**EXPLANATORY MEMORANDUM**

**THE ENVIRONMENTAL PROTECTION (SINGLE-USE VAPES) REGULATIONS (NORTHERN IRELAND) 2024**

**S.R. 2024 No. 212**

## 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 ban the sale and supply of single use vapes. This will reduce the littering and release of plastic, metals, nicotine salts and packaging into the environment. This Regulation forms a four nation approach to the ban on the sale and supply of single use vapes. UK Government, Scotland, and Welsh Devolved Governments are also making legislation to bring forward similar bans on these items. It is designed to prevent pollution to the environment and reduce environmental harm.

## 3. Matters of special interest

*[Matters of special interest to AERA Committee or the Windsor Framework Committee]*

3.1 None

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Northern Ireland.
4.2 The territorial application of this instrument is Northern Ireland.

## 5. European Convention on Human Rights

5.1 An Equality and Human Rights screening exercise has been carried out. The legislation was assessed to ensure compliance with section 75 of the Northern Ireland Act 1998. No opportunities were identified to better promote equality of opportunity for people within the Section 75 equalities categories. The policy was therefore screened out from the requirement to undertake a full Equality Impact assessment on the basis that is likely to benefit the environment and people who live in Northern Ireland.

## 6. Legislative Context

6.1 The Statutory Rule is made under powers contained within Article 32 of the Waste and Contaminated Land (Northern Ireland) Order 1997 and will be subject to the negative resolution procedure when laid.

## 7. Policy background

7.1 The use of single use vaping products (often referred to as disposable vapes) has increased substantially in recent years. Single use vapes are products that are not rechargeable, that are not refillable or that are neither rechargeable nor refillable. Products may contain vape liquid with or without nicotine.

7.2 There is growing concern over the environmental impacts of disposable vapes given their hard to recycle components and the increasing frequency in which these products are littered or thrown in the bin leading to harm to the environment and biodiversity.

7.3 On 12 October 2023, the UK government published a consultation on proposals to create a smokefree generation and tackling youth vaping. The consultation included questions on proposals to restrict the sale and supply of disposable vapes due to the environmental harm as well as concerns about links to youth vaping.

7.4 On 29 January 2024 the UK government responded to the consultation and confirmed that legislation would be brought forward to ban the sale and supply of disposable vapes. It was also confirmed at that time that Scotland and Wales would implement similar legislation. Northern Ireland was at that time considering next steps as there was no executive or Ministers in post but has since resumption of the Stormont Assembly, secured Executive approval to bring forward legislation to align with the rest of the UK.

7.5 This legislation will prevent anyone from supplying disposable vapes in the course of a business, whether or not by way of sale (i.e. whether or not involving payment).

7.6 The legislation defines a disposable vape, as being those devices that are not rechargeable and not refillable. This means that to be considered reuseable, the product must be both rechargeable and refillable, not simply one or the other.

7.7 A vape is not considered rechargeable if it is designed to contain a battery that cannot be recharged by the user or a coil which cannot separately be purchased and is not intended to be replaced by an individual user in the normal course of use (whether the coil itself or as part of a cartridge or pod).

7.8 A vape is considered refillable if it has a single-use container that can be purchased separately and replaced, or the container can be refilled. ‘Container’ is intended to mean the tank, pod, cartridge, capsule or any other receptable that is designed to hold the vaping substance and be used with the vape.

7.9 The ban will be brought into force at least 6 months after the instrument has been introduced to ensure businesses have sufficient time to adapt and run-down stocks. The targeted coming into force date is 1 June 2025

## 8. European Union Withdrawal and Future Relationship

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

## 9. Consultation outcome

9.1 A 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.

9.2 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.

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

9.4 The Scottish Government, the Welsh Government nd the UK Government, in respect of England, have progressed comparable legislation with an aligned UK wide coming into force date. Northern Ireland has now aligned with the other nations by introducing this proposed legislation for implementation on the same date.

9.5 DEFRA have indicated that an import ban will be considered in the future if required.

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

## 10. Guidance

10.1 The intention is that the Statutory Rule will be enforced by local authorities. The legislation provides for criminal sanctions for failure to comply with the regulation according to available powers within legislation.

10.2 Guidance will be published to assist manufacturers, suppliers, retailers and the public in understanding how to comply with these 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.

## 11. Impact

11.1 These regulations will impact retailers and manufacturers (there are currently no known manufacturers of vapes within NI), including small businesses. An impact assessment for the whole of the UK is published alongside this draft Statutory Rule..

## 12. Regulating small business

12.1 The legislation applies to activities that are undertaken by small businesses.

12.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), there will be a lead-in time of 6 months from when legislation is introduced.

## 13. Monitoring & review

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

## 14. Contact

14.1 Stephen Clegg at the Department for Agriculture, Environment and Rural Affairs can be contacted with any queries regarding the instrument, Telephone: 02890675193 or email: EPRTeam@daera-ni.gov.uk.

14.2 Shane Doris, Director for Environmental Resources Policy Division ERPD, at the Department for Agriculture, Environment and Rural Affairs can confirm that this draft Explanatory Memorandum meets the required standard.

14.3 The DAERA Minister has approved the laying of the Statutory Rule.