EXPLANATORY MEMORANDUM

THE ENVIRONMENTAL PROTECTION (SINGLE-USE VAPES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2025

S.R. 2025 No. 126

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

2. Purpose of the instrument

2.1. These Regulations will amend The Environmental Protection (Single-use Vapes) Regulations (Northern Ireland) 2024 (the principal Regulations). The amendments will supplement the existing legislation and will ensure the proposed regulations are enforceable and apply equitably in Northern Ireland.

2.2. The Rule will strengthen the enforcement powers of the Department in the principal Regulations and safeguard against illegal single-use vapes re-entering the marketplace in Northern Ireland.

3. Extent and Territorial Application

3.1. The territorial extent of this instrument is Northern Ireland.

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4. European Convention on Human Rights

4.1. In accordance with DAERA's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. No adverse equality impacts have been identified under the Equality and Human Rights screening procedures. The Department considers the Regulations will not result in any equality differentials amongst Section 75 groups. No opportunities were identified to better promote equality of opportunity for people within the Section 75 equality categories. The policy was therefore screened-out from the requirement to undertake a full Equality Impact Assessment on the basis that is likely to only benefit the environment and people who live in Northern Ireland.

5. Legislative Context

5.1. The Statutory Rule is made under powers conferred by Article 32(1), (2)(c), (6) and 32(2)(a)(ii) of the Waste and Contaminated Land (Northern Ireland) Order 1997 and is subject to the negative resolution procedure when laid.

6. Policy background

6.1. The policy development process identified several areas where the principal Regulations could be strengthened to safeguard against illegal single-use vapes re-entering the marketplace and ensure the enforcement regime for Northern Ireland is both robust and equitable.

6.2. In the absence of a power to seize illegal vapes, the Statutory Rule provides for the Department to direct that illegal vapes are to be treated as waste and disposed of, or otherwise treated, as the Department considers necessary. This will ensure that illegal single-use vapes will be disposed of correctly and cannot re-enter the marketplace. The Statutory Rule also makes it an offence not to comply with such a direction.

6.3. In addition, the Statutory rule extends the scope of "bodies corporate" to include partnerships and unincorporated associations. At present, for the purposes of enforcing the ban, the term "bodies corporate" applies only to companies. The Rule extends the term to include both partnerships and unincorporated associations, thereby ensuring that enforcement will be equitable throughout Northern Ireland.

6.4. On December 11th the Environmental Protection (Single-use Vapes) (Northern Ireland) Regulations 2024 were laid before the Northern Ireland Assembly. The ban provided a 6-month lead in period to ensure businesses had sufficient time to adapt and run-down stocks. The ban came into effect on 1st June 2025.

7. European Union Withdrawal and Future Relationship

7.1. This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

8. Consultation outcome

8.1. There is no statutory duty to consult on this Statutory Rule; however, there is a requirement for the Department to publish a draft of the Rule in the Belfast Gazette for a minimum period of two weeks. Following the mandatory publication of the draft Rule, no comments or responses were received.

8.2. A previous consultation on the proposals to restrict the sale and supply of disposable vapes was published on 12 October 2023. Almost 28,000 responses were received.

8.3. The consultation response was published on 29 January 2024 and confirmed that 79.6% of respondents agreed that disposable vapes should be restricted and 69% of

respondents agreed that restrictions should take the form of a ban. 59.5% of respondents also thought that at least 6 months transition time was appropriate.

8.4. Given the wide support for tackling disposable vapes, the consultation response confirmed that the UK Government would proceed with the proposed ban on the sale and supply of disposable vapes in England with the other UK Nations seeking to align their policies and legislation accordingly.

8.5. The full consultation response can be found here: Creating a smokefree generation and tackling youth vaping consultation: -Government response

9. Guidance

10.1 Current published guidance will be updated to ensure manufacturers, suppliers, retailers and the public understand how to comply with the updated regulations. DAERA intends to raise awareness of the new legislation by communicating with, and working alongside, key stakeholders and releasing information about the proposed legislation via press releases, website and social media channels.

10. Impact

11.1 A final Impact Assessment was published with the principal Regulations (S.R. 2024 No. 212)

11.2 These amendments have no implications for the final Impact Assessment, which included assessment of enforcing the ban.

11. EU Implications

12.1 Although this Statutory Rule does not implement or transpose European law, the principal Regulations, which this Rule amends, banning the sale and supply of single-use vapes, were notified to the EU under the Technical Standards Directive as well as the World Trade Organisation under the Technical Barriers to Trade Agreement. No comments were received.

12.2 In addition, the principle Regulations were notified to the EU under the Tobacco Products Directive, and were approved by the EU.

12. Parity or Replicatory Measure

13.1 The ban on the sale and supply of single-use vapes is devolved and the other regions of the United Kingdom have similar legislation in place with regards to enforcement of the sale and supply of single-use vapes.

13. Monitoring & review

12.1 As part of the impact assessments carried out for this legislation there will be ongoing monitoring and review of its impacts.

14. Contact

13.1 Sean McVeigh at the Department for Agriculture, Environment and Rural Affairs can be contacted with any queries regarding the instrument, Telephone: 02890525012 or email: DAERA.EPR2@daera-ni.gov.uk.