

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee
By email only

Dear Mr Mountain MSP

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

Thank you for the opportunity to provide a response.

1. Do you agree that the supply and sale of single-use vapes in Scotland should be banned? If not, do you favour an alternative approach?

CIWM Scotland agrees.

Vapes have been introduced to the market without consideration on how they are managed. They pose a significant risk to the environment and present a very real danger to waste management facilities.

Single use vapes are typically low-cost items with users having multiple units. Data relating to vaping suggests that the use of vapes is on the increase with circa 4.5 million adults¹ regularly using these devices. These figures do not appear to include what the press refers to as a growing number of young people occasionally using vapes. Material Focus² – an independent not for profit organisation – has published figures which suggest that vape purchases doubled between 2022 and 2023, with 7.7 million devices purchased each week (2023 data).

Although vapes are WEEE they are rarely managed in accordance with regulatory requirements. CIWM Scotland members – which include private sector waste industry and Local Authorities – report finding significant numbers of vapes within residual waste. Vapes cannot be easily removed from the waste and often require hand-sorting which introduces significant health and safety risks. Left in the waste they pose a fire – as well as a more general health and safety – risk. The financial mechanism associated with the WEEE Regulations to support recycling and separation of these items to aid recovery is not visible or accessible to the waste industry or collection bodies such as Local Authorities. To the best of

¹ Office of National Statistics

² Material Focus: <https://www.materialfocus.org.uk>

our knowledge facilities to recycle vapes products are not available throughout the UK and recycling is not at a market price which would enable its widespread use across the UK.

In line with wider circular economy objectives CIWM Scotland cannot support the use of single use products which have no defined and accepted material recovery in place. CIWM Scotland would also caution regarding the wording used to imply re-usable and/or refillable as strict guidance would be required to prevent intended and unintended abuse of this clause or exemption. Setting minimum pricing at a level which covers full recovery of products, including any orphan products which enter the market, alongside mandatory takeback would provide a clear way forward. CIWM Scotland would also like consideration given to compensation and consequential losses associated with fires and other operational issues resulting from vapes. The full economic cost and impact of these products should be borne by the manufactures and importers and should not be passed to the waste industry and Local Authorities.

In summary, CIWM Scotland supports a ban on single use vapes due to environmental, health and safety, and operational risks, and the inability to separate and recover vapes in a cost-effective way. In addition, CIWM Scotland would like to see provision made for financial support to recover vapes inappropriately disposed of and compensation for any losses associated with incidents which can be attributed to vapes in waste.

2. Coming into force on 1 April 2025, the regulations ban the supply of single-use vapes in Scotland. What do you think about the timescale for implementing this ban?

CIWM Scotland are content with the proposed timescale. However, the timescale is such that it will encourage minor modifications to the product and/or instructions to allow items to be classified as re-usable with no real change in design. Without an environmental tax or other fiscal measure to fully recover the costs associated with material recovery, the price point of the products will inevitably lead to these items being treated as single use by consumers, irrespective of the re-usability criteria.

Whilst CIWM Scotland is encouraged by the desire to act quickly we would suggest that a more comprehensive approach introduced over a longer time frame would better achieve the overall aims. Defining the requirements and classification criteria of re-usable vapes with consideration of the European Eco-design for Sustainable Products Regulation³ may offer a way forward.

³ European Eco-design for Sustainable Products Regulation: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1781&qid=1719580391746>



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3. A "single-use vape" - is any vape that is not refillable or rechargeable. Do you agree with this definition and are there any potential loopholes or unintended consequences?

See above response. CIWM Scotland feels that the definition of refillable and rechargeable is too weak and that it will not achieve the desired aims. The supply chain and retailers selling vape products at a price point which encourages multiple and frequent purchases will use loopholes and market mechanisms to encourage purchases of new units. Business models for the sale of these products appear to be based on unit sales and not consumable sales. The cost of replacement consumables, including batteries and vaping liquids, is unlikely to be sufficient at current market rates to change business models. If 4.5 million adults use vapes¹, this represents approximately 10% of the adult population of the UK and means that the vape market is a considerable part of UK retail sales. With this in mind we need to consider market mechanisms which support continued economic activity whilst reducing the environmental impact.

CIWM Scotland would like to see fiscal instruments and market mechanisms in place to address the 'throw away culture' associated with vape units and to support full recovery of recycling and disposal costs. CIWM Scotland takes a view that only when the unit costs reach a price point which encourages few vape unit purchases, and increases use of consumables, will we see a real move away from treating these items as single use.

4. The regulations establish two main offences with associated penalties. Do you think these penalties are proportionate?

CIWM Scotland has no real comment but would note that given the scope and wording in the legislation, and the defences available, successful prosecutions are considered unlikely.

5. The enforcement powers granted to local authorities are extensive, allowing them to enter premises, take samples, and investigate suspected offences. What do you think of these powers both from the perspective of local authorities and businesses?

Local authorities already have extensive powers but are often under resourced. The court systems are reportedly in a similar position and rather than give powers that are considered unlikely to be executed, the legislation should put in place mechanisms which provide financial support to recyclers and mandatory take-back.



6. What do you think about the enforceability of the Regulations; potential key challenges in this area; and whether lessons can be drawn from any comparable areas, such as the single-use plastics ban.

CIWM Scotland notes the behaviour change and public awareness brought about by other regulatory instruments, notably the ban on problematic single use plastics and the charge (at point of retail) for single use bags. Given the environmental, health and safety, and operational risks posed by vapes which is comparable, and likely more significant than plastic or other single use items, an environmental charge for these items would seem like a logical way forward.

The current wording proposed in the Regulations is such that it will do little to change the market or consumer behaviour and, in many ways, may be perceived as a 'knee jerk' reaction to be seen to be doing something without fully addressing the underlying issues.

7. The policy objectives aim to reduce environmental harm and encourage reusable alternatives. Are these regulations sufficient to meet these objectives and are any supportive measures needed, for example, around communication, or uptake of reusable alternatives.

In responding to earlier questions CIWM Scotland has made a number of suggestions which we feel could better support policy objectives, and importantly support the waste industry that inevitably is left to bear the brunt of the management of these items. These suggestions included:

- Environmental taxations or other fiscal measures at point of sale for these items to encourage responsible consumer behaviour and discourage 'throw away culture'.
- Refining and tightening the definitions of re-usable and refillable, to encourage eco-design and take-back.
- Amending the WEEE Regulations to support a separate category for vapes allowing for full cost recovery of management for all products (including orphan products).
- Ensuring a system is in place to allow compensation for issues caused by vapes in the waste management chain; this could be managed as part of environmental taxation and/or WEEE Regulations.

In addition to the above CIWM Scotland would like to see the vape industry invest in and support research and development to look at alternative product design. Would it be possible to create a non-toxic and/or biodegradable product? Would it be possible to create a product suited to disassembly? What market levers and mechanisms could be put in place to support retailers whilst encouraging more sustainable products and sustainable consumer behaviour?



8. The Strategic Environmental Assessment says that the ban might result in an increased demand for illegally sold single-use vapes. What are the risks of increasing illegal sales of single-use vapes and how can those risks be mitigated?

CIWM Scotland believe that putting controls in place which limit or support changes in the way industry, including the retail sector, operates will always have some unintended consequences. However, unlike other products subject to restrictions such as various classes of 'street drugs', we are suggesting that access is not limited or restricted in anyway. Undoubtedly there will be a degree of illegal or illicit supply, but this is where existing and historical control measures such as taxes have their place. CIWM Scotland are mindful that we would not like to see an industry made from regulating a single product, we would prefer the use of existing control mechanisms and regulatory agencies. Given the impacts on the waste industry, including fires, loss of earnings etc. which have a direct impact to the economy, we feel it appropriate for the Government to consider fiscal and taxation measures to address the true economic cost of vape products.

9. Various impact assessments have been completed by the Scottish Government. The Committee would welcome views on the financial, business, environmental, and equality impacts identified or other comments on the impact assessments.

CIWM Scotland has no comment.

10. The Regulations have been introduced following a UK consultation. Other UK countries are expected to introduce similar regulations. Do you have any views or concerns about alignment or cross-border implications?

CIWM Scotland would welcome a UK approach as materials and products flow freely across the UK. Equally, waste management relies on regional and national providers, and UK-wide infrastructure.

Finally, we ask that you disclose in your response any direct or indirect links to the vaping or tobacco industry.

CIWM Scotland Centre Council on behalf of CIWM Scotland can confirm they have no direct or indirect links to the vaping industry.





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I hope this input is helpful. Please do not hesitate to contact me or Laura Tainsh, Chair of CIWM Scotland Centre, if you require any further information.

Yours sincerely

Wendy Rayner

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