

Consultation on Climate Change (Single Use Vaping Products) Regulations

Closing Date: 11th November 2024

Douglas City Council Response

1. Background and purpose

The purpose of this legislation is to reduce plastic litter, and to move away from single use, disposable products.

Disposable vapes are increasingly seen discarded as litter, and the use of disposable vapes containing plastic is widely considered to be an unnecessary use of single use plastic. Locally, concerns have been raised in the media and on social media by the public, local business owners, and charities such as Beach Buddies, about the increasing amount of disposable vapes littering our Island environment.

Vapes also represent a huge and growing stream of hard-to-recycle waste:

- Vapes present both pollution control and fire risks, including at the Energy from Waste (EfW) plant. It is unknown to what extent they occur in household bins and thereby end up in the EfW plant.
- Only the Western Civic Amenity Site accepts them as household waste.
- Lithium batteries present a fire hazard; see 'Other considerations – lithium waste'.

In the UK, an estimated that five million disposable vapes are thrown away each week, equivalent to the lithium batteries of 5,000 electric vehicles a year. Research shows that only 17 per cent of vape users dispose of their vapes in the correct recycling bins.

The Local Government Association in England has called to rapidly ban single use vapes, and the UK Government has recently announced plans to ban the sale and supply of disposable vapes in England, Scotland, and Wales - predominantly to benefit children's health, but the ban will also have a positive impact on the environment. Northern Ireland will also consider introducing this in future.

2. Proposed Regulations

The Climate Change (Single Use Vaping Products) Regulations are proposed to control the sale, supply, and distribution of single use vaping products in the course of a business.

The regulations are proposed in order to move away from single use, disposable products and to reduce plastic litter and the risk of increasing plastic litter. They have been based on the Climate Change (Single-Use Plastic) Regulations 2022, which were brought in to remove a list of single use plastic products from use, where these were considered unnecessary and sustainable alternatives are widely available and affordable.

The proposed controls were assessed across a range of sustainability criteria and represent a benefit in a number of areas. Notably, in addition to the environmental and public health benefits, reduced consumption of disposable vapes would lead to a reduction in greenhouse gas emissions caused by their manufacture, transportation, and disposal.

The definition of a 'vaping product', in relation to a 'device', has been linked to section 3 of the Vaping Products Act 2024 and will therefore change if the definition changes within that Act, for instance, as a result of changes in technology. Note, cigarettes, medicinal products and medical devices are not defined as 'vaping products' for the purposes of that Act and therefore the proposed regulations.

Enforcement and exemptions

Enforcement measures have been replicated from the Climate Change (Single-Use Plastic) Regulations 2022.

Exemptions have been made for prisons and other places of detention. Prisoners are not allowed reusable vapes, so require access to disposable vapes; a charger wire would not be safe to have within a place of detention, where wires may be used as ligatures. Disposable vapes are barcoded and assigned to individual prisoners so there is monitoring of their disposal, and they are designed with safe components, so they are not used to make weapons or ligatures.

Transition period

Provision has been made for a transition period of 6 months to use up (sell) current stock. Businesses would be expected to use that period to do so, and not to buy any stock within the transitional period, that will become prohibited.

Who may be affected

These regulations will affect members of the public who use disposable vapes and the business who supply them. Reusable vapes and their component parts will not be affected, as currently drafted, but please see question 10, relating to pod vapes.

Business

Vendors and buyers will be affected by these regulations. There are a few specialist vaping products shops and many other businesses that sell vaping products as part of a wider business. We expect a loss of custom from selling single use vapes; some may transfer to the use of refillable vapes, but some may be lost from the market. A brief economic impact assessment has been made, using the 2014 tool impact assessment tool. The Department is interested to hear the views of businesses that may be impacted by such regulations.

Young people

Young people are likely to be disproportionately affected, forming a significant portion of the vaping market, and especially with respect to single use vapes. Under 'Other considerations', see 'Vaping Products Act' and 'Young people'.

Fines

The Vaping Products Act includes fines up to level 4 on the standard scale, for offences relating to sale. The Climate Change (Single Use Plastics) Regulations 2022, under the Climate Change Act, provided for fines of up to level 5. The proposed Climate Change (Single Use Vaping Products) Regulations includes fines of up to level 5 on the standard scale. The Department is interested to hear whether you feel that the level of maximum fines is appropriate.

QUESTION

Do you agree with the proposed introduction of regulations prohibiting the sale, supply, and distribution of single use vapes containing plastic?

Yes / No

Explain your answer:

Regulations are consistent with the Climate Change Legislation and in line with the Government's introduction of banning single use plastics.

QUESTION

Are there any other exemptions (in addition to that for prisons and other places of detention), which you think should be included in the regulations e.g. other types of business or charity that should be permitted to supply disposable vaping products, or disposable paper vapes containing a small amount of plastic?

Yes / No

Explain your answer:

Agree with exemptions where appropriate subject to risk assessment.

QUESTION

Should the level of maximum fines be matched with the Climate Change (Single Use Plastics) Regulations 2022, at up to level 5 on the standard scale (currently £10,000), or matched with the Vaping Products Act in relation to sale or supply, at up to level 4 (currently £5,000)?

- I agree with fines up to level 5 on the standard scale**
- I agree with fines up to level 4 on the standard scale
- I disagree with level 4 and level 5 fines

Explain your answer; if you disagreed with level 4 and level 5 fines, please explain what you would consider to be a more appropriate penalty:

3. Other considerations

Vaping Products Act 2024

The Vaping Products Act is separate (The Climate Change (Single Use Vaping Products) Regulations are to be created under the Climate Change Act as a reduction of single use plastic and plastic litter) and this separation was agreed in the Tynwald debate on the Vaping Products Bill.

The Climate Change (Single Use Vaping Products) Regulations have, nevertheless, been aligned with the Vaping Products Act, referencing the legal definition of a vaping product within

that Act, to account for future changes and excluding crossover/replication of offences. The intentions of the two pieces of legislation, though related, is different.

Young people

Youth vaping, though a public concern, is a matter considered through the Vaping Products Act and these regulations have been drafted to avoid an overlap of offences. We acknowledge that there is concern regarding the potential for children who have become addicted to vaping, turning to cigarettes, if they are more easily available than a reusable vape.

DIY and customised vapes

These can be extremely dangerous and are therefore a concern generally; however, they are out of scope and would not be controlled under the draft Regulations, which control supply, not use.

Pod vapes

Pod vapes are a form of reusable vape which have a replaceable 'pod' of vape liquid, rather than a refillable tank. As a reusable vape they would be allowable under the draft regulations; however, as the pods are disposable they could potentially form litter. The Department would be interested to hear views on whether pod vape litter is a concern.

Paper vapes

There are currently vaping products advertised as 99% plastic-free; however, as they retain some plastic they would be controlled under these regulations. If the plastic were replaced with another material then they would not be controlled.

Paper vapes are slightly more sustainable than single use vapes which contain more plastic, but they still contain single use plastic and result in plastic litter. The Department is interested to understand public opinion on whether these items should be excluded from the scope of the regulations.

Lithium waste

Lithium batteries cause fire risks in bins, bin lorries, and at the Energy from Waste Plant, so there is a need to prevent batteries from being incinerated (waste incinerators have been lost to fire in the UK due to battery fires, despite legislation to prevent them from getting into such waste streams in the UK). The Environmental Protection Unit (EPU) has drafted 'End of Life Vapes - Guidance for Retailer Take Back' (see Resources).

With regard to licensing, there is dispensation for retailers collecting one type of waste, but processing to separate components requires a waste disposal licence. One local vape shop currently offers a recycling service for used single use vapes and other vape waste.

Importation

It was identified that there may still be an issue with importation. The Vaping Products Act covers importation (e.g. online purchase) of vaping products by persons aged 16 and 17. The control of importation is not something that is considered to be achievable under the Climate Change Act.

Coordination with UK jurisdictions

It has been suggested that the Isle of Man bring in the regulations in a manner coordinated with the UK to avoid a switch of trade. However, as it is a devolved matter, regulations may not be introduced across the UK in a coordinated manner.

QUESTION

Do you think that 'pod' vaping systems (refer to the 'Pod vapes' section above for more details) should be controlled by these regulations?

Yes/**No**

Explain your answer:

Need to establish whether PODs are recyclable plastic type 1,2 or 5. Also is there a fire hazard e.g.: lithium? If not, then it should be dealt with using Litter Act.

QUESTION

Do you think that 'paper' vapes (refer to the 'Paper vapes' section above for more details) should be controlled by these regulations?

Yes/No

Explain your answer:

Until such time as it can be guaranteed that they contain no plastic, they should not be excluded. In addition, they still contribute to the litter issue.

QUESTION

Risks are recognised relating to home-made vapes, the potential for children turning to cigarettes, and increased importation; these risks are assessed to be low in comparison with the current issues caused by disposable vapes. Do you agree with this assessment?

Yes/No

Explain your Answer:

While the risk is currently low in comparison to the issues caused by disposable vapes, it could increase over time so this element should be kept under review.

QUESTION

Do you have any suggestions for changes or amendments to the proposed regulations?

Yes/**No**

If so, please detail these below:

QUESTION

If you have any additional comments on the proposed regulations, please include these below:

N/A