

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TOBACCO AND VAPES BILL

Fifth Sitting

Thursday 9 May 2024

(Morning)

CONTENTS

CLAUSES 1 TO 9 agreed to.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 13 May 2024

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The Committee consisted of the following Members:

Chairs: GORDON HENDERSON, SIR GEORGE HOWARTH, SIR GARY STREETER, † DAME SIOBHAIN McDONAGH

† Aiken, Nickie (*Cities of London and Westminster*) (Con)

† Baker, Duncan (*North Norfolk*) (Con)

† Bell, Aaron (*Newcastle-under-Lyme*) (Con)

† Blackman, Bob (*Harrow East*) (Con)

† Cameron, Dr Lisa (*East Kilbride, Strathaven and Lesmahagow*) (Con)

† Charalambous, Bambos (*Enfield, Southgate*) (Lab)

Foy, Mary Kelly (*City of Durham*) (Lab)

† Gill, Preet Kaur (*Birmingham, Edgbaston*) (Lab/Co-op)

† Glindon, Mary (*North Tyneside*) (Lab)

† Harrison, Trudy (*Copeland*) (Con)

† Johnson, Dr Caroline (*Sleaford and North Hykeham*) (Con)

† Leadsom, Dame Andrea (*Parliamentary Under-Secretary of State for Health and Social Care*)

† Maskell, Rachael (*York Central*) (Lab/Co-op)

† Oswald, Kirsten (*East Renfrewshire*) (SNP)

† Richardson, Angela (*Guildford*) (Con)

† Tuckwell, Steve (*Uxbridge and South Ruislip*) (Con)

† Wakeford, Christian (*Bury South*) (Lab)

Katya Cassidy, Kevin Maddison, Lucinda Maer,
Committee Clerks

† **attended the Committee**

Public Bill Committee

Thursday 9 May 2024

(Morning)

[DAME SIOBHAIN McDONAGH in the Chair]

Tobacco and Vapes Bill

11.30 am

The Chair: Before we begin, I have preliminary reminders for the Committee: please switch electronic devices to silent; no food or drinks are permitted during sittings of the Committee, except for the water provided; and *Hansard* colleagues will be grateful if Members email their speaking notes to hansardnotes@parliament.uk or, alternatively, pass on their written speaking notes to the *Hansard* colleague in the room.

We now begin line-by-line consideration of the Bill. The selection list for today's sittings is available in the room. It shows how the selected amendments have been grouped together for debate. Amendments grouped together are generally on the same, or a similar, issue. Please note that decisions on amendments do not take place in the order they are debated, but in the order they appear on the amendment paper. The selection and grouping list shows the order of debates.

Decisions on each amendment are taken when we come to the clause to which the amendment relates. Decisions on new clauses will be taken once we have completed consideration of the existing clauses of the Bill. Members wishing to press a grouped amendment or new clause to a Division should indicate that when speaking to it. I will ask every Member to repeat the paragraphs that I have just read out at a later date.

We come first to clause 1. Would any Committee member like to move the amendments in the name of Giles Watling? No. In that case, we move on to debate clause stand part.

Clause 1

SALE OF TOBACCO ETC

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clause 2 stand part.

Clause 37 stand part.

Clause 41 stand part.

Clauses 48 and 49 stand part.

The Parliamentary Under-Secretary of State for Health and Social Care (Dame Andrea Leadsom): Clauses 1, 37 and 48 change the age of sale for tobacco products, herbal smoking products and cigarette papers so that no one born on or after 1 January 2009 will legally be sold those products in England and Wales, Scotland, and Northern Ireland, respectively. That replaces the existing legislation, which sets the age of sale at 18 years old. The clauses are core to the ambition of being the first country in the world to create a smoke-free generation,

which is supported by the public, including a majority of retailers: nearly 70% of people support our plan to create a smoke-free generation. But why is it necessary?

First, this new age of sale will save tens of thousands of lives. Tobacco is devastating for the health of smokers. It is the single biggest preventable cause of death, responsible for about 80,000 deaths in the UK each year. Smoking causes one in four cancer deaths, including 70% of lung cancer cases. It is not just those who smoke who experience the harms; second-hand smoke also causes enormous harm to children, through no choice of their own.

There is no safe age to smoke. We know that 75% of smokers would never have started if they had the choice again, and those who start smoking as a young adult lose an average of 10 years of life expectancy. As we heard from the chief medical officer for England in his oral evidence session, individual smokers should never be blamed for the situation they are in. An incredibly wealthy and sophisticated marketing industry deliberately addicted them to something, at the earliest age it could get away with, and they have had their choice removed.

Secondly, this measure will boost our economy. Each year, smoking costs our economy a minimum of £17 billion, which is far more than the £10 billion income per year that the Treasury receives from taxes on tobacco products. That is equivalent to 6.9p in every £1 of income tax received. Therefore, reducing the prevalence of smoking will reduce these costs, helping our economy to become more productive.

On that note, reducing smoking will also cut the burden on the NHS. As Sir Stephen Powis outlined in his oral evidence, smoking impacts the NHS at all levels. Almost every minute of every day, someone is admitted to hospital with a smoking-related disease and over 100 GP appointments every hour are because of smoking. Reducing this burden will allow us to invest more in vital care, focus on major conditions and cut waiting lists.

Thanks to years of decisive Government action and stop-smoking support, smoking rates are coming down, but we want to build a brighter future for our children, grandchildren and great-grandchildren. I know that there are concerns about this policy, which were discussed at length on Second Reading. I want to reassure all colleagues that this policy is not about taking away people's rights. There is no liberty in addiction and nicotine robs people of their freedom to choose.

I also urge all members of the Committee not to be taken in by the tobacco industry's claims that the black market for tobacco products will boom. Before the legal smoking age was increased from 16 to 18, the tobacco industry sang from that same hymn sheet, but the facts drowned them out. The number of illicit cigarettes consumed actually fell by 25%, and smoking rates for 16 and 17-year-olds dropped by almost a third. In fact, consumption of illegal tobacco has plummeted from 17 billion cigarettes in 2000-01 to 3 billion cigarettes in 2022-2023.

To crack down on illicit tobacco and under-age tobacco and vape sales, we are putting an extra £30 million of new funding per year over five years into our enforcement agencies and we are working closely with enforcement colleagues to ensure that these measures are successfully implemented. And we have not forgotten current smokers.

The measures in the Bill are accompanied by a suite of measures to support current smokers to quit. They include nearly doubling the funding for local stop-smoking services with an additional £70 million each year over the next five years, providing a new financial incentives programme to support pregnant women and their partners to quit, and providing additional funding for stop-smoking campaigns and to ensure that retailers and the public understand the changes in the law.

On Second Reading, there were also discussions about what products were in scope of the new restrictions. Let me clarify matters by saying that the new age of sale restrictions will apply to all tobacco products, including tobacco that is smoked, smokeless or chewed. When it is smoked, tobacco kills up to two thirds of its long-term users, and all smoked tobacco, including in shisha and cigars, is harmful. There is also clear evidence of the toxicity of heated tobacco in laboratory studies; the aerosol generated by heated tobacco contains carcinogens. I know that some of our colleagues have championed heated tobacco products as a smoking quit aid, but there are less harmful tobacco-free products that can support people to quit smoking.

Tobacco products such as paan, betel quid and chewing tobacco are also covered by the Bill. Tobacco that is not smoked is not a safe way to use tobacco. Using smokeless tobacco increases the risk of both mouth cancer and oesophageal cancer.

Bob Blackman (Harrow East) (Con): I thank my right hon. Friend for the speech she is making and of course I absolutely support all the measures in the Bill. One concern, which I think was raised on Second Reading, about paan and chewing tobacco is that they are currently not specified very clearly in the Bill. Is she planning to introduce any further measures, either in Committee or in regulation, to address this concern? One of the problems is that at the moment those products are freely sold in a range of different environments.

Dame Andrea Leadsom: First, I pay tribute to my hon. Friend for his very long-standing campaign to stamp out nicotine and tobacco. He is absolutely right that we will need to make it very clear to members of the public, retailers and health organisations our intention to stamp out all tobacco products, because they are all unsuitable for our smoke-free generation. I will make a note of his concern, take it away and make sure that the legislation makes things as clear as it possibly can.

The Bill also applies to cigarette papers, as do current age of sale restrictions. Their bleaches and dyes add to the volume of smoke and the range of toxicants in the smoke, contributing additional risks to smokers. Likewise, herbal cigarettes are included in the legislation, as they are harmful to health. Although their smoke does not contain nicotine or tobacco, it does contain cancer-causing chemicals, tar and carbon monoxide similar to a tobacco cigarette.

I will briefly mention clause 41, which amends the Scottish legislation to include herbal smoking products under provisions for age of sale, age verification policy, sales by under-18s, proxy purchasing and vending machines. With their harms outlined above, it is right that herbal smoking products be included within the current and future tobacco control legislation. By extending this

legislation, Scotland will be aligned with the other UK nations. This measure will also support the effective implementation and enforcement of the Bill by providing consistency for enforcement officers, industry, retailers and consumers across the UK.

To complement the smoke-free generation policy, we are also bringing forward clause 2, which makes it an offence for someone over the age of 18 to purchase tobacco products, herbal smoking products or cigarette papers on behalf of someone born on or after 1 January 2009 in England and Wales; this is known as proxy purchasing. Proxy purchasing of these products by an adult for someone under age is already prohibited; the clause makes it an offence for any adult to buy these products for someone in the smoke-free generation—that is, born on or after 1 January 2009. That means someone might be caught by the offence if they are also too young to be sold the products themselves, but we did not want to overcomplicate the application of this offence.

We hope this measure will send a clear message to stop people trying to buy products for people under the age of sale. Proxy purchasing in Scotland and Northern Ireland will also be updated through clauses 37 and 48 to align with the new age of sale. These provisions are essential to ensure there are no loopholes in the age of sale legislation, and build on what we have found to work in the current age of sale legislation.

Finally, I present clause 49 to the Committee. The clause amends a provision in the Health and Personal Social Services (Northern Ireland) Order 1978 to provide the Department of Health in Northern Ireland with the power to amend the definition of “sale” to mean “sale by retail”. If the power is used, only sales from a retailer to a customer will be caught by the tobacco age of sale offence, which will therefore not include business to business sales, such as sales between a wholesaler and a retailer. This measure would bring the type of sales caught by the tobacco age of sale offence in Northern Ireland in line with those in England, Wales and Scotland. Fundamentally, the clauses included in this group are essential to implementing the smoke-free generation policy.

There is both strong cross-party and cross-nation support for these measures. It is clear that we all acknowledge the need to protect future generations from the harms of smoking. No one wants their children to ever start smoking. In England alone, it could prevent almost half a million cases of heart disease, stroke, lung cancer and other deadly diseases by the turn of the century, increasing thousands of people’s quality of life and reducing pressures on our NHS. Thanks to the collaborative work we have undertaken with the devolved Administrations, we have produced a Bill that will save lives right across the United Kingdom. I therefore commend these clauses to the Committee.

Preet Kaur Gill (Birmingham, Edgbaston) (Lab/Co-op): It is a pleasure to serve under your chairship, Dame Siobhain, and to serve on this Bill Committee. I will start with some general remarks about the context of this legislation.

This is an important Bill. As we heard on Second Reading, there is vanishingly little opposition to the central point that nicotine addiction is a scourge on our society, and that it is right the Government take steps to

[Preet Kaur Gill]

reduce its harms. Nicotine addiction cuts lives short and worsens healthy life expectancy disproportionately among more deprived communities; the toll it takes on the economy, and in particular on our NHS, far outweighs any benefit the Exchequer receives in taxes.

Labour proposed a progressive increase in the age of sale for tobacco in January 2023, and the Minister can be reassured that we will continue to support this Bill. If Labour win the next election—if we are privileged enough to do so—we will implement it. It will be a pleasure to genuinely lead the world on tobacco control, given that tobacco kills an estimated 8 million people a year.

The Chair: I am sorry to intervene, but you are very softly spoken—I think some people are struggling to hear.

11.45 am

Preet Kaur Gill: Right. However, that brings me to my second point. The Bill provides a number of powers for the Secretary of State to make secondary legislation, particularly on vapes. It is therefore important that we think carefully about how to achieve the objective of stopping young people from getting addicted to nicotine in the first place. Whoever the Government are after the next election, they will likely inherit those regulations, and some of them can be deceptively tricky to get right.

I want to ensure that whoever the next Government are, they have the powers they need to get a grip on this issue given that so recently this Government have not done so—when one in three vapes on the market is illicit, when youth vaping has trebled in two years, and when gaping loopholes in the law have undermined enforcement and put children at risk.

Vaping is a valuable stop-smoking tool, but those trends are a serious concern. There are areas where the Bill can be strengthened, and I hope the Minister will listen closely to our arguments. The Bill is an opportunity to think about not just the public health challenge as it manifests today, but the challenge we will face in 10 years' time. That is what a real agenda on prevention must do.

When the last Labour Government took office, one in four people in the country was a smoker. Every pub we walked into was clouded with the fumes, and one in 10 of our 11 to 15-year-olds smoked. When we banned smoking in public spaces and raised the age of sale to 18, we were met with a lot of opposition. Some of the charges put to us were like the ones we heard on Second Reading: that the law would be unenforceable, that it was an attack on working people and their culture, that it would fuel the illicit market, and so on. None of them held up.

Today the idea that children should be allowed to smoke or that non-smokers should have to tolerate deadly second-hand smoke is unthinkable. No one would think of making those arguments now. Just as the opponents of that legislation were wrong then, they are wrong now. Since 2007, the number of people who smoke has been cut by almost a third. The percentage of 15-year-olds who smoke regularly has dropped from 20% to 3%, and our understanding of second-hand smoke has grown. There has been a culture shift around

where it is acceptable to smoke. Even at home, people go outside to smoke instead of smoking in front of their children. The year after the smoking ban came into effect, there were 1,200 fewer hospital admissions for heart attacks according to *The BMJ*.

Dr Caroline Johnson (Sleaford and North Hykeham) (Con): Could the hon. Lady tell me about the consumption of nicotine among people once the Government had brought in the smoking ban in public places? Was there a reduction in nicotine consumption among the people who continued to smoke because of the restrictions on where they could do so?

Preet Kaur Gill: I have just said that after the smoking ban came into effect, there were 1,200 fewer hospital admissions for heart attacks. We saw a drop in people smoking—the data from *The BMJ* is already out there. By working towards a smoke-free future by progressively raising the age of sale, I hope that this Parliament can leave a similar legacy.

I turn to clause 1 and its equivalents for the devolved nations—probably the most important clauses in the Bill. Clause 1 of course changes the age of sale for tobacco products from 18 to a set date of 1 January 2009, meaning that anyone born on or after that date will never be able to legally buy cigarettes. It will progressively raise the age of sale by one year every year, so that the generation who are 15 now will—we hope—never smoke.

When the shadow Secretary of State, my hon. Friend the Member for Ilford North (Wes Streeting), proposed the measure in January 2023, it was because we know that it will take fresh, radical thinking on public health to take the pressure off the NHS and get our ambition for a smoke-free future back on track. The rationale for the progressive approach, compared with what some MPs have argued for in raising the age of sale to 21, is that it is a radical but realistic way of phasing out tobacco over time. It means that no one loses a right they already have, but it does not limit its ambition to young people—there is no safe age to smoke.

I hope that a lead-in time of three years will be enough for us to get support to those under-18s who already smoke, so they are not affected by the time the legislation comes in. Will the Minister say whether she is planning a targeted campaign to ensure that we reach those young people, perhaps by working through schools? Almost two thirds of long-term smokers began smoking before they were 18. University College London has calculated that every day around 350 young adults aged 18 to 25 start smoking regularly, risking being trapped in a lifetime of addiction and premature death. The vast majority of smokers and ex-smokers—85%—regret ever starting in the first place, but it is infamously difficult to quit. Stopping people from starting is the single best way of saving them from a lifetime of potentially deadly addiction.

I reject the suggestion that the legislation will be uniquely difficult to implement or enforce. Labour raised the age of sale in 2007, and that is well understood and widely enforced.

Shopkeepers are already used to enforcing age of sale legislation, and we have initiatives like Challenge 25, so it would not be until 2034 that we enter the uncharted territory of routinely checking the age of customers who

look 26 years old. I would expect by then that we would already be beginning to see a considerable reduction in the number of people still smoking under that age, but even then, arguably this legislation makes implementation easier: instead of having to ask for someone's ID to compare their birth date against the current date, which involves doing maths in one's head, it will be as simple as checking against one static date every time. I do not want to insult the intelligence of anyone working in retail, but that has formed part of the arguments of some of the Bill's opponents, so I really want to call that out.

As for the right to feel protected and confident in their jobs, there is no doubt that violence against shop workers has risen in recent years, but that is why we in the Opposition have long campaigned for violence against shop workers to be a separate criminal offence. As with much recent legislation, I am glad that the Government have seen sense and followed Labour's lead on that, too.

I know that some libertarian Conservative MPs have a philosophical objection to this legislation—the Business and Trade Secretary is one—but let us be honest: if we had known the social, public health and economic harms of smoking that we now know, would we not have legislated in similar terms long ago? Let us be clear: addiction is not freedom. The impact of second-hand smoke on the children of smokers is not freedom. It is certainly no freedom if, as is the case for two thirds of long-term smokers, one's life is cut short as a result of smoking. It should be a source of pride if, from having the highest smoking rates in the world, we can successfully introduce genuinely world-leading legislation to phase out tobacco for good.

I want to make some brief remarks on other clauses. I have no substantial concerns about clause 2. For the Bill to work, it cannot be possible for adults over the legal age to buy tobacco on behalf of others who cannot buy it. It is obviously right that the clause avoids criminalising children by specifying that it applies to over-18s in its alignment with the commencement date in 2027. I see no issue with that.

I do, however, have questions about implementation. We have spoken a lot about physical retailers but less about online retailers. This is undoubtedly an enforcement challenge and I wonder what the Minister can say on that. In response to the consultation, the Government said that they were exploring how to enhance online age verification so that young people under the legal age cannot buy age-restricted products online. What progress have the Government made since the consultation response was published in February?

On clause 37, I want to pick up on the specifics of the Scottish age verification policy. Will the Minister explain the Government's view on introducing additional requirements for retailers to establish an age-of-sale policy in the rest of the United Kingdom, in addition to the requirements in clause 1? I understand that the Bill would require the existing Challenge 25 policy to stay in effect in Scotland with legal force until the end of 2033, at which point over-25s will be within the legislation's scope and then 1 January 2009 would take precedence again.

Finally, on clause 41, we support the amendment to Scottish regulations to include herbal cigarettes. Herbal cigarettes may not include tobacco or nicotine, but they are still harmful to health. Their smoke still contains cancer-causing chemicals, tar and carbon monoxide,

similar to a tobacco cigarette. I am glad to see an alignment of approach across the UK nations on the point that no smoking product should be left out of the Bill's scope. We also have no problem with the inclusion of clauses 48 and 49 to change tobacco control laws in Northern Ireland to align with the approach that we have discussed.

I reiterate that the Opposition support these clauses and we will reject attempts to amend them that would water them down. I would be grateful if the Minister responded to my questions.

Bob Blackman: It is a pleasure to serve under your chairmanship, Dame Siobhain. I rise to support the proposals outlined by the Minister. It came as quite a shock that one of the recommendations of the Khan review was that the age-of-sale be raised by a year every year. We on the all-party group on smoking and health—I declare my interest—thought that we would end up simply raising the age from 18 to 21, but I am delighted that we have moved from that position to one of literally creating a smoke-free generation.

The key point will always be free choice—the free choice that is made is to smoke that first cigarette; after that, the individual is addicted. To colleagues of mine who may be listening or considering this as an issue of freedom of choice, I say that one only makes one choice. After that, there is no choice because one is addicted and therefore required to continue to fuel that addiction. It is vital that we create this smoke-free generation.

One of the fundamental issues is enforcement rules and premises—I know we will come to that, so I will not pre-judge it, but this will be key. One of my concerns—I ask the Minister to think about this—is what will happen about duty-free sales and provisions that, at the moment, are outside the scope of the Bill. There will be temptations for young people on trips abroad to buy cigarettes, either abroad or at duty-free, and bring them back, or for others to do so and provide them to young people. Clearly, we would all want that to be an offence, but as I read the Bill, the provisions do not cover that. We need to think about strengthening the legislation in that area.

I do not want to go on for a long time; I am delighted with the Bill. I have been campaigning for this sort of action for many years, so it is a delight to see. We need to get it on the statute book as fast as possible.

Rachael Maskell (York Central) (Lab/Co-op): It is a pleasure to see you in the Chair, Dame Siobhain. Let me open by welcoming the Bill. I think the Government have taken a brave and bold step in introducing such a significant public health intervention. I worked in respiratory medicine for 20 years, and I saw the devastating impact of smoking on so many of my patients.

We must remember that the industry exists in order to ensure that its customers become addicted to their product: nicotine. It profits as a result, as we learned in the evidence sessions, from some of the poorest communities in our country. The Bill will address not only that gross inequality, but the behaviours of the industry and, in particular, it will ensure that we have a healthier future going forward. The tobacco-free generation measures will have such an impact on young people as they grow up.

[*Rachael Maskell*]

We also need to ensure that the public health messages are really driven home. As colleagues have said, there is no liberty once someone has started smoking. There is no liberation because they become enslaved to addiction—to the highly addictive product, nicotine. It is therefore important that the Bill is passed to give that liberty to so many people who regret having commenced the journey of smoking. We need to remind everybody that once they start smoking, it is incredibly difficult to give up. Smoking is a product that kills two thirds of its customers. Therefore, the only people who benefit from smoking are the industry, which profits extensively from the misery of others.

I will certainly support the Bill through its passage, but I believe that there are areas where it can be strengthened. One, in particular, is advertising. We know that this pernicious industry has learned so well how to get around legislation at every turn. It has been incredibly difficult to ensure that the legislation encapsulates the safeguards needed to prevent the industry from doing that, but I do think that there are some loopholes in the Bill that need to be addressed around promotion, advertising, sponsorship and ensuring that retailers are supported in relation to age verification.

Simplifying things in the Bill will help everybody when it is fully implemented. We have Challenge 25; it is easily understood, and young people are used to showing their ID. Introducing that here would be a logical step in being able to see those restraints, and it will also mean that there is no variation in how shopkeepers will apply the law. It will take out inequality for their sake, too. I hope that the Minister reflects on that as we get to those points in the Bill.

12 noon

I also ask the Minister if she will consider the implications for the visitor economy. It is incredibly important for people in the UK to understand and grow up knowing that they will not be able to purchase or be provided with tobacco products if they are born after 1 January 2009, but the visitor economy will clearly not have that understanding. I think it is the Minister's role to be a global ambassador for the contents of this Bill to ensure that it is well understood. That includes new communities who come to the UK and will be subject to this legislation. We know that the highest rise in smoking in our communities right now is among asylum seekers and refugees who have come from countries where there is a high prevalence of smoking. I trust that the Minister will take on board the need to ensure that new communities really understand the measures within this legislation for their health and their understanding of how we are taking a proactive step on public health measures.

As the Bill goes through its passage, I will raise specific issues where I believe it can be improved, but I want to start on a very positive note by saying that this is the kind of legislation we need to ensure that our young people growing up today know that smoking kills, and this legislation will save their lives.

Kirsten Oswald (East Renfrewshire) (SNP): I, too, welcome the provisions in the Bill and the contributions that have been made so far from both sides of the House.

It is very important that we have a collective voice on this, wherever possible. We know that smoking is a leading cause of preventable death in Scotland and the rest of the UK. In 2022, smoking accounted for an estimated 8,942 deaths of those aged 35 and above in Scotland. We have also heard about the significant impact that smoking has on those who are already suffering from inequality and are in the most disadvantaged situations in our community.

The work on the Bill has been constructive, and it contains a number of measures pushed for by the Scottish Government; of course, part 2 specifically relates to Scotland. Jenni Minto, the Scottish Public Health Minister, has spoken positively about how Scotland has dealt with tobacco control measures, being a world leader. Although we know that there has been a reduction in the proportion of people smoking, it is still damaging far too many lives and killing too many people. We heard about the huge damage to the capacity of our NHS because of the difficulties caused by smoking, and the damage to people's lives.

Scotland has long led the UK on tobacco control. We in the SNP really welcome this collaborative step towards creating a smoke-free generation. As the first UK nation to introduce an indoor smoking ban, and having led on the overhaul of tobacco sale and display law, we can clearly see the important steps we are taking and the significant, positive impact on public health that is possible. We support the new age regime and the greater powers for Scottish Ministers to tackle youth smoking and vaping. It would be very helpful to hear further about how it is anticipated that the powers will be used. We need to make sure that this works in practice.

I close by reflecting what others have said about the uniquely lethal and addictive nature of smoking, and the far-reaching problems it causes in people's lives. We need to take whatever steps we can to prevent this addiction—so enthusiastically encouraged by the marketing teams of these industries—from taking hold in the first place. It is really important that we take all the steps available to us while we have this unique opportunity. We need to look at closing some small gaps, which I am sure we will discuss further. I would be very happy to hear from the Government Front Bench team about sponsorship, which is an interest of mine in terms of vapes, but I hope that we can make constructive progress on making this Bill a reality.

Dame Andrea Leadsom: I appreciate the clear cross-party support for the measures in the Bill. I understand that hon. Members will have views on ways to amend or strengthen it, but I urge the Committee to appreciate how little time we have. As we heard clearly from last week's evidence sessions—from the chief medical officers from all parts of the United Kingdom and from so many medical professionals—this is a very good Bill, so let us not make the perfect the enemy of the good. Let us get this through.

I very much appreciate the welcome of all colleagues, and I assure them all that I will take away any suggestions and requests and come back with clear answers. Where something is relatively simple to do, we will seek to do that, but equally, as Members will appreciate, it is not always possible to accept every suggestion, no matter how well-meaning—and I absolutely accept that, in this Bill, it is always well-meaning.

I will answer the points that hon. Members specifically raised. The hon. Member for Birmingham, Edgbaston asked about how we will encourage young people to quit smoking at an early stage. She will be aware that there are lots of measures to try to help people to stop, including the financial incentives that we are providing, particularly for those expecting a baby and their partners. There are also the quit aids to help people to swap to stop—to move to vapes, which I think we all recognise can be a useful quit aid. They are not harmless, but are less harmful than smoking cigarettes.

We are working at pace with online retailers on how to support them to ensure age verification, and I hope that we will be able to say more about that. The issue of duty-free sales is a tricky one, as my hon. Friend the Member for Harrow East will appreciate, because we do not want to put the burden of legality on the purchaser. The idea is that it should be illegal to sell, and, of course, we have jurisdiction only in the United Kingdom, but I take his points on board and will come back to him on that.

The hon. Member for York Central is right that we need to do everything we can to stop advertising. There are already very strict rules around advertising, and smoking and vaping are severely restricted when it comes to advertising to children. But I think—I hope that the hon. Lady will agree—that the vaping measures, including the powers to limit packaging, flavours and in locations in stores, will do a lot to reduce the appeal to children, which I know we are all incredibly concerned about.

Dr Johnson: I say, first, that I fully support this Bill and what it intends to do. Having worked in respiratory medicine in my very first job as a doctor, I saw far too many people suffering from and dying of respiratory illness, and suffering through the final years of their life due to respiratory illness caused by smoking. I think this is excellent legislation.

My right hon. Friend talked about advertising being quite restricted, but, with vaping, we see sports teams—rugby teams and football teams—using vaping brands as adverts for children. These are not recreational substances, or should not be recreational substances. They are supposed to be quit aids and do not need advertising where children can see them.

Dame Andrea Leadsom: My hon. Friend makes an extremely good point. She will be interested to know that I have recently written to the Advertising Standards Authority to ask about how well it considers enforcement to be working, and what more it can do to enforce the already strict regulations. I am happy to share its response, when it comes, with all members of the Committee.

Rachael Maskell *rose*—

Kirsten Oswald *rose*—

Dame Andrea Leadsom: I will give way to the hon. Member for York Central and then to the hon. Member for East Renfrewshire.

Rachael Maskell: I am really grateful to the Minister for the work that she is doing in this area, but clearly, for vaping, there is not equality with smoking in terms of an advertising ban. For simplicity's sake, equalising the law would make a significant difference. We often

think about packaging in shops, but today, the social media space is an incredibly powerful tool that young people are exposed to on a continuous basis. Therefore, extending the advertising, promotion and sponsorship ban could have such a significant impact, and it could be legislated for simply. As we have got so accustomed to the advertising ban for tobacco products, it can simply be translated for vapes. Will the Minister look into that?

Dame Andrea Leadsom: With your permission, Dame Siobhain, I will take the intervention on the same subject from the hon. Member for East Renfrewshire.

Kirsten Oswald: Is the Minister able to tell us a bit more about the interaction with the Advertising Standards Authority? What jurisdiction does it have in relation to the advertising of vapes on football strips, for instance? Is it not in fact our job to deal with that, rather than the job of the Advertising Standards Authority?

Dame Andrea Leadsom: In response to all those points, I am extremely sympathetic to the need to clamp down on advertising. It seemed to me, when I came to the Bill, that it was important to get a “Where are we now?”-type assessment of what the current regulations say, how well they are being enforced and what more needs to be done. Like many colleagues, I am interested to hear what the Advertising Standards Authority has to say about that, and I am sure we will come back to this subject.

The hon. Member for York Central raised age verification. As she knows, retailers will be required to challenge and seek age verification from those who are born on or after 1 January 2009. As the Bill continues its passage, we will look at the amendments that have been tabled and consider whether there is a need to change that age verification requirement. At the moment, I think the Bill strikes the right balance. As I said at the beginning, it is essential that we make progress with the Bill in the short time remaining in this Parliament.

The hon. Lady's points about the visitor economy were well made. It is essential that we ensure wide communication about the new measures in stores, at the point of sale; to retailers, who will have just over two years to enforce this legislation and undertake the training; and to members of the public. I commend the clauses to the Committee.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

TOBACCO VENDING MACHINES

Question proposed, That the clause stand part of the Bill.

Dame Andrea Leadsom: The clause restates the ban on tobacco vending machines in England and Wales. This prohibition came into force in 2011 in England and 2012 in Wales through regulations made under the Children and Young Persons (Protection from Tobacco) Act 1991, which made it an offence for anyone who manages or controls premises to have a tobacco vending machine available for use. The offence applied to selling both tobacco products and herbal smoking products from a vending machine. Herbal smoking products were included due to their harmful nature when smoked.

[*Dame Andrea Leadsom*]

The prohibition was originally introduced because tobacco vending machines were largely unsupervised and allowed under-age access to tobacco. In 2010, 8% of 11 to 15-year-olds who regularly smoked said that vending machines were a usual source of cigarettes. This policy has successfully reduced smoking rates among young people and has been effective at enabling the age of sale restrictions to be implemented and enforced properly.

The existing legislation has been restated to provide a coherent narrative in the Bill on tobacco measures and to assist with the tidying of the statute book. I therefore commend the clause to the Committee.

Preet Kaur Gill: We of course support the aims of this clause, which as the Minister said, effectively restates regulations that were introduced under the previous Labour Government, making the person who controls or is responsible for the management of premises where a vending machine is located liable to commit an offence if tobacco sales are made.

We are concerned about how easily children could access tobacco from vending machines, and the availability of tobacco from machines undermines efforts by adult smokers to quit. As the Minister said, when Labour introduced these regulations, evidence showed that vending machines were a usual source of cigarettes for 12% of young people aged 11 to 15 who were regular smokers. I venture that is 0% now, so the measure has been effective. Why has she decided to re-enact existing law on that matter through the Bill, given the existing regulations?

On a wider point, the purpose of those regulations was to stop children readily accessing tobacco products, but I note that the Bill contains no similar provisions on the availability of other vaping and nicotine products through vending machines. I would be surprised if her officials had not looked at this issue, but there is no mention of vending machines in the entire 164-page impact assessment, despite reports of new vending machines being introduced in England that include an automated age-verification feature.

I am keen to hear the Minister's thinking on that point. Could vending machines undermine other regulations in the Bill that are providing powers to regulate vape and nicotine product points of sale and displays, as well as reinforcing and closing the loopholes on the age of sale?

12.15 pm

Dr Johnson: I welcome clause 3. It is sensible that we protect children from having easy access to products that we have decided should be age-restricted, and it is clearly sensible that tobacco products be age-restricted—that is part of the purpose of the whole Bill. However, clause 3 does not extend to vaping products or other nicotine products. We know that the use of such products is becoming increasingly prevalent among children.

As the Minister knows, I have tabled new clause 16, which would create the same offence for nicotine-containing products or vaping products to be sold in vending machines because they are age-restricted. It is not usual to have age-restricted products in vending machines and it is my view that children would quickly find a way round machines that are supposed to check their age. Will the Minister look at that sympathetically?

Dame Andrea Leadsom: The purpose of clause 3, as with a lot of the clauses that we will debate in line-by-line consideration of the Bill, is to tidy up the statute book for the whole tobacco regime, both to align all four nations and to make sure there is a clear understanding of the law where it relates to tobacco, tobacco products and vaping. The fundamental purpose is to tidy up the statute book by restating it with clarity at this critical time.

My hon. Friend the Member for Sleaford and North Hykeham made a point about vaping and vending machines. As she will be aware, the Government are taking powers in the Bill to look at issues such as location of sale, packaging and flavours. It was felt that it was important to have further consultation under those powers to look at issues such as whether vaping products should be sold in vending machines. It will be debated at a future time under those regulations. The key point is that we have clarity in the Bill.

Dr Johnson: I thank the Minister for that information. She talks about location of sale. I understood location of sale to refer to a geographical location, rather than a method of sale, such as through vending machines. Could she be clearer on that point?

Dame Andrea Leadsom: I will get back to my hon. Friend on that point, which is a good one. This clause and many others are intended to tidy up the statute book, rather than to introduce new subjects that would be more appropriately considered somewhere else.

Kirsten Oswald: I wonder whether I can reflect some of the Minister's words back to her. She talks about clause 3 providing clarity, but I am afraid that I do not think it provides clarity—it adds a degree of confusion. This is the Tobacco and Vapes Bill, and it is reasonable that people look for measures relating to both those products. It adds an unwelcome level of confusion for us to deal so differently with vapes.

Dame Andrea Leadsom: I am grateful to the hon. Lady for her views. As I said earlier, I will take away all the views expressed in Committee and reflect on them. I am grateful to her for her comments.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

SALE OF UNPACKAGED CIGARETTES

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to debate clause 38 stand part.

Dame Andrea Leadsom: Clauses 4 and 38 restate that it is an offence if tobacco retailers do not sell cigarettes in the packaging in which they are supplied. Selling unpackaged cigarettes is currently an offence in England, Wales and Scotland under the Children and Young Persons (Protection from Tobacco) Act 1991. The prohibition was originally introduced to reduce smoking among children, because there was evidence that children were purchasing single cigarettes. As with clause 3, we have

included these provisions to help to tidy up the legislation related to the age of sale for tobacco products, so that it is clear for tobacco retailers, enforcement agencies and other relevant parties across the UK.

The clauses ensure that the sale of loose cigarettes continues to be prohibited and that cigarettes are sold in the appropriate packaging. Additionally, clause 38 inserts the definition of “retail packaging”, aligning with the definition used in England and Wales. I commend the clauses to the Committee.

Preet Kaur Gill: Clause 4 is another that re-enacts existing law that we support. The sale of unpackaged cigarettes is a practice used to short-circuit the enforcement of age of sale law and other regulations such as flavour bans, and only benefits the illicit trade.

Particularly now that the Government have introduced the track and trace system, packaging is useful in monitoring the flow and patterns in the trade in tobacco products around the country. However, it is notable that the clause opts to restate the law’s focus on cigarettes instead of other products. In 1991, the Government faced a lot of opposition from Members on their Back Benches when they proposed to include cigars in the definition, so can the Minister tell us why she has not considered extending the provisions and treating other tobacco products in the same way? Can she reassure me that trading standards has not found instances of, for example, cigars or hand-rolling tobacco being kept and sold unpackaged, and that that does not have the potential to be a loophole that will later need to be closed?

Bob Blackman: We have to consider the various tactics used by big tobacco. I campaigned long and hard for the standardised packaging of tobacco products, which was finally achieved, and one of my concerns then was the way that packaging is used to attract young people to start smoking. I support the provisions, but one concern might be that big tobacco will respond by reducing the number of cigarettes in a pack and selling them at a cheaper price. Will there be regulations to ensure that, for example, companies cannot sell them in single packs? We have to think about what these evil people will do to sell and push their product. Very simply, can we look at something to ensure that they cannot do that?

Rachael Maskell: I support the points that have already been made, but I will not repeat them, because they have been made eloquently.

Why is the fine in clause 4(2) only at level 3, whereas elsewhere in the legislation the fines are at level 4? We know that cigarettes being sold as single items, and packs being broken up and sold in that way, encourages people to smoke. We also know that they will be targeted at children and young people, as well as people in greater deprivation.

There are 14.5 million people in our country who are living in poverty, and there is a much higher prevalence of smoking in that population. The increase in the price of tobacco products has been a major determinant of how much people smoke and whether people smoke at all. It therefore seems perverse that the fine applied to breaking up cigarette packs is less than that applied elsewhere in the Bill, where there is a level 4 fine. Can

the Minister explain the reasoning behind dropping the level of fine? Why is it not in line with the other measures in the Bill?

Dame Andrea Leadsom: I do not have all the answers to hon. Members’ questions. The purpose of the clause is to restate and clarify the statute book, so the answer to many of the “Why haven’t you done this or that?” questions is that the intention was to tidy up the statute book rather than address all the other potential issues that could be solved. I will certainly come back to hon. Members with the answers to their questions.

As colleagues will appreciate, there are thousands of potential add-ons to the legislation, but it is important to remember that the core purpose of the Bill is to create the smoke-free generation. On those well-made points and suggestions, I do not know whether they were considered and ruled out or whether they were not considered, but I will come back to hon. Members with answers.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

AGE OF SALE NOTICE AT POINT OF SALE: ENGLAND

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clause 6 stand part.

Clause 42 stand part.

Clause 50 stand part.

Dame Andrea Leadsom: Clauses 5 and 6 introduce a requirement for age of sale notices in England and Wales to align with the new age of sale for tobacco products. Additionally, clause 42 provides Scottish Ministers and clause 50 provides the Department of Health in Northern Ireland with the powers to make provisions about warning statements. Warning statements are notices that reflect the new age of sale requirements. Age of sale notices currently must state in a prominent position:

“It is illegal to sell tobacco products to anyone under the age of 18”.

Clauses 5 and 6 update the wording of the notices so that they now reflect the requirements of the new age of sale. They will therefore state:

“It is illegal to sell tobacco products to anyone born on or after 1 January 2009”,

alongside the Welsh translation of the statement in Wales.

Additionally, under clauses 5 and 6, the Secretary of State and Welsh Ministers have been granted powers to introduce further requirements on the size or appearance of the notice. This allows for colour requirements and other changes to be introduced in the future should they be needed. Clauses 42 and 50 provide Scottish Ministers and the Department of Health in Northern Ireland with the same powers to set requirements.

Similar powers on the appearance of the age of sale notices have previously been included in legislation and regulations have been made, but these powers broaden the scope of the provisions. We do not anticipate requiring further amendments beyond the text of the age of sale notices prior to the change in the age of sale.

[*Dame Andrea Leadsom*]

The updated wording on age of sale notices will support tobacco retailers in implementing the new age of sale restrictions by helping to clarify and underline it for customers and staff. I therefore commend the clauses to the Committee.

Preet Kaur Gill: I support the clause. For consistency and public acceptability, it is important that there is clear and consistent messaging to help the public understand the changes. It is already a requirement for premises to display notices to sell tobacco to under-18s, so I cannot see there being any issue in the implementation of the clause. Indeed, it is in the interests of retailers to have standardised notices across shops as we know that asking for ID is an issue that can cause customers to give shop workers grief at the till. When someone can say, “I am sorry, but it is the law and I could be fined or even have my ability to sell these products taken away,” that will greatly aid them in their job.

When customers can see that there is consistency across all retailers and that there is not the scope to twist anyone’s arm or get the impression that the issue is not taken seriously, we will see more people follow the rules. As we would expect, the responses to questions in the consultation were overwhelmingly supportive, with opposition mainly limited to arguments against the progressive rise in the age of sale.

Will the Minister comment on the consideration she has given to other forms of words, some of which she mentioned? Should the wording of the notice be limited to the focus on the age of sale and not, for example, proxy sales? Although one is the responsibility of the retailer and the other of the customer, would it not reinforce the understanding of the law and make people think twice about committing that offence? Will she set out the Government’s thinking on that? However, I support the clause.

Dame Andrea Leadsom: The hon. Lady makes a fair point. The clarity of the single message is, on balance, considered to be more important. If it is absolutely clear that products may not be sold to anyone who meets the 1 January 2009 criterion, that clarity and simplicity makes the message more punchy.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6 ordered to stand part of the Bill.

Clause 7

SALE OF VAPING PRODUCTS TO UNDER 18S

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clauses 8 and 9 stand part.

Clause 44 stand part

Clause 51 stand part.

Government amendment 25.

Clause 53 stand part.

12.30 pm

Dame Andrea Leadsom: Before I speak to the clauses, I want to set out, for the purposes of clarity, what we mean when we refer to vapes. Different terminology is used in law, depending on whether we are referring to legislation for England and Wales, for Scotland or for Northern Ireland. However, although there may be minor differences in terminology, the products are the same. When referring to vapes, e-cigarettes or nicotine vapour products, I will use the generic term “vapes” throughout.

Vaping is never recommended for children. It risks addiction and unknown long-term health impacts while their lungs and brains are still developing. These clauses are important to ensure that vaping products and nicotine products cannot easily be accessed by children.

Clause 7 will mean that it continues to be an offence to sell a nicotine vape to a person under the age of 18 in England and Wales, and anyone found guilty of the offence will be liable to pay a fine of up to £2,500 if convicted. The clause will also extend that age of sale restriction to non-nicotine vapes, as we know that children are accessing those products. The provision on non-nicotine vapes will come into force in both England and Wales six months after the Bill receives Royal Assent, to allow retailers time to introduce the measure. The clause provides businesses with certainty about whom they may legally sell products to, and reinforces our health advice that children should never vape.

Clause 8 will mean that it continues to be an offence for a person aged 18 or over to buy, or attempt to buy, a nicotine vape on behalf of a person under the age of 18. The clause will also extend those restrictions to non-nicotine vapes. Non-nicotine vapes may be used as a gateway for children to start using nicotine vapes, which is why the clause extends the scope of the current restrictions to include non-nicotine vaping products.

Clause 9 will close an existing loophole and make it an offence to give away a vaping product, or a coupon that can later be redeemed for a vaping product, to someone under the age of 18 in England and Wales. Given the clear and unambiguous health advice that children should not vape, and the fact that under-18s cannot legally be sold a nicotine vape, it is completely unacceptable that the industry is not prohibited from giving free samples of vapes to children. That loophole needs to be closed to ensure that we can protect children from addiction and potential health harms.

Clause 44 will amend Scottish legislation to extend existing regulation-making powers to prohibit or restrict the free distribution and nominal pricing of vapes to cover nicotine products such as nicotine pouches. Regulation-making powers on the sale of nicotine products to under-18s, on proxy purchasing and on free distribution to under-18s are provided for England and Wales in clause 10 and will be discussed separately.

Similarly, clause 51 will give the Department of Health in Northern Ireland regulation-making powers to prohibit the sale of non-nicotine vaping products to persons under 18. That will align with measures in the Bill for England and Wales and with measures already in place in Scotland for this offence. To ensure alignment across the UK, clause 53 will provide the Department of Health in Northern Ireland with regulation-making powers to prohibit the free distribution of nicotine

products and non-nicotine vaping products to those under the age of 18. I commend clauses 7 to 9, 44, 51 and 53 to the Committee.

Government amendment 25 to clause 53 was tabled at the request of the Health Minister in the Northern Ireland Executive. It will change the mode of trial and maximum penalty for an offence of free distribution of nicotine products or non-nicotine vaping products in Northern Ireland, removing the potential for anyone convicted of the offence to be imprisoned. Instead, on conviction, the penalty will be a fine not exceeding level 5 on the standard scale in Northern Ireland. That small change will align the penalty that could be imposed with the penalty for the age of sale offence for vapes in Northern Ireland. I am sure that the Committee will agree that that is a more proportionate penalty for the offence. For those reasons, the UK Government accept the amendment.

Preet Kaur Gill: First, I want to make some general points about these first vaping-related clauses of the Bill. We agree fundamentally with the Government in their efforts to find a balance by phasing out tobacco use and cracking down on youth vaping while being careful not to undermine the proven success of vaping as a stop-smoking aid. There is no doubt, however, that the rise in youth vaping is a serious concern.

My main question about the Government's response is "What took them so long?" Labour proposed measures more than two years ago to stop vapes being branded and marketed to appeal to children, but that was blocked by the Government. I am glad that the Government have listened to us. I hope that they will continue to do so as we debate the Bill; I firmly believe that some of its provisions can still be strengthened.

I am pleased by the inclusion of clause 7. Coupled with clause 34, which defines a vaping product in a way that includes non-nicotine vapes, it will tackle a substantial loophole that we have been calling on the Government to close for a long time. Youth vaping is a serious and growing issue. In 2021, Labour voted for an amendment to the Health and Care Bill to crack down on the marketing of vapes to children. Since then, according to the most recent survey by Action on Smoking and Health, the number of children aged 11 to 17 who are vaping regularly has more than trebled. That is more than 140,000 British children. Meanwhile, one in five children have now tried vaping. In clause 7, a couple of issues therefore intertwine.

I think most people would be surprised to learn that it is legal to sell non-nicotine vapes to children, which could so obviously be designed as a gateway to addiction to the real thing, as the Minister mentioned. It is doubly concerning when we think about the illicit vapes that end up on British shelves. Testing by Inter Scientific, from which we heard last week, has found that a considerable percentage of seized vaping products that it tested contained nicotine, even when they were marketed as 0%.

That is highly concerning. It means that for the past several years, we may have seen a spate of accidental addictions among children. According to survey data from ASH, 9.5% of vapers aged 11 to 17 exclusively puff on so-called 0% nicotine vapes. Analysis of that and of data from the Office for National Statistics suggests that at least 40,000 child vapers could have been exposed to

nicotine-containing vapes without their consent, becoming accidentally addicted by illegal products masquerading as nicotine-free that, under existing regulations, they are allowed to buy. That is an important testament to why not just regulation, but effective enforcement—especially over the illicit market—is vital to the success of the Bill.

The two-tier system of regulation for nicotine and non-nicotine vapes is not robust. The exclusion of non-nicotine vapes from the Tobacco and Related Products Regulations 2016 is important for a few reasons. Primarily, it is confusing and more difficult to enforce the rules on the ground if it is not clear which products contain nicotine and which do not. As 0% nicotine vapes are out of the scope of the current regulations, they do not need to be notified through the Medicines and Healthcare products Regulatory Agency process, on which trading standards officers often rely to identify illicit products. I raised that point with the Minister in a debate in January and am keen to seek clarity. Does the Minister think that all producers should have to notify vape products, regardless of nicotine content, to the MHRA?

I note that clause 71 provides the power to extend the notification process to non-nicotine vapes, but the Government have not, to my knowledge, explicitly expressed a view on the matter. Will the Minister do so now? In theory, including non-nicotine vapes in the notification process should allow for a complete database of products. Currently, it is difficult to identify which products are legal or illegal, which really undermines enforcement action.

As we heard in evidence, the impact of vaping products on the developing bodies of children has the potential to be very harmful. It is vital that we take every step to make sure that our systems of regulation and enforcement are as robust as possible to stop a new generation of products hooking our children on nicotine and harming their long-term health. We absolutely support the clause, and I am keen to hear the Government's view on the issues that I have raised.

I have no substantial comments to make about clause 8. It is a common-sense reapplication of the principles of clause 2, which we have debated and which I support.

Clause 9 will finally address a loophole that I regret to say the Opposition raised in an amendment to the Health and Care Bill in 2021; I am glad that it is now receiving the Government's attention. Our 2021 amendment would have prohibited the free distribution or sale of any consumer nicotine product to anyone under 18, while allowing the sale or distribution of nicotine replacement therapy licensed for use by under-18s. The then Minister rejected the amendment. To quote my hon. Friend the Member for City of Durham:

"There was no evidence of a serious problem, but the Minister sympathised with the argument for preventive action."—[*Official Report*, 22 November 2021; Vol. 704, c. 56.]

Two and a half years later, it is clear what a widespread issue this has become. It goes without saying that Opposition support clause 9, which will close the loophole, as well as clause 44, which will introduce powers for the Scottish Government to extend the existing powers to regulate the free distribution of vapes and other nicotine products such as pouches, as mentioned by the Minister. Likewise, clause 51 will mean that age of sale restrictions can be extended to non-nicotine vaping products.

[Preet Kaur Gill]

Finally, clause 53 relates to the free distribution of vapes and nicotine products in Northern Ireland, whether or not they contain nicotine. As I have discussed, I am very concerned that that has presented a loophole that has undermined enforcement, so I support a consistent approach across the United Kingdom. May I ask the Minister to set out what the words “in the course of business” will mean in practice when it comes to the free distribution of harmful products, given that we would expect any person caught out by the provision to argue that there is no “business” in giving away something for free? Of course, we know that that is not true in the case of addictive products, but I will be grateful if the Minister can reassure me that the clause will do in practice what it needs to do. Can she also please reassure me that it will not prohibit under-18s from accessing nicotine replacement therapies?

I reiterate that the Opposition support these clauses, but I am very interested in the Minister’s views on how the Bill should affect the notification process for vapes.

Dr Johnson: I welcome the clauses. I have been very concerned about the number of children who are taking up vaping and about its effects. We have heard in evidence, both in the Health and Social Care Committee and last week in this Committee, about the dangers of vaping for children who have never smoked. The chief medical officer has made it extremely clear that for someone who smokes, vaping may be better for them, but that someone who does not smoke should not vape. These measures will help to reduce the number of children who have access to such products, which is good. They will also close the loopholes for free samples and non-nicotine vapes, which can provide a gateway to such awful addiction.

We have also heard how nicotine in general is not just very addictive but harmful to children’s developing brains, and how getting them hooked early makes it more difficult for them to quit in the long term. We have heard about how children in schools are struggling to concentrate when leaving lessons to consume nicotine, which is having an impact on their education and wellbeing. We have heard from health experts about small particles going into children’s lungs, without our knowing what the long-term effects of that might be. I welcome any clause that will help to reduce the number of children vaping.

I do have one question. The cross-heading before clause 7 is “Vaping and nicotine products”, but clause 7 only makes it an offence to sell a vaping product to a person under the age of 18, rather than also making it an offence to sell all other nicotine products, although the capacity to do so is set out later in clause 9. I am just wondering why the Minister is taking a power to restrict nicotine product sales but is not actually doing so. We are starting to see that children at school are using nicotine pouches that are available in all sorts of different flavours. I can see nicotine pouches becoming the next way for the industry to try to hook children on nicotine. Has the Minister considered getting ahead of the game by saying that nicotine products cannot be sold to children at all?

Kirsten Oswald: Is the hon. Lady reflecting, as I am, on the comments that we heard in evidence about the link between professional footballers and some of these products? There is an obvious interest and attraction in these kinds of products for the very young people we are concerned might take up vaping.

Dr Johnson: Yes. Sportspeople, as we know, are very influential on young people. To promote products that are potentially harmful to children is morally wrong, in my view. They need to be careful to think about the effects that they may be having on children.

My question to the Minister is whether she will consider extending clause 7 outright to include nicotine products for children. We need to support children who are smokers or vapers and wish to quit, but those children can get nicotine replacement products from their GP on prescription. There is no need for those products to be sold to children.

12.45 pm

Rachael Maskell: I, too, welcome the fact that legislation is at last being supported by the Government and is before us today. I have deep concern about the impacts of vaping—and not just on physical health, although much research clearly needs to be done to understand the extent of that. In the Health Committee, we saw a paper on the DNA methylation changes that take place in the oral cavity. We have not seen the impact on the lungs, because that would require more invasive sampling, but the evidence shows that much research needs to be done to understand the implications of vaping on physical health.

I am also concerned that we are looking only at the age of 18. I understand the Government’s reasons—clearly, young people can readily become addicted to the nicotine in these products, and I welcome the measures to restrain that—but I have serious concerns about those over 18 who commence vaping. I understand that a paper will be coming out in Sweden showing that people move from vaping to smoking, so I am concerned that there could be unintended consequences if we do not take more extensive measures on vaping.

I absolutely understand that the Government are using the Bill to send a clear public health message that vaping is safer than smoking and that smoking kills, so if people can move from smoking to vaping, that is a positive health change. However, we do not yet know the extent of the harm that can be done by vaping, so we could well be back here again if we do not put proper measures in the Bill to facilitate more action more rapidly, should evidence come forward on the impacts of vaping.

I have talked about physical health, but we know that vaping involves an addictive product, and we do not want to see another generation of people becoming addicted to a nicotine product. We must recall that the vaping industry, like the tobacco industry of old—well, it is still in existence—has the sole interest of bringing forward another generation of people who are addicted to a substance, to ensure that those people buy its products and it profits. Leaving individuals with that dependency means that they are in bondage not only financially but in terms of their health. We must ensure that we properly examine the scope of the challenges involved in leaving over-18s exposed.

Dr Lisa Cameron (East Kilbride, Strathaven and Lesmahagow) (Con): The hon. Lady is making a very informed speech, but I want to pick up on one thing. She said that the sole purpose of the vaping industry is to get people addicted to vaping, but does she acknowledge that many people across the UK, and particularly adults, as we heard in evidence, have reduced their addiction through vaping? They are tapering down the amount of nicotine they are using, as opposed to when they were smoking. We also heard that there were some health benefits from people moving from smoking to vaping.

Rachael Maskell: I am grateful to the hon. Lady for the point she made. Certainly, I did highlight that transitional benefit of moving from smoking to vaping to, hopefully, stopping altogether. However, we must also highlight that vaping is not without risk, and we need to give that serious consideration. I am just concerned that the Government are slightly light, shall I say, in terms of their concern about vaping, in order to drive down the smoking. I absolutely understand that, because smoking kills, but I just think that we could be on the “too light” side. I know that it is about balance, but I hope that we can reflect on that during the course of the Bill.

I want to draw out one question that I have about clause 9 and giving away vapes. I certainly understand why the measures would be applied to industry, but I want to ask about public health measures that could be deployed. I recognise that the clause is about under-18s, but unfortunately, despite the current legislation, we know that many people under 18 smoke, and we obviously need to ensure that they stop and move into a safer space. The Government have been very much pressing the idea that vaping is a route out of smoking. Does the Public Health Minister see vaping as a means to help people under the age of 18 to stop smoking, or will they have no access to vapes? I would just like some clarity around that. Clearly, there are other smoking-cessation programmes and products available, but it would be useful to know the answer to that question. If vaping is to be used in that way, and clinicians are to be able in future to prescribe or indeed provide vapes for young people to stop smoking—if that was the only tool—we need to understand whether we are to have a blanket ban in the Bill. It would be very useful to understand that.

Dame Andrea Leadsom: Once again, I thank all hon. Members for their thoughtful and considered remarks—I really do appreciate them. Essentially, the questions are pretty much around the product notification and the availability of quit aids to under-18s. Hon. Members may not have spotted this, but the notification of vapes to the MHRA is something on which we are taking powers. There will be a further consultation on that point because it did not come under the scope of the original consultation. We will have the powers to require notification of vapes to the MHRA.

The other point that has been raised by a few colleagues is, “How do we help under-18s to stop smoking?” Under the MHRA, there is licensed nicotine replacement therapy, which is licensed for 12 to 18-year-olds. Of course, all under-18s can go to their local stop-smoking services.

To the point from the hon. Member for York Central about whether young people should be able to access vaping as a quit aid, my instinct would be, “No, absolutely not,” and I think that that would be her instinct also. However, I must slightly correct the record: it is certainly not the Government’s position that vaping is in any way safe; it is merely less harmful than smoking. I would reiterate that if you don’t smoke, don’t vape. And children should never vape, so they should not be turning to vaping, even as a quit aid. In my view, that would also be the thin end of the wedge, because people would simply say, “Well, I am only vaping because I am trying to stop smoking.” I cannot imagine that ever being a suitable way to help children to stop.

Bob Blackman: One issue that has been raised in the debate is non-nicotine vapes and the potential to get people on to vaping, followed by the escalation, presumably, to nicotine and then, potentially, as has been mentioned, to cigarettes. What action will my right hon. Friend take—although not necessarily in these clauses—to make sure that that escalation path cannot be followed?

Dame Andrea Leadsom: My hon. Friend raises an important point. The legislation covers non-nicotine vapes, and unfortunately, as has been pointed out, a number of illicit so-called non-nicotine vapes have up to 30% nicotine content, which has completely undermined the argument for those. Quite clearly, they are designed by the industry to get people hooked on the idea of vaping so that it can get people on to higher nicotine levels in due course. That is why the legislation covers non-nicotine vapes and all tobacco and vaping products.

Preet Kaur Gill: What more can the Minister do about the growing illicit market in vapes? The MHRA’s evidence was interesting; it said that a lot of what is in the notification process is considered illicit, but the Minister did not have the figures and she was going to provide those to us. There is an issue there in terms of triangulation and what trading standards has found to be illicit and not compliant with the notification process. At the moment, the MHRA does not have the powers to withdraw those products; it is down to the provider themselves to remove them from the notification process and then to become compliant and to reapply again. That does not seem to be the right approach, because the manufacturers are marking their own homework in terms of what they are notifying. The Minister also recognised that what might have been notified and what actually comes into the country are very different. There has to be a better way of ensuring that we grip the illicit vapes market—hence the requirement for the notification process to include non-nicotine vapes that contain nicotine.

Dame Andrea Leadsom: The key point is that legal vaping products must be notified to the MHRA. If they are compliant, they go ahead. If they are not compliant, they go away and make themselves compliant. That is how the system works at the moment. With illicit vapes, it is an entirely different issue. I can point the hon. Lady to the evidence. When the age of smoking was raised from 16 to 18, the number of illicit cigarettes reduced significantly, so it is our expectation and hope that the same will be true with illicit vapes.

[*Dame Andrea Leadsom*]

At the same time, as the hon. Lady will be aware, there was an announcement to impose an excise duty on vapes. A benefit of that, which she and I remarked on after the evidence sessions last week, is that we hope that that would enable His Majesty's Revenue and Customs to enter the vape market into the track and trace that already exists for cigarettes and therefore to have much better control over what products come on to the market. I am sure we will talk further about that during the passage of the Bill.

Preet Kaur Gill: On that basis, does the Minister think that the MHRA should have the powers to test a percentage of products that come on to the market, given that we already know that what is being notified to it is non-compliant and given what is coming into the country? I appreciate her comments on the excise duty, but does she have a timescale for when we could see a track and trace system, as we have for tobacco, extended to vapes?

Dame Andrea Leadsom: As the hon. Lady will know, the MHRA is not an enforcement body; enforcement is for trading standards. As I mentioned earlier, there will be new resources for trading standards, as well as new training and guidelines. Also, fines will go direct to local authorities, which employ enforcement officers, so there

will be a huge ramping-up of enforcement on illicit vapes, non-compliant vapes and so on. That is the place for enforcement.

On the MHRA and notification of other types of vapes, there will be powers, and the consultation will take place in due course.

Rachael Maskell: While the Minister is doing the work on vapes, will she also look at nicotine pouches, which are incredibly concerning? We have heard that the strength of the nicotine in pouches far exceeds that in vapes. People are therefore getting a very high dose of nicotine and are sometimes not aware of the level they are getting.

Dame Andrea Leadsom: I am frantically looking through my pack here. Clause 10 covers nicotine pouches, so we will come on to that—[*Interruption.*] The Whip is saying it will be after lunch, if that is not too much of a sneaky “get out of jail” card. With the hon. Lady's acceptance, I will defer that until later.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clauses 8 and 9 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.
—(*Aaron Bell.*)

1 pm

Adjourned till this day at Two o'clock.