if it decides that something is constituted as an advert, action can be taken.¹⁶²

On whether the bill would allow adverts produced for international markets to be distributed in the UK, the minister said the distribution of those adverts would be an offence:

Taken together they will ensure that even if someone has not designed or published an advert, it will still be an offence to print or distribute that advert. This is key to stopping their eventual distribution.¹⁶³

Gregory Stafford (Con) raised the issue of “cookies” being used to target adverts online. He asked if the measures in part 6 were directed at the website that displays the advert, the person that puts forward the advert, or at intermediary companies.¹⁶⁴ The minister explained that clause 119 would

¹⁵⁷ [Public Bill Committee 23 January 2025 c455](#)

¹⁵⁸ [Public Bill Committee 23 January 2025 c455](#)

¹⁵⁹ [Public Bill Committee 23 January 2025 c443](#)

¹⁶⁰ [Public Bill Committee 23 January 2025 c443](#)

¹⁶¹ [Public Bill Committee 23 January 2025 c443](#)

¹⁶² [Public Bill Committee 23 January 2025 cc454-455](#)

¹⁶³ [Public Bill Committee 23 January 2025 c454](#)

¹⁶⁴ [Public Bill Committee 23 January 2025 c450](#)

make it an offence for an organisation to provide an internet service in the course of a business by means of which an advert for a relevant product is published or distributed. He gave the following example:

This would mean that an organisation that provides a service to a person—for example, Sky or TalkTalk—would commit an offence if they provided a service that enabled the online advertisements to happen and if they permitted that space to be used to promote relevant products. That could include becoming aware that the service is hosting a vape advert and subsequently failing to take that advert down.¹⁶⁵

Dr Caroline Johnson withdrew amendment 87.

7.2 Advertising: defences (clause 120 to 122)

Clause 120 of the bill sets out defences for a person charged with an advertising offence under clause 114 to 119. Specifically, it would be a defence for the person to show that the advert or promotion was contained in:

- a communication that was made in the course of business, which was part of a relevant trade, and was made for the purpose of that trade and directed solely at relevant persons involved in that trade; or
- a reply to a particular request by an individual for information about a tobacco product, herbal smoking product, cigarette papers, vaping or nicotine product; or
- a publication, other than in an in-flight magazine, which was printed outside the UK, and whose principal market is not the UK (or any part of the UK).

Clause 121 would exclude specialist tobacconists shops from the advertising offences in clauses 114 to 118, provided the advert is not visible from outside the shop and does not advertise cigarettes or hand-rolling tobacco.¹⁶⁶ A specialist tobacconist shop is defined as a shop which sells tobacco products by retail, and over half of whose sales are from cigars, snuff, pipe tobacco and smoking accessories.¹⁶⁷

¹⁶⁵ [Public Bill Committee 23 January 2025 c454](#)

¹⁶⁶ Clause 21 of the bill is based on the existing definition of “specialist tobacconists” contained in [section 6\(2\) of TAPA 2002](#)

¹⁶⁷ To determine if a shop is a specialist tobacconist, sales are measured by sale price, which is calculated using the last 12 months of a shop’s accounts or the period the shop has been open for if the shop has been open for less than 12 months

Clause 122 provides that no offence is committed under part 6 if a relevant product is subject to restrictions set out in legislation on their display.¹⁶⁸

There was a stand part debate on clauses 120 to 122. There was also a government amendment to clause 122, which was agreed without a division.

On clause 121, Gregory Stafford (Con) argued that the government's approach to specialist tobacco products was inconsistent with its message that tobacco was unhealthy.¹⁶⁹ Jack Rankin (Con) took the opposite view, arguing that the minister was following a sensible evidence-based approach.¹⁷⁰

Andrew Gwynne stressed that specialist tobacconists made up a small percentage of the UK market, focused on selling specialist products (such as cigars and pipes), and that no adverts would be visible in the shop window. He said the exemption "reflects the specialist nature of the trade carried out by these shops".¹⁷¹ He made a commitment to continue to monitor the specialist tobacconists market.¹⁷²

Government amendment 1 to clause 122 would ensure that no offence is committed under the advertising provisions by displays of prices that are subject to regulation under [section 3 of the Tobacco and Primary Medical Services \(Scotland\) Act 2010](#). This would make the approach in Scotland consistent with the rest of the UK. Speaking to the amendment, the minister explained that it was minor and technical, to correct a drafting error. He said the Scottish Government had requested the amendment.¹⁷³

7.3

Brandsharing (clause 123)

Clause 123 of the bill would give the secretary of state the power to make regulations to prohibit or restrict brand sharing in relation to the relevant products.¹⁷⁴ Regulations made under clause 123 would create offences in relation to a failure to comply with the regulations.

There was a stand part debate on clause 123.

¹⁶⁸ Display regulations made under clauses 13 & 14 of the bill for England & Wales, or a display that falls within section 1(1) of the [Tobacco and Primary Services \(Scotland\) Act 2010](#) (or display regulations that could be made under section 3A of the act), or display regulations made under Article 4K of the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#)

¹⁶⁹ [Public Bill Committee 23 January 2025 c462](#)

¹⁷⁰ [Public Bill Committee 23 January 2025 c462](#)

¹⁷¹ [Public Bill Committee 23 January 2025 c459](#)

¹⁷² [Public Bill Committee 23 January 2025 c459](#)

¹⁷³ [Public Bill Committee 23 January 2025 c460](#)

¹⁷⁴ Brandsharing is a form of indirect advertising, where one business's products or services carry the insignia, logos, colours or other identifiable markings of an unrelated product as a way of promoting or marketing goods or services

Gregory Stafford agreed with the government that clause 123 would close existing advertising loopholes:

Traditional advertising channels for tobacco products have been progressively restricted to reduce their appeal and accessibility, especially to young people. However, brand sharing could present a loophole that companies could exploit to continue to promote their products indirectly. By regulating brand sharing, the clause aims to close that gap, ensuring the intent of the advertising restrictions, which we have previously discussed, is fully realised.¹⁷⁵

He also suggested that clause 123 would bring the UK into line with a number of international standards, including the [World Health Organisation's Framework Convention on Tobacco Control](#), which recommends comprehensive bans on all forms of tobacco advertising including brandsharing.¹⁷⁶ However, Gregory Stafford said that ambiguity in the drafting of clause 123 - around what exactly constitutes brandsharing - could lead to some challenges in enforcement.¹⁷⁷ He also raised the issue of commercial rights of businesses:

[...] if the product is legal to consume, we must ensure that whatever regulations we apply are equal and fair for both a large retailer or manufacturer and a small retailer or manufacturer. The regulation is either highly restrictive or highly permissive, but it must be the same. A balanced approach is necessary to achieve the public health goals without imposing undue burdens on legitimate commercial activities.¹⁷⁸

Jack Rankin pointed out that whilst tobacco, vaping and nicotine products were being outlawed, sport was “awash” with gambling and alcohol brand sharing. He asked if the government was being inconsistent in its public health message.¹⁷⁹

Andrew Gwynne stressed that in drafting clause 123 the government was “aligning with the same regulatory framework” that was used for tobacco.¹⁸⁰ He confirmed that following the ban on direct advertising, the government would consider whether further regulation of brandsharing was needed:

[...] My belief is therefore that it is more appropriate to regulate brand sharing via secondary legislation following consultation, not only to get that proportionate balance, but to ensure that any regulations are well understood, workable and enforceable.¹⁸¹

¹⁷⁵ [Public Bill Committee 23 January 2025 c467](#)

¹⁷⁶ [Public Bill Committee 23 January 2025 c467](#)

¹⁷⁷ [Public Bill Committee 23 January 2025 c467](#)

¹⁷⁸ [Public Bill Committee 23 January 2025 c468](#)

¹⁷⁹ [Public Bill Committee 23 January 2025 c466](#)

¹⁸⁰ Tobacco brandsharing was prohibited under regulations made under the [Tobacco Advertising and Promotion Act 2002](#)

¹⁸¹ [Public Bill Committee 23 January 2025 cc468-469](#)

7.4

Sponsorship: tobacco products (clause 124) and vaping and nicotine and other products (clause 125)

Clause 124 would make it an offence for a person to be party to a sponsorship agreement (entered into at any time), where the purpose is to promote a tobacco product in the course of business. Tobacco sponsorship is already banned under the [Tobacco Advertising and Promotion Act 2002](#). Clause 124 of the bill restates the current position.

Clause 125 would make it an offence for an individual acting in the course of a business to be a party to a sponsorship agreement where the purpose or effect is to promote herbal smoking products, cigarette papers, vaping or nicotine products. However, under subsection (3), sponsorship agreements entered into before clause 125 comes into force could continue, until regulations “specify a date” where any further actions under an existing agreement would be an offence.

A person who commits an offence under clauses 124 or 125 would be liable on summary conviction to a fine or imprisonment, or both. On conviction on indictment to imprisonment for a term not exceeding 2 years or a fine, or both.

Clauses 124 and 125 were subject to a lengthy stand part debate.

The opposition supported a sponsorship ban. However, Dr Caroline Johnson raised concerns that under clause 125, a person commits an offence if they are party to a sponsorship agreement entered into on or after the day on which the clause comes into force. She suggested there was a risk of a sudden flurry of commercial activity to put sponsorship agreements in place before the clause comes into force.¹⁸²

Andrew Gwynne referred to the legal advice the government received when drafting the bill:

[...] that we need to be proportionate and pragmatic, and we cannot retrospectively legislate to stop existing contracts. It is really important that we avoid retrospectivity in the design of the clauses in front of us, because the principle that underpins our legal system is that the law is prospective, not retrospective.¹⁸³

When further challenged, he agreed that a sponsorship contract could be entered into before clause 125 comes into force and be legal afterwards.¹⁸⁴ He stressed that the government could not make retrospective decisions:

¹⁸² [Public Bill Committee 23 January 2025 c471](#)

¹⁸³ [Public Bill Committee 23 January 2025 c479](#)

¹⁸⁴ [Public Bill Committee 23 January 2025 c479](#)

We believe that that is the proportionate way forward. We cannot make retrospective decisions; if contractual arrangements are under way at Royal Assent, an immediate cut-off could leave the Government open to challenge.¹⁸⁵

7.5 Audiovisual services and radio broadcasting (clause 126)

Clause 126 provides that part 6 does not apply to certain categories of television and radio service. Specifically, independent television or radio services, or to the British Broadcasting Corporation (BBC) or Sianel Pedwar Cymru, on-demand programme services, or non-UK on-demand programme services which are a Tier 1 service. This is because advertising and sponsorship is already prohibited on these services under the [Communications Act 2003](#).

Clause 127 of the bill would introduce schedule 16. This schedule contains:

- amendments to extend certain provisions of the [Communications Act 2003](#) to all vaping products and to herbal smoking products, cigarette papers and nicotine products, and
- other amendments to the 2003 act made in consequence of part 6 of the bill.

In effect, schedule 16, would ensure that the current ban of advertising vapes on television, radio, and on demand programme services implemented by the Communications Act 2003 is extended so that herbal smoking products, cigarette papers and nicotine products are also captured. Importantly, the advertising ban would continue to be governed by 2003 act rather than through the bill itself.

There was a stand part debate on clause 126 and discussion of clause 127 and schedule 16.

The opposition supported the clauses. Gregory Stafford (Con) argued that public health benefits must outweigh concerns about the impact on broadcasters, advertisers and the creative industries who rely on advertising revenue.¹⁸⁶ However, he pointed out that many streaming services operate internationally, with content produced abroad being accessible in the UK. He asked how the government would enforce the provisions in those cases.¹⁸⁷

Andrew Gwynne said that the services listed in clause 126 of the bill included “non-UK on-demand programme services, which are tier 1 services as defined in the Communications Act 2003”. So, programmes produced and aired

¹⁸⁵ [Public Bill Committee 23 January 2025 cc479-480](#)

¹⁸⁶ [Public Bill Committee 28 January 2025 c486](#)

¹⁸⁷ [Public Bill Committee 28 January 2025 c486](#)

outside the UK but streamed in the UK would be caught by the advertising restrictions.¹⁸⁸

Dr Caroline Johnson asked a series of technical questions. On the clause 126 exemption, she asked what criteria would be used to classify services at the margins of those categories.¹⁸⁹ Secondly, she asked if the definition of an “on-demand programme service” was sufficiently clear to encompass emerging service models.¹⁹⁰ Finally, she asked if the current exclusions in clause 126 would remain relevant in the future given the rapid growth of online platform streaming services.¹⁹¹

Andrew Gwynne explained that the 2003 act puts in place effective rules for the advertising of tobacco on television, radio and on-demand services. By amending the act, he said the government was ensuring that this exiting framework also applies to herbal smoking products, cigarette papers, vaping and nicotine products, “There is no need to reinvent the wheel”.¹⁹²

7.6 Enforcement authorities (clauses 129, 130 & 131)

Clause 129 would impose a “duty” on relevant enforcement authorities to enforce the provisions in part 6 of the bill and regulations made under powers in part 6. For the purposes of clause 129, an “enforcement authority” would mean Trading Standards in England, Wales and Scotland, and a district council in Northern Ireland.

Clause 130 would provide a power for the appropriate national authority to carry out the enforcement of a particular case (or a particular type of case) instead of the relevant local enforcement authority.

Clause 131 would empower the secretary of state, the Welsh Ministers, and the Department of Health in Northern Ireland to take over legal proceedings relating to any offence that has been committed under part 6 of the bill or regulations made under it.

There was a short stand part debate on clause 129 alongside consideration of clauses 130 and 131.

On clause 129, Dr Caroline Johnson raised concerns that Trading Standards would be legally obliged to enforce the advertising restrictions in part 6 but not have the necessary resources.¹⁹³ Andrew Gwynne pointed out that in

¹⁸⁸ [Public Bill Committee 28 January 2025 c487](#)

¹⁸⁹ [Public Bill Committee 28 January 2025 c486](#)

¹⁹⁰ [Public Bill Committee 28 January 2025 c486](#)

¹⁹¹ [Public Bill Committee 28 January 2025 c486](#)

¹⁹² [Public Bill Committee 28 January 2025 c488](#)

¹⁹³ [Public Bill Committee 28 January 2025 c488](#)

2025-26 the government would invest £30 million of new funding for enforcement agencies, including Trading Standards, Border Force and HMRC, to tackle illicit and under-age sales of tobacco and vapes, supporting them to implement the bill. Decisions on funding for Trading Standards in future years would, he said, be made as part of the spending review process, but there would be adequate funding to enforce the bill.¹⁹⁴

On clauses 130 and 131, the shadow minister sought assurances that there would not be any abuse of power in the use of these measures.¹⁹⁵

7.7

Power to extend part 6 and Communications Act 2003 to other products (clause 133)

Clause 133 would give the secretary of state powers to amend, by regulations, part 6 of the bill or the 2003 act for the purpose of extending any provision that applies in relation to a tobacco product to:

a device which enables a tobacco product to be consumed (for example, a heated tobacco device or pipe); or

- an item which is intended to form part of such a device.
- However, before making regulations under this clause the secretary of state would be required to consult any appropriate persons and gain consent from the devolved legislatures.

There was a short stand part debate on clause 133.

Dr Caroline Johnson raised concerns about the breadth of the power contained in clause 133. She asked whether it would allow for the expansion of regulation to a wide range of products not originally envisaged in the bill.¹⁹⁶

Andrew Gwynne said the reason for the power in clause 133 was to ensure that devices used to consume tobacco are subjected to the same advertising prohibitions as tobacco products. Without this power, new products (such as heated tobacco) would be in scope of the advertising restrictions, but the devices used alongside them (such as a heating device or pipe) would not, meaning such devices could be used to promote tobacco consumption.¹⁹⁷

¹⁹⁴ [Public Bill Committee 28 January 2025 c489](#)

¹⁹⁵ [Public Bill Committee 28 January 2025 c488](#)

¹⁹⁶ [Public Bill Committee 28 January 2025 c490](#)

¹⁹⁷ [Public Bill Committee 28 January 2025 c490](#)

8 Part 7: smoke-free places, vape-free places and other free-from places

8.1 Widening restrictions on smoking in private vehicles in England (clause 136)

Jim Dickson (Lab) moved amendment 10, which would amend clause 136.

Clause 136 amends existing legislation enabling the Secretary of State to make regulations designating additional places or vehicles in England to be smoke free.

Amendment 10 would require the Secretary of State to lay draft regulations, within six months of the bill's passage, providing for all enclosed vehicles to be smoke-free. An exception would be provided for ships and hovercraft, which are regulated under other legislation.

Under the [Children and Families Act 2014](#), smoking is prohibited in private vehicles where a person under the age of 18 years is present.

Jim Dickson suggested that these provisions were inadequate, and set out a need for further measures to protect those with clinical vulnerabilities such as asthma, and pregnant women, from second-hand smoke.¹⁹⁸

Dr Caroline Johnson expressed support for legislation that prevents smoking in vehicles containing children, and also said she would support extending this measure to include vaping and other nicotine products.¹⁹⁹ However, Dr Caroline Johnson questioned if amendment 10 was trying to prevent a legal activity by preventing somebody from smoking “in a private space that is theirs and theirs alone”.²⁰⁰

Gregory Stafford (Con) expressed similar sentiments to Dr Johnson and warned of a danger of “overreaching on what we need to do to achieve a smoke-free generation”.

¹⁹⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 512

¹⁹⁹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 514

²⁰⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 512

Mr Dickson responded by suggesting that most measures to restrict smoking, implemented in the last 30 years had been described as an overreach. He said that polling demonstrated that “a great majority of adults would see this not as an overreach, but as a welcome change”.²⁰¹

The minister said he was sympathetic to the amendment’s aim of further reducing exposure to second-hand smoke.²⁰² However, after referring to the restrictions set out in the [Children and Families Act 2014](#), said “this level of protection is appropriate and provides the correct balance between protecting children and vulnerable people from the harms of passive smoking, while not unduly impacting current smokers by interfering with private spaces”. He emphasised that he and the Secretary of State had been “very clear from the outset that we are not seeking to extend measures in this bill into private spaces”.

Jim Dickson subsequently withdrew the amendment.

8.2 Limiting the designation of new smoke-free places in England (clause 136)

Clause 136 amends existing legislation enabling the Secretary of State to make regulations designating additional places or vehicles in England to be smoke free. Under this section, the government is required to hold a consultation before making regulations under this section.

Helen Morgan (LD) tabled amendment 4, which was moved by Dr Danny Chambers (LD) and Liz Jarvis (LD). It would specify which places the Secretary of State has power to designate as additional smoke-free places in England. These would be an NHS property or hospital building; a school college or higher education premises, a children’s play area or playground and outdoor public areas surrounding such premises and areas.

Dr Danny Chambers, Liberal Democrat spokesperson for mental health, moved amendment 95. It would restrict the Secretary of State so that they would only be able to apply this designation to open or unenclosed spaces outside an NHS property, children’s playground, nursery, school, college or higher education premises.

Dr Caroline Johnson tabled amendment 94, which would reinstate an existing provision in the [Health Act 2006](#), meaning that the Secretary of State could only make this designation if they considered there was a significant risk that a person would be exposed to a significant amount of smoke.

²⁰¹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 514

²⁰² [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 518

The government had previously proposed to designate outdoor hospitality spaces as being smokefree, before dropping the proposal because of concerns about the impact on the hospitality venue. Section 9.1 of the Library’s briefing on, [Tobacco and vapes bill 2024-25](#), provides further information.

Dr Danny Chambers questioned whether the government was still of the view that the designation should not apply to outdoor hospitality venues. Dr Danny Chambers said the Liberal Democrats wished to amend clause 136 to get reassurances that the hospitality sector would not be impacted by this provision, particularly “if the public health benefits are negligible”.²⁰³

The minister said government should not need primary legislation, “for something as simple as consulting on further areas [to extend smoke-free requirements to]”.²⁰⁴

He emphasised that the government intends, in relation to England, to consult only on schools, hospitals and children’s playgrounds. He reiterated that the government had no plans to consult on hospitality.²⁰⁵

The minister noted that devolved governments were also required to consult before designating further smoke-free places and said that none of them had indicated any intention to consult on extending the provision to hospitality.²⁰⁶

The minister addressed the removal of the risk test in the [Health Act 2006](#). This is the condition that a place can only be designated as smoke-free if there is significant risk that people in the place would be exposed to significant quantities of smoke. He said that reinserting the test would conflict with the government’s intention to extend smoke-free status to other places. He explained that, for example, children’s’ playgrounds were unlikely to satisfy this test.²⁰⁷

Lastly, the minister noted that amendment 94 would apply only to England, and would produce an inconsistency with powers across the rest of the UK.²⁰⁸

Dr Chambers withdrew amendment 4. Amendment 95 was disagreed upon division with 5 votes for and 8 votes against it. Amendment 94 was also disagreed upon division with 4 votes for and 8 votes against it.

²⁰³ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 498

²⁰⁴ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 505

²⁰⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 506

²⁰⁶ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 506

²⁰⁷ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 508

²⁰⁸ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 28 January 2025, page 510

Professor Steve Turner, President of the Royal College of Paediatrics and Child Health, gave oral evidence to the committee.

He was asked what he thought about retaining the ‘significant risk of significant quantities of smoke’ test, set out in the [Health Act 2006](#), while noting that children’s playgrounds were unlikely to meet the threshold.

Professor Turner responded by noting the ease at which children are influenced, and the possibility for smoking in such environments to normalise smoking amongst children and create a societal norm. He said putting restrictions in public spaces would change that societal norm to everybody’s benefit.²⁰⁹

²⁰⁹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 7 January 2025, page 77

9 Part 8: general

9.1 Requirement to consult on registration and information requirements (new clause 7)

Shadow health minister Dr Caroline Johnson tabled new clause 7.

It was discussed alongside amendments 52 and 53 to clause 169. Together these amendments would require the Secretary of State to consult on registration and information requirements before sections 95 to 98 came into force.

Clauses 95 to 97 would enable the government to make regulations:

- establishing a register of tobacco products, tobacco-related devices, herbal smoking products, cigarette papers, vaping products and nicotine products,
- requiring producers and importers of a tobacco product, tobacco-related device, herbal smoking products, cigarette papers, vaping product or nicotine product, to provide information related to the product or producer,
- requiring producers of relevant products to carry out a study in relation to the product or an ingredient in it, and to submit a report on the results of the study to a person specified in the regulations.

Clause 98 would enable the government to require the producer of a relevant product to nominate a person who would be responsible for the information that must be provided in relation to clauses 95 to 97.

Dr Caroline Johnson explained the purpose of new clause 7 was to ensure that regulations surrounding tobacco products are well informed and effective before they come into force.²¹⁰

New clause 7 would require the Secretary of State to publish draft regulations about the registration and information requirements for tobacco within two months of the passage of the bill.

New clause 7 would also require the Secretary of State, following publication of the draft regulations, to issue a call for evidence seeking views on the

²¹⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 588

efficacy and suitability of the draft regulations from a wide range of stakeholders. Additionally, the Secretary of State would be required to invite the House of Commons Business and Trade Committee to scrutinise the draft regulations.

Under new clause 7, the Secretary of State would also need to lay a report before Parliament setting out the government’s formal response to the call for evidence, and any recommendations made by the Business and Trade Committee.

The Secretary of State would also be unable to bring clauses 95 to 98 into force until the report had been laid before both Houses.

The minister was sympathetic to the clause’s objectives, but concluded that it would place “an unreasonable and impractical constraint on the government”.²¹¹ He said it would not be feasible to draft and publish these regulations within two months of Royal Assent, and said the new clause “does not reflect the required processes and stages for the development of proportionate, appropriate and well-considered regulations”.²¹²

Dr Johnson said it was “inevitable” that existing arrangements in the bill would be legally challenged, because “the effect of the legislation is to hamper severely an industry that has a lot of money”.²¹³ She said the purpose of the new clause was to get the government to “move at speed”.

New clause 7 was disagreed at division (2 ayes, 10 noes).

9.2

Reports on the illegal sale and availability of tobacco and vaping products (new clause 8)

Dr Caroline Johnson tabled new clause 8, which would require the government to produce annual reports detailing the scale of the illegal sale and availability of tobacco and vaping products.

The reports would provide an overview of the prevalence and impact of illegal, counterfeit and contraband products in the market. The Secretary of State would be required to lay a copy of the reports before Parliament within 12 months of the bill being passed.

New clause 8 stipulated that the reports would have to include detail on:

²¹¹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 590

²¹² [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 590

²¹³ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 590

the estimated amount and value of illegal, counterfeit and contraband cigarettes and other tobacco products available for sale in the UK; the estimated amount and value of illegal or non-compliant vapes available for sale; a breakdown of the actions taken by the Government and relevant authorities to tackle the illicit sale of tobacco, tobacco products, vaping devices and vaping products; and an assessment of the impact that the illicit trade of tobacco, vapes and nicotine products had been having on public health and safety.²¹⁴

The minister said he was sympathetic to Dr Caroline Johnson's aim to ensure the benefit and progress of the measure is recognised.²¹⁵ However, he said the clause was not needed, and highlighted existing arrangements.

He noted that the government already publishes data on the illicit tobacco market. For example, HMRC published a corporate report summarising tobacco seizures, criminal investigations and civil penalties.²¹⁶

The minister noted that HMRC regularly publishes tobacco tax gap reports includes estimates on the market share of illicit tobacco.²¹⁷ He also highlighted publications from National Trading Standards, which provide public reports and updates related to the illegal sale and importation of vapes and related products.²¹⁸

The minister said that following the introduction of the vaping products duty, HMRC would also publish annual estimates on the size of the illicit market, using tax gap data as well as data on activity targeting vaping duty fraud, such as the number of seizures. Further information on the duty is available in section 11.2 of the Library's briefing on, [Tobacco and vapes bill 2024-25](#).

Following this explanation, Dr Johnson withdrew new clause 8.

9.3

Commencement dates (clause 168)

Amendments 15 and 98 are technical amendments, tabled by the UK Government at the request of the Welsh Government and the Northern Ireland Executive. Clause 168 of the bill sets out commencement dates for different sections of the bill. The 'commencement' section in the bill's explanatory note provides a summary and explanation of these commencement dates.²¹⁹

²¹⁴ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 592

²¹⁵ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 592

²¹⁶ HMRC, [Corporate report, Outputs for April 2021 to March 2022](#), updated 12 September 2024

²¹⁷ HMRC, [Measuring tax gaps 2024 edition \(section 3. Tax gaps: Excise \(including alcohol, tobacco and oils\)\)](#), 20 June 2024

²¹⁸ See; [National Trading Standards, Annual report 2023-2024](#) (PDF), 28 May 2024

²¹⁹ Tobacco and Vapes Bill 2024-25, [Explanatory notes](#), 5th November 2024

Amendment 15 clarifies that, while clause 168 stipulates the overall commencement date for parts of the bill, the commencement date will only apply if the provision is not already otherwise in force. Amendment 98 concerns equivalent provisions for the Department of Health in Northern Ireland.

When introducing amendment 15, the minister explained that it was in relation to the licensing of retail sales in Wales, the handing over of tobacco products, herbal smoking products, cigarette papers, and vaping and nicotine products, to underage persons.²²⁰

Amendment 98 concerns equivalent powers for the Department of Health in Northern Ireland to commence provisions in part 3, relating to the extension of the retailer register and the licensing of retail sales in Northern Ireland.

The amendments aim to clarify that the Welsh Ministers and the Department of Health in Northern Ireland cannot confer their powers to commence provisions, on provisions that have already been commenced. Effectively, it prevents a provision from being commenced twice.

Both amendments were agreed without division.

9.4 Transitional and saving provision (clause 170)

Clause 170 provides a standard power for transitional and saving provision related to bringing the bill's provisions into force.

The minister explained that transitional provisions address how existing legislation will be phased out or replaced by new legislation.²²¹ Saving provisions preserve certain rights, obligations or legal consequences from existing statute.

Ministers in each devolved administration are granted power to make transitional and saving provisions to help with the implementation of the bill and ensure that it functions effectively.

The minister tabled government amendment 16 at the request of the Welsh Government. It is a technical amendment which grants Welsh Ministers the power to make transitional or saving provisions, relating to the commencement of provisions about the retail licensing of products in Wales.

²²⁰ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 602

²²¹ [Compilation PDF of all Committee Debate sittings](#), Tobacco and Vapes Bill 2024-25, Public Bill Committee (PDF), 30 January 2025, page 604

The minister said amendment 16 was in line with the approach throughout the rest of the bill, where such powers are granted to the relevant minister responsible for their commencement.

Amendment 16 was agreed without division.

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)