

# Net Zero, Energy and Transport Committee

## The Environmental Protection (Single-use Vapes) (Scotland) Regulations 2024

### Correspondence from David Francis, 29 August 2024

I am the Chairman of the SCOTSS Tobacco and Age Restricted Products Group, A member of the Vaping Experts Panel which is part of Operation Joseph in England, and the Subject Matter Expert for Tobacco and Vapes for the Trading Standards in Scotland. I am also the author of the original definition of "Single-Use" Vapes from which the definition used by Scotland, England, and Wales is derived.

I have noticed a problem with the definition contained in the regulations regarding the definition and the use of the word "COIL". There are various types of heating elements currently used in vapes and they are not all are "Coils". Older vapes did contain a coil which was like the heating element in a lightbulb but it fails to account for new technology which now uses mesh and ceramic heating systems in vapes. Therefore, I suggest broadening the term in paragraph 3(3)b to ensure the definition does not leave any regulatory ambiguity while at the same time future proofing the regulation. Please see below:

#### 1. Definition of "Disposable Vapes" or "Single-Use Vapes"

For the purposes of this regulation, a vape shall be classified as a "Disposable Vape" or "Single-Use Vape" if it meets any of the following criteria:

##### (1) Criteria for Classification

###### a) Non-Refillable:

The vape is designed so that it cannot be refilled with e-liquid by the user. After the liquid is exhausted, a vape that cannot be refilled with liquid shall be considered non-refillable and, therefore, a disposable or single-use vape.

###### (b) Non-Rechargeable Battery:

The vape contains a battery that cannot be recharged. If the battery is depleted and cannot be recharged, the vape shall be considered unusable and therefore a disposable or single-use vape.

###### (c) Non-Replaceable Components:

The vape contains a heating element or heating component (including but not limited to coils, mesh, or ceramic systems) or an aerosol generator (the part responsible for vapor production) that the user cannot replace during normal use. This applies under the following conditions:

- (i) **Directly Built-In Parts:** If the heating element, heating component, or aerosol generator is integrated directly into the vape and cannot be removed or replaced

by the user, the vape shall be classified as disposable or single-use.

- (ii) **Single-Use Cartridge or Pod:** If the heating element, heating component, or aerosol generator is contained in a single-use cartridge or pod that cannot be replaced or purchased separately, the vape shall be classified as disposable or single-use.

**(d) Limited Refill Capability:** If the vape is supplied with a limited refill container that allows for refilling the vape, these refills must be separately available for purchase. If such refill containers are unavailable separately, the vape shall be classified as disposable or single-use once the initial refills are exhausted.

## **(2) Definition of "Separately Available"**

For the purposes of this regulation, the term "separately available" is defined as follows:

- (i) The replaceable part or refill container must be available for purchase at the same location where the original vape is sold.
- (ii) The replaceable part or refill container must be offered at a price that is lower than the cost of purchasing a new vaping device.
- (iii) If no replaceable parts or refill containers are separately available as defined in ((i) & (ii)), the original vape shall be deemed disposable or single-use.

## **(3) Future Innovations and Regulatory Authority**

- (a) If the vaping industry develops new products or technologies that are functionally similar to those defined as "Disposable Vapes" or "Single-Use Vapes" but fall outside the specific criteria outlined in this regulation, the Secretary of State shall have the authority to make provisions by regulation to classify such products as disposable or single-use, ensuring they are regulated consistently with the intent of this regulation.
- (b) The Secretary of State may, by regulation, amend, expand, or clarify the definitions and criteria provided in this regulation to address future innovations, ensuring that the regulation remains effective and comprehensive.