

Ministear airson Slàinte Phoblach is Slàinte
Bhoireannach
Jenni Minto BPA



Minister for Public Health and Women's Health
Jenni Minto MSP

T: 0300 244 4000
E: scottish.ministers@gov.scot

Clare Haughey MSP
Convener
Health, Social Care and Sport Committee
The Scottish Parliament
HSCS.committee@Parliament.Scot

28 October 2025

Dear Clare,

UK TOBACCO AND VAPES BILL

Firstly, I would like to thank the Health, Social Care and Sport Committee for the work undertaken to date to scrutinise the Tobacco and Vapes Bill Legislative Consent Memorandum and Supplementary Legislative Consent Memorandum.

I am writing to inform you that the UK Government has now tabled further Government amendments to the Bill on 20 October 2025 as seen in the Annex below.

You may be aware that the Bill had its first reading in the House of Lords on Thursday 27 March 2025 and passed its Second Reading debate on Wednesday 23 April 2025. Ahead of the Bill progressing to Lords Committee, the UK Government has identified some technical areas where it is necessary to amend the Bill. The Scottish Government is of the view that these proposed amendments do not trigger the need for a supplementary Legislative Consent Memorandum.

Enforcement powers (Part 5 of the Bill)

Part 5 of the Bill contains a series of enabling powers which enable the Secretary of State to make regulations relating to product and information requirements, quality control and safety etc. The consent of Scottish Ministers will be required if the regulations contain provision which would be within the legislative competence of the Scottish Parliament.

Clause 103 of the Bill as currently drafted (and previously consented to) gives the Secretary of State a power to make provision in Regulations made under Part 5 about how they are to be enforced. In particular, it states that the Secretary of State has the power to apply enforcement provisions currently in the Consumer Protection Act 1987 (“the 1987 Act”) – or make equivalent provision to those.

This amendment resolves a drafting issue that has arisen during passage as a result of the Product Regulation and Metrology Act 2025 (the PRAM Act). The PRAM Act repeals certain enforcement powers in the 1987 Act, which regulations under Part 5 (Product and Information Requirements) of the Bill may have relied upon. Without an amendment to the Bill, there is a risk that enforcement authorities will not have the powers they require to enforce these regulations. This amendment allows for equivalent provision to be made without referring to the 1987 Act, to ensure regulations made under Part 5 of the Bill are fully enforceable.

The Scottish Government considers that this amendment is necessary to ensure that enforcement enabling powers are suitably captured and that certain enabling powers are not lost when the relevant powers in the 1987 Act are repealed. The amendment does not amount to new policy. It is a technical amendment to preserve the enforcement powers currently provided for in the Bill whilst ensuring that the regulation making powers are no broader than they need to be.

Alignment of definition of “tobacco product” in the Tobacco Advertising and Promotion Act 2002 (TAPA) and the Tobacco and Primary Medical Services (Scotland) Act 2010

These amendments bring forward the commencement of the provisions in the Bill which update the definition of a “tobacco product” in TAPA (clause 131) and in the Tobacco and Primary Medical Services (Scotland) Act 2010 (clause 63). The current definition in both Acts is “*a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed.*” The Bill amends this to “*a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked, chewed or consumed in any other way.*”

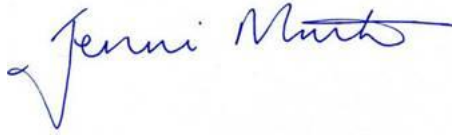
Currently, these provisions (clauses 63 and 131) commence two months after Royal Assent and the amendments bring commencement forward to the day of Royal Assent. The Department of Health and Social Care and the Scottish Government consider that all tobacco products currently on the market already fall within scope of the existing definition. Updating the definition of “tobacco product” will futureproof the legislation by ensuring that any new tobacco products, to be developed in future, will be caught.

The Scottish Government is of the view that the amendments referred to in this letter (which are attached in the Annex) do not give rise to a requirement for a further supplementary legislative consent memorandum. The amendments do not amount to relevant provision made for the first time and do not go beyond the limits of the consent previously given by Parliament on 29 May 2025.

We continue to work in close collaboration with the UK Government, Welsh Government and the Northern Ireland Executive to ensure as far as possible that measures within the Bill are implemented in a consistent manner across the UK.

I will continue to keep the Committee and Parliament updated on any further Government amendments to the Bill during its passage, as well as on future plans for implementation of measures in the Bill following Royal Assent.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Jenni Minto". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

JENNI MINTO