



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Neil Gray MSP
Cabinet Secretary for NHS Recovery,
Health & Social Care

By email

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Dear Cabinet Secretary

Tobacco and Vapes Bill

At the meeting of the Delegated Powers and Law Reform Committee on Tuesday, 14 May, the Committee considered the delegated powers exercisable within devolved competence in the above UK Bill, as referred to in the [Legislative Consent Memorandum](#) (“the LCM”) lodged on 2 April.

Following the Committee’s consideration of the LCM, it agreed to request further information in relation to the following clauses:

- **Clause 43: Power to regulate nicotine products**
- **Clause 44: Free distribution of nicotine products**
- **Clause 45: Displays of vaping and nicotine products**

The Committee asks the Scottish Government **of its plans for consultation on the exercise of these powers given that much of the detail is to be implemented through regulations, and what consideration it has given to asking the UK Government to adding any such requirement on the face of the Bill.**

Finally, the Committee also requests further information in relation to:

- **Clauses 58, 59 and 60: Tobacco product requirements**
- **Clauses 61, 62 and 63: Vaping and nicotine products requirements**

The Committee noted that these clauses confer powers to make regulations on UK Ministers in devolved areas. There is a statutory duty on UK Ministers under clause 67 to obtain the consent of the Scottish Ministers if regulations made under Part 4 contain provision which would be within the legislative competence of the Scottish Parliament. This would therefore apply to regulations made under clauses 58 to 63.



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The Committee asks the Scottish Government **to confirm whether it considers these powers will fall within the scope of SI Protocol 2 and whether it is content to add those powers to Annex A of SI Protocol 2?**

If that is not the Scottish Government's position, can it explain how it will facilitate the scrutiny of its decision to consent to the making of regulations under these powers within devolved competence?

I would be grateful if you could please email your response to the Committee's questions to dplr.committee@parliament.scot by **Wednesday, 22 May**.

Yours sincerely

Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee