

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TOBACCO AND VAPES BILL

Eighth Sitting

Tuesday 14 May 2024

(Afternoon)

CONTENTS

CLAUSES 75 to 81 agreed to.
New clauses considered.
Bill, as amended, to be reported.
Written evidence reported to the House.

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

Saturday 18 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

Tuesday 14 May 2024

(Afternoon)

[SIR GARY STREETER *in the Chair*]

Tobacco and Vapes Bill

Clause 75

Application to Parliament

2 pm

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

The Parliamentary Under-Secretary of State for Health and Social Care (Dame Andrea Leadsom): The clause provides quite simply that, if any measures in this Bill did not apply to the parliamentary estate, they would do so by virtue of the explicit mention in this clause. It simply removes loopholes, and I commend it to the Committee.

Preet Kaur Gill (Birmingham, Edgbaston) (Lab/Co-op): I would never want us to be accused of the damning political adage that it is one rule for them and one rule for everyone else, so of course I support the parliamentary estate being subject to the same regulations.

Question put and agreed to.

Clause 75 accordingly ordered to stand part of the Bill.

Clause 76

Regulations: general

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

The Chair: With this it will be convenient to discuss clause 77 stand part.

Dame Andrea Leadsom: Clause 76 provides that any regulations made under the Bill may make “consequential, supplementary, incidental, transitional or saving provision”.

That is a very good set of words. This enables any regulations to introduce provisions for different purposes, as well as to make different provisions for different parts of the UK.

Clause 77 provides the procedures for making regulations under the Bill. Regulations made by the Secretary of State or Welsh Minister are to be made by statutory instrument. Regulations made by Scottish Ministers are to be made by Scottish statutory instruments.

Preet Kaur Gill: As the Minister says, clause 76 provides that, where regulations are made under the Bill, the regulations may make “consequential, supplementary, incidental, transitional or saving provision”,

and it allows regulations to introduce different provision for different purposes, as well as different provision for different parts of the United Kingdom. The explanatory notes to the Bill cite the helpful example that

“under powers in Part 5 (Notification requirements etc for vaping and nicotine products), different provision may need to be made for Great Britain and Northern Ireland”.

since Northern Ireland uses its own portal for publications. I expect our colleagues in the other place will have their own comments to make about the various consequential and incidental provisions in the Bill, but, as far as I am concerned, I am happy to see the inclusion of the clause.

Similarly, on clause 77, I have no substantial comments to make apart from noting how important it has been to ensure that the important new regulations that we are introducing through this Bill are implemented equally and at the same time across all four nations of the United Kingdom. I echo the Minister’s thanks to Ministers in the devolved nations for the constructive way in which they seem to have engaged with and supported the Bill.

Question put and agreed to.

Clause 76 accordingly ordered to stand part of the Bill.

Clause 77 ordered to stand part of the Bill.

Clause 78

Extent

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

Dame Andrea Leadsom: This clause simply outlines the extent of the Bill: part 1 applies to England and Wales, part 2 to Scotland, part 3 to Northern Ireland and parts 4, 5 and 6 to the whole of the UK. It is a standard clause that helps the measures in the Bill to function effectively, and I commend the clause to the Committee.

Preet Kaur Gill: As the Minister has set out, clause 78 outlines the territorial extent of the Bill. We have discussed many of these discrepancies with earlier clauses, particularly on the sale and supply of tobacco, vapes and nicotine products. I have no further comments to add.

Question put and agreed to.

Clause 78 accordingly ordered to stand part of the Bill.

Clause 79

Commencement

Bob Blackman (Harrow East) (Con): I beg to move amendment 24, in clause 79, page 42, line 16, leave out “and 8” and insert

“, 8 and (*age verification policy*)”.

This amendment to the commencement provisions would mean that NC6 (age verification policy in England and Wales) would come into force six months after Royal Assent.

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

New clause 6—*Age verification policy*—

“(1) A person commits an offence if the person—

- (a) carries on a tobacco, herbal smoking product or vaping product business, and
- (b) fails to operate an age verification policy in respect of premises at which the person carries on the tobacco, herbal smoking product or vaping product business.

(2) Subsection (1) does not apply to premises (“the business premises”) from which—

- (a) tobacco products, herbal smoking products, cigarette papers or vaping products are, in pursuance of a sale, despatched for delivery to different premises, and
- (b) no other tobacco, herbal smoking product or vaping product business is carried on from the business premises.

(3) Before the specified date, an “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy a tobacco product, cigarette papers or a vaping product on the premises (the “customer”) if it appears to the person selling the tobacco product, cigarette papers or vaping product that the customer may be under the age of 25 (or such older age as may be specified in the policy).

(4) After the specified date, an “age verification policy”—

- (a) in relation to a tobacco business or herbal smoking product business, is a policy that steps are to be taken to establish the age of a person attempting to buy a tobacco product, cigarette papers, herbal smoking product or cigarette papers on the premises (the “customer”) if it appears to the person selling the tobacco product, cigarette papers, herbal smoking product or cigarette papers that the customer may have been born on or after 1 January 2009 (or such earlier date as may be specified in the policy);
- (b) in relation to a vaping product business, is a policy that steps are to be taken to establish the age of a person attempting to buy a vaping product on the premises (the “customer”) if it appears to the person selling the vaping product that the customer may be under the age of 25 (or such older age as may be specified in the policy).

(5) In relation to times before the end of 2033, the reference in subsection (4)(a) to the customer being born on or after 1 January 2009 (or such earlier date as may be specified in the policy) has effect as a reference to the customer being under the age of 25 (or such older age as may be specified in the policy).

(6) The appropriate national authority may by regulations amend the age specified in subsection (3) or (4)(b).

(7) The appropriate national authority may publish guidance on matters relating to age verification policies, including, in particular, guidance about—

- (a) steps that should be taken to establish a customer’s age,
- (b) documents that may be shown to the person selling a tobacco product, cigarette papers, herbal smoking product or a vaping product as evidence of a customer’s age,
- (c) training that should be undertaken by the person selling the tobacco product, cigarette papers, herbal smoking product or vaping product,
- (d) the form and content of notices that should be displayed in the premises,
- (e) the form and content of records that should be maintained in relation to an age verification policy.

(8) A person who carries on a tobacco, herbal smoking product or vaping product business must have regard to guidance published under subsection (7) when operating an age verification policy.

(9) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(10) Regulations under subsection (6) are subject to the affirmative resolution procedure.

(11) In this section—

“the appropriate national authority” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the Welsh Ministers,

“herbal smoking product business” means a business involving the sale of herbal smoking products by retail,

“the specified date” is 1 January 2027,

“tobacco business” means a business involving the sale of tobacco products by retail,

“tobacco, herbal smoking product or vaping product business” means a business which involves any one or more of the following—

- (a) a tobacco business,
- (b) a herbal smoking product business, or
- (c) a vaping product business,

“vaping product business” means a business involving the sale of vaping products by retail.”

This new clause introduces a requirement on tobacco, herbal smoking or vaping product businesses to operate an age verification policy covering steps to be taken to establish the age of persons attempting to buy tobacco, herbal smoking or vaping products, or cigarette papers. It reflects provisions in place in Scotland.

Bob Blackman: I rise to support the amendment and new clause tabled in my name. I will save the Committee time and will not go through the amendment in detail, because obviously colleagues have it in front of them. The key point is that the new clause would introduce a requirement on tobacco, herbal smoking or vaping product businesses to operate an age verification policy, covering steps to be taken to establish the age of persons attempting to buy tobacco, herbal smoking or vaping products or cigarette papers. It reflects that which is already in place in Scotland, where mandatory age verification has been a legal requirement for tobacco and vapes since 2017. A survey of independent UK tobacco retailers for Action on Smoking and Health in 2022 found that 83% supported the introduction of mandatory age verification for anyone aged under 25, with only 5% opposing it, and 91% supported it in Scotland, where it is already in force, with only 4% opposed to it.

I think we should take a lead from our colleagues in Scotland on this particular issue. The Scottish legislation is supported by guidance from the Scottish Government and the Government worked with trade bodies to ensure that retailers understood it. The Scottish legislation provides a legal underpinning to the voluntary Challenge 25 scheme, which operates in the rest of the United Kingdom. A voluntary scheme such as Challenge 25 is by definition inconsistent in its application, leaving some customers unsure about whether they will need to provide proof of age. Seeking verification for anyone who looks under 25 is in line with the legislation for alcohol and is supported by retailers and by the Association of Convenience Stores.

One of the key challenges we face in this Bill is that of workers in retail units challenging people about whether they are old enough to buy such products. The new clause would make it clear that they have a requirement to do so, which would be a good defence for them when they are challenged by their customers.

As the explanatory notes to the Tobacco and Vapes Bill set out, the Bill updates the Scottish legislation to ensure that age verification is consistently and appropriately applied in line with the new age of sale restrictions for tobacco products, herbal smoking products and cigarette papers. Ensuring consistency in the application of age verification is just as important for the other nations of the United Kingdom as it is for Scotland. Why should the Scots have this and not the rest of the United Kingdom?

Kirsten Oswald (East Renfrewshire) (SNP): I am grateful to the hon. Gentleman for giving way when he was making such a compelling argument. I am also very grateful to hear him speaking so positively of the Scottish Government. He is almost doing my job for me, so I will not seek to speak on the amendment. I want to make it clear to him that I will not support the amendment and new clause purely because they do not impact on Scotland. That says absolutely nothing about my interest in the principles of what he is setting out.

Bob Blackman: I thank the hon. Lady for that intervention. I am always willing to praise people who do the right thing. Unfortunately the SNP Government do not always do the right thing, as many of us know.

Extending the requirements for Scotland to the rest of the United Kingdom is supported by the vast majority of the general public and of retailers surveyed by ASH in 2024. To quote John McClurey, a retired tobacco retailer from Newcastle who, during his 39 years as a small shop owner, successfully implemented the increase in the age of sale from 16 to 18, putting tobacco out of sight in his shops and introducing standardised packaging of tobacco products:

“Like the communities they serve, retailers support creating a smokefree generation by raising the age of sale one year every year from 2027 onwards. However, I know from experience it will be easier for retailers to implement if age verification was required from anyone trying to buy tobacco who appeared to be underage. This won’t apply to existing adult social smokers only to those who look as though they were born after 2008. It’s popular with the public as well as with retailers and it will be a legal requirement in Scotland, so why not the whole of the UK?”

Preet Kaur Gill: I thank the hon. Gentleman for setting out the case for his amendment. We have already debated clause 79 to some extent, and I raised my concerns that we were not introducing regulations to close the loophole on the free distribution of vapes to under-18s sooner.

On new clause 6 and amendment 24 I recognise the point that the hon. Gentleman is making, which is that a mandatory age verification policy has been in force in Scotland for anyone looking under 25 since 2017. My understanding is that that is working well and, indeed, we also have Challenge 25 here in England and in Wales, although not on a legislative footing. The policy of providing a buffer can only help to ensure that those who are under-age, but who look over-age, are caught and are asked for ID—provided everyone knows where they stand and the Challenge 25 policy is well advertised.

As we have already discussed, the view taken in the design of these regulations is to put the responsibility for age of sale restrictions with the retailer, rather than the customer. The question the hon. Gentleman is raising is whether to make carrying ID effectively mandatory for customers buying cigarettes or vapes. I have a few concerns about that that I would like to raise. First, quite rightly, in order to be consistent with the rest of the regulations, his amendments put the responsibility for such a policy on the retailers. However, the effect of the policy would be to require customers to carry ID in order to buy these products if they were under a certain age. There does seem to be a bit of a disjunct, as that risks legislating twice for the responsibility to make sure that retailers do not sell to people who are under-age.

Does this not suggest that the penalties for breaching the age of sale legislation need to be stronger in order to incentivise retailers to put robust policies in place?

I am slightly concerned that the policy will also remove flexibility when it comes to, for example, shop workers in local corner shops, who know their customers. Would they not end up having to ask people for ID every time, even when they already know they are over-age? Secondly, I just want to ask how the hon. Member envisages this working in the longer term, given that the age of sale for tobacco will rise every year? How will the Challenge 25 buffer be set accordingly? As it stands in his proposals, it would run out in 2033.

My other question is for the Minister. Presumably there has been a conscious decision to not align with the Scottish law on this subject. Can she explain why that decision was taken, on balance, when consistency in the law across Great Britain would surely be beneficial? Moreover, can I ask whether she has discussed this with Ministers in Wales? Once again, I thank the hon. Member for Harrow East for tabling the amendment and I will be interested in the responses to the questions that I have raised.

Dame Andrea Leadsom: I have a lot of sympathy with the point made by my hon. Friend the Member for Harrow East, and with his amendment and new clause 6. The hon. Member for Birmingham, Edgbaston mentioned some of the reasons why they are potentially slightly confusing and also, perhaps, unnecessary. I understand the point about the neatness of aligning to Scotland. The hon. Lady asked whether we have discussed this with Ministers in devolved Administrations and, of course, the answer is yes.

The decision we took is that the proposal that we have is adequate. New clause 6 would introduce a requirement for businesses selling tobacco products, herbal smoking products and vaping products in England and Wales to operate an age verification policy. The policy would establish a customer’s age if they look under the age specified by the new clause. The new clause seeks to replicate the existing requirements in Scotland, and the related amendment 24 would mean the requirement to operate an age verification policy would come into force six months after Royal Assent.

For purchases of tobacco and herbal smoking products from 1 January 2034, when anyone born on or after the 1 January 2009 turns 25, the age verification policy would need to be updated to reflect the new age of sale for tobacco or herbal smoking-related products. That means that a person selling such products from 2034 onwards would be required to take steps to establish a customer’s age if they looked like they were born on or after 1 January 2009. The age verification requirement for vaping products would remain the same—that is, to take steps to establish a customer’s age if they look under 25.

Although I welcome my hon. Friend’s intention to ensure that retailers do not sell to anyone under-age, there is a fine balance to strike. We do not want to place undue burden on those retailers who understand their business and customers by introducing new mandatory age verification policies. It is already an offence to sell tobacco and vaping products to anyone under-age, and that is enforced by trading standards, who will continue

to take an intelligence-led, proportionate approach to enforcing the law through age of sale test purchases. Retailers should continue to take reasonable steps and exercise due diligence to ensure they do not break the law. Most retailers already follow recommended practice and regularly ask for identification from customers, but, as the hon. Member for Birmingham, Edgbaston said, they do not have to do so every single time if they know who the person is and they always buy products at that shop.

Under the new clause, failure to operate an age verification policy could result in a fine of up to £500 for a business on conviction. The Government feel that that is disproportionate and not what we are trying to achieve through the Bill with the introduction of fixed-penalty notices. The on-the-spot fines will complement existing sanctions, allowing trading standards to take swifter action to fine retailers that sell tobacco or vape products to someone under-age.

2.15 pm

The new clause would give the Secretary of State in England and Welsh Ministers the power to publish age verification guidance, which businesses must follow. Again, we feel that that is not needed. We are working closely with retailers and will continue to use the long lead-in time before 2027, when the age of sale of tobacco provisions come into force, to better support retailers in preparing for the introduction and implementation of these changes.

Bob Blackman: One of the clear concerns expressed by retailers—not necessarily the owners of shops but the staff who work in them and sell the products—is that if they can turn round to customers and say, “Look, it’s the law. I’ve got to ask you for your age verification. It is not something I can choose not to do; I have to do it,” that would strengthen their position. It would prevent arguments when they say, “I think you look under 25,” or “I think you look under 21.” That would strengthen their arm and make sure they abide by the law.

Dame Andrea Leadsom: As I say, I have a lot of sympathy for my hon. Friend’s point of view, but he will appreciate that Challenge 25 has been in place for a good long time, and it works reasonably well. It is well understood right across the country, and therefore the Government’s position is that it is not necessary to move to mandatory age verification.

I can also reassure my hon. Friend that we are investing £15 million a year in national anti-smoking campaigns, which will help explain the legal changes that the smoke-free generation policy implements. They will also prepare the public and retailers for those changes. For those reasons, I ask my hon. Friend to withdraw the amendment and the new clause.

Bob Blackman: Given the Minister’s answer, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 79 ordered to stand part of the Bill.

Clause 80

TRANSITIONAL PROVISION

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

Dame Andrea Leadsom: The clause provides a power to make transitional or saving provisions. Transitional provisions address how existing legislation will be phased out or replaced by new legislation, and saving provisions preserve certain rights, obligations or legal consequences from existing statute. Welsh Ministers can make transitional or saving provision relating to the coming into force of clause 27 and schedule 1, which relate to the handing over of tobacco to under-age people in Wales. Scottish Ministers can make transitional or saving provision in relation to part 2. The Department of Health in Northern Ireland can make transitional or saving provision in relation to part 3, and the Secretary of State can make transitional or saving provision in relation to any measures or part that has not been mentioned. This is a standard provision, and I commend the clause to the Committee.

Preet Kaur Gill: I thank the Minister for that explanation. I have no further comments to add.

Question put and agreed to.

Clause 80 accordingly ordered to stand part of the Bill.

Clause 81

CITATION

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

Dame Andrea Leadsom: This clause provides that the Bill may, in due course, be cited as the Tobacco and Vapes Act 2024. This is a standard clause, and I thoroughly commend it to the Committee.

Preet Kaur Gill: I have nothing further to add.

Question put and agreed to.

Clause 81 accordingly ordered to stand part of the Bill.

New Clause 2

TOBACCO PRODUCTS STATUTORY SCHEME: CONSULTATION

“(1) The Secretary of State must consult and report on the desirability of making a scheme with one or more of the following purposes—

- (a) regulating, for the purposes of improving public health, the prices which may be charged by any manufacturer or importer of tobacco products for the supply of any tobacco products;
- (b) limiting the profits which may accrue to any manufacturer or importer in connection with the manufacture or supply of tobacco products;
- (c) providing for any manufacturer or importer of tobacco products to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those products (whether on the basis of net prices, average selling prices or otherwise) to be used for the purposes of reducing smoking prevalence and improving public health.”—(*Bob Blackman.*)

This new clause would require the Secretary of State for Health and Social Care to consult on proposals for regulating the prices and profits of, and to raise funds from, tobacco manufacturers and importers.

Brought up, and read the First time.

Bob Blackman: I beg to move, That the clause be read a Second time.

The clause stands in my name and the names of other hon. Members. Clearly, its concern is consultation on proposals for the regulation of profits from big tobacco—a recommendation of the all-party parliamentary group and of Javed Khan’s excellent report. The provision is designed to look at the profits of big tobacco, but big tobacco would not be allowed to pass on any calculated levy to its end customers. At the moment, it makes a veritable fortune every single year from selling its products. The new clause would limit big tobacco’s profits and, in doing so, its ability to market its products, but there would be no impact on, for example, tobacco taxation. My right hon. Friend the Minister might be concerned that the measure might delay the Bill, but the clear intention is to give the Secretary of State the power to conduct such a consultation; it would not prevent the Bill from going on to the statute book or from being enacted.

There has been a lot of debate over this issue for a long time. The Treasury appears to decline to do anything in this regard for some reason, but in my view, and that of the all-party parliamentary group, it is clear that this consultation could be done. The money raised from any such regulation could be directed at the national health service for smoking cessation services and to combat the effects of tobacco and other products, ensuring that people who wanted to quit could be assisted to quit.

I would welcome the Minister’s views. I do not want in any shape or form to impede the progress of this legislation, but I do want to get on record that I will continue to press for this provision, even if it is not agreed today, because I think it will bring into the health service much-needed money from big tobacco to help combat the impact of its products.

Preet Kaur Gill: I thank the hon. Member for Harrow East for raising the issue. As we know, separately from the Bill the Government are also introducing a one-off increase to tobacco duty as well as a vaping excise duty. I know that similar proposals to this one have been raised with the Government in the past, through the great work of the APPG on smoking and health. Previous Ministers expressed concerns that the proposals as previously drafted would serve to make tobacco companies pass on the cost to consumers in the shops. Undoubtedly, none of us wants any policies introduced that would come at the expense of consumers but miss their target: the tobacco giants. When it comes to addiction, we know that our most deprived communities are most likely to smoke. I am conscious of making their lives any more difficult. That said, I am certainly no proponent of any policy that would make tobacco cheap and easily available, and indeed it was a Labour Government who brought in a specific tobacco duty in the 1970s in the first place.

I understand that the revised proposal includes provisions to ensure that the Government can raise additional revenue from the enormous profits of tobacco producers, while ensuring the costs are not passed on. It is a complicated proposal that would require a team of officials within the Department of Health and Social Care to conduct market analysis, and for a tax to be set at a rate to hit those profits while regulating the prices in shops. Undoubtedly, something with as many moving

parts as that would require thorough analysis and consultation, and I recognise that that is what the clause seeks to do. Given the existing levers we have available to us in tobacco duty and the focus we are trying to put on delivering a smoke-free future, I am reluctant to introduce something to the statute book that would distract from that priority. Through the Bill, there is already much consultation to be getting on with: on vapes, flavours, packaging and much more besides. I congratulate the hon. Member and the APPG on their excellent work, but this is not our priority at present.

Mary Kelly Foy (City of Durham) (Lab): We heard during our evidence session about the immense damage that is done to our health, wellbeing and the economy, costing the public finances nearly double the amount raised by tobacco taxation. We also heard about the inordinate profits of the tobacco industry and about the idea of a polluter pays levy, which could raise up to £700 million a year. I hope Members would agree that that would help to deliver the smoke-free future that we all want to see.

I am vice-chair of the APPG and we have called for this proposal for many years, and it was great to see it in Dr Khan’s recommendations. The levy is popular and feasible and, as the report from ASH shows, is supported by voters of all political persuasions and the majority of tobacco retailers.

The tobacco manufacturers have the money; they should be made to pay to end the epidemic that their products are causing for our communities. However, I understand that there is still a nervousness from the Treasury and a reluctance on both sides to accept the new clause at this time. I hope that it will continue to be explored, so that the onus is put on to big tobacco, not the taxpayer, for paying for the damage caused by these products.

Dame Andrea Leadsom: I also pay tribute to the all-party group, and to the work of my hon. Friend the Member for Harrow East over so many years; the effort that he has made to get us to this point really is incredible, and I commend all hon. Members who have been a big part in trying to stamp out this horrible trade and its effect on young lives in particular. I have a lot of sympathy for my hon. Friend’s request, and I hope that I can reassure him that the Government are determined to abide by the polluter pays principle, while not at this point wanting to accept an amendment that introduces a new tobacco levy, essentially because it would take years to bring into action.

The Treasury consulted on a tobacco levy in 2015 and, as set out in the consultation response, the Government’s preferred approach remains to continue with the proven and effective model of dealing with tobacco products through increases in tobacco excise and duties. As all hon. Members know, that generates up to £10 billion a year, which can support a full range of public services, including public health and the NHS. The Department of Health and Social Care will continue to work with the Treasury to assess the most effective regulatory means of making the industry pay for the undoubted and enormous harms that its products cause to our society.

Alongside the Bill, we are taking strong action to reduce the affordability of tobacco, which is an effective measure to trigger smoking cessation. The UK already

has some of the highest tobacco taxes in the world. The World Health Organisation recommends that total taxes on tobacco are at least 75% of the retail price on typical cigarettes. The UK comfortably meets that target, with taxes at around 80% of the selling price. The Government have also committed to a tobacco duty escalator, which increases duty by retail price index inflation plus 2%, at each Budget until the end of the current Parliament.

Data from the Office for National Statistics shows that the average price of a pack of 20 king-sized cigarettes has almost tripled in the past 15 years, from £5.37 in March 2009 to £15.66 in March 2024, and I can say that, when I took up smoking at age 14, they were about £1.50 a pack—I know I'm old, but that is an impressive escalation in the price. Cigarettes are also subject to a minimum excise tax, which sets a minimum amount of duty collected on a pack of cigarettes, discouraging manufacturers from selling cheap cigarettes by reducing the profitability of cigarettes sold at or below the minimum excise tax trigger price. The new minimum excise tax is £8.46 for a pack of 20, and applies to a pack of 20 cigarettes sold at or below £12.86.

We are going still further on tobacco tax. As announced in spring Budget 2024, there will also be an additional one-off increase for all tobacco duties, which will come into force on 1 October 2026, when the vaping duty comes into effect. From a financial perspective, that will incentivise people to continue to choose vaping over smoking once the new excise duty on vaping products comes into force. We currently do not believe that a tobacco levy would be an effective way to further protect public health or raise revenue. It would add complexity to the system and impose additional costs, and it would be unlikely to raise the amount of revenue envisaged due to the volatile nature of the tobacco market.

2.30 pm

Bob Blackman: If I may, my right hon. Friend must have smoked for only a brief period because she certainly does not look old. Most of what she said was about the end customer and the cost to the end customer. Every time the Government raise tobacco duty, that makes the price for the end customer more expensive. What we are talking about is a levy on the profits of the big tobacco companies, which they would not be allowed to pass on to the end customer by increasing the price. That reduces their profit and potential to inflict more damage on the health of the country—that is what we are looking at. It is estimated that £700 million could be raised through such a levy. Of course, that would be only a dent in their profits, frankly, but it could be directed towards public health measures. Surely that is something that my right hon. Friend will want to look at—if not today, because obviously we do not want to add to the complexity of the Bill, then in the future.

Dame Andrea Leadsom: I assure my hon. Friend that I am very taken with that proposal—I very much like it—but I make the point to all hon. Members that this is just not the appropriate place for it. As a matter of fact, as he will know, the Treasury can consult on and impose a tobacco levy at any point; it is not necessary to include powers in the Bill. As I have been saying, it would be complicated and would require consultation, and it could take several years to materialise. Our preference for the time being is to continue with high tobacco

taxation and excise as the best means and most efficient process to generate finances that can be put back into public services. The Department of Health and Social Care obviously liaises closely with the Treasury on its plans. I have a lot of sympathy for my hon. Friend's proposal, but I ask him to not press it to a vote on this occasion.

Bob Blackman: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 3

NOTIFICATION FEES

“The Secretary of State may by regulations vary notification fees for novel tobacco, vaping and other nicotine products in order to include costs of enforcement and testing.”—(*Bob Blackman.*)

This new clause would enable the Secretary of State to vary the level of notification fees collected by the competent authorities in order that fees may be used to cover the costs of enforcement including product testing.

Brought up, and read the First time.

Bob Blackman: I beg to move, That the clause be read a Second time.

It is my show this afternoon! New clause 3 looks at the notification fees collected by the authorities, so that fees can be used to cover the costs of enforcement, including product testing. It would enable the Secretary of State to change those fees by regulation, and to look at what big tobacco and the vaping industry are doing to introduce novel products.

We have talked throughout the Committee about the ability of tobacco and vaping companies to vary their products considerably. We are of course trying to ensure that we capture everything we can so that we future-proof the legislation. New clause 3 would future-proof elements of the notification fees, raise some money and act as a barrier, frankly, to companies trying to flex their products to avoid the whole point of the legislation, which is to create a smoke-free generation and prevent young people from starting to vape. The Committee has already heard about the attitude and approaches being taken, particularly now by vaping companies, to market their products. The new clause would give power to the Secretary of State to do something about it by preventing those companies from bringing products in that no one wants to see on the market.

Preet Kaur Gill: The new clause relates to the testing of nicotine products and seeks to allow notification fees to be used for more than just the administration of that scheme but a wider, more comprehensive regulatory process, which we have supported. We have discussed clauses 71 to 74 on modifying the notification scheme to include non-nicotine vapes and extend to other nicotine products. Will those clauses allow for the notification fees regulations, which set fees at £150, to be amended accordingly?

I commend the hon. Member for Harrow East, as ever, for his work. I must remark that I rather regret that we have scheduled a debate on funding a notification scheme to test products before agreeing on the merits of such a reformed scheme itself. I look forward to coming to that

[Preet Kaur Gill]

in detail with two of my new clauses shortly, but I note that I do not necessarily agree with the Member that it should be a Medicines and Healthcare products Regulatory Agency competence to conduct enforcement. My issue with this process has been how products are getting on to the market in the first place. I would not want to disrupt or diffuse responsibilities for cracking down on the very real issue of the widespread market in illicit vapes. I think that that should still primarily be a matter for trading standards on the ground. None the less, I commend the Member for tabling the new clause, and I hope that he will support our proposals on testing.

Dame Andrea Leadsom: I am grateful to my hon. Friend the Member for Harrow East for bringing this discussion before the Committee. He has given the Bill a great deal of thought, and I am so grateful to him for that. His new clause seeks to change the level of fees for novel tobacco, vaping and other nicotine products, so that they can be used to pay for enforcement and testing costs as well. I support the ambition of the new clause but, as he will know, we already have the ability to test products and to take decisive enforcement action where and when illegality occurs. The notification system, as he will know, is not an enforcement tool and cannot currently be used as such. It is the responsibility of trading standards to ensure compliance of vaping products and to remove non-compliant—that is, illicit—vapes from the market.

To help to tackle illicit vapes, we announced new funding last year to set up an illicit vaping enforcement unit to gather intelligence and conduct market surveillance. This programme of work, led by National Trading Standards, is helping to stamp out criminal activity and disrupt illicit supply, and we have been testing products as part of it. As colleagues are aware, we also recently announced £30 million of new funding per year for enforcement agencies. This will crack down on illicit tobacco and under-age tobacco and vape sales to support the regulations put forward in the Bill. For those reasons, I hope that my hon. Friend will not push the new clause to a vote.

Bob Blackman: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 7

RETAIL LICENCE FOR SALE OF TOBACCO, VAPING AND NICOTINE PRODUCTS

“(1) The Health Act 2006 is amended as follows.

(2) After section 13 (Power to amend age for sale of tobacco etc.) insert—

“13A Retail licence for sale of tobacco, vaping and nicotine products

The Secretary of State may by regulations introduce a scheme in England to require a person to obtain a licence before selling tobacco, e-cigarettes, novel nicotine products and related goods.”—(*Bob Blackman.*)

This new clause would enable the Secretary of State to introduce by regulation schemes to require the licensing of sale of tobacco, vaping or nicotine products.

Brought up, and read the First time.

Bob Blackman: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 8—*Sale of tobacco, vaping and nicotine products*—

“The Secretary of State may by regulations limit the places in England where tobacco, vaping or nicotine products are available for retail sale.”

This new clause enables the Secretary of State to limit by regulation where tobacco, vaping or nicotine products can legally be made available for sale.

Bob Blackman: There is a degree of repetition in this. New clauses 7 and 8 relate to where tobacco products are sold and the licensing of them. There is a genuine debate, in both the industry and the House, about whether we should have a licensing scheme for tobacco, vaping and other nicotine products. These two new clauses would allow the Secretary of State to introduce regulations both on a licensing scheme and to limit the products that would be made available for sale in particular premises. The whole purpose behind this provision would be to say that the individuals who are selling these products would have to apply for a licence. Presumably, after a consultation, there would be a licence fee. That would add to the ability of the enforcement agencies to know that these products were properly licensed and being sold from licensed premises.

There is of course the issue that this could limit the number of retailers that would be able to sell such products. One concern that I have in this regard is not so much on tobacco but on vaping. We have seen, up and down the country, the rapid growth of stores selling just vaping products. They have—without doubt, without question—been selling to younger people, and we are concerned about the rapid growth of those particular areas.

There has been quite considerable legislation limiting tobacco sales over the years. We can go back over the age of sale. We can talk about the advertising displays. We can talk about keeping the products literally behind shutters so that people have to ask for the products rather than their being openly and clearly available. The two new clauses would get us to a position whereby there would be a requirement for the proper regulation of those markets. I know that the intent behind the Bill is to create a smoke-free generation, but we are taking on the vaping issue as well. At this stage, we propose that, if such a scheme were to be introduced, the Secretary of State would need to consult on those issues. I do not intend to prevent the Bill from progressing, but the Secretary of State will need to consider these things, whether during the later stages of the Bill or subsequently.

Preet Kaur Gill: I do not have much to add, but note that when the Bill was introduced some in the tobacco industry lobbied MPs to include a licensing scheme for vapes only. It would be an egregious situation if we were to take a stronger stance on vapes than on tobacco, which is the real killer. I suspect they hoped for the inclusion of something like that primarily because it would slow the Bill down. I thank the hon. Member for Harrow East for tabling a more balanced new clause, which would introduce licensing schemes for tobacco products as well as for nicotine products and vapes.

I have some questions for the Minister. Will she set out why the Government have not opted to set up a licensing scheme for tobacco and vapes? We have a licensing scheme for alcohol in England and Wales, but the Government have never sought to extend it to tobacco, although it would help us to identify shops that sell the products and streamline our enforcement efforts. I appreciate that many of sanctions related to licensing that are often cited, such as the power to take a licence away, are perhaps a less strong argument in relation to this Bill, because we have restricted premises and restricted sales orders, but I am interested in the Minister's views.

On illicit products, the Government have introduced a track and trace system for tobacco, which is a useful component in monitoring the flow and patterns in the trade in tobacco products around the country. Given the improved provisions for product IDs, which will come into effect for products entering the country when the new vaping excise duty is introduced, we remarked in Committee that this could be an opportunity to look at setting up something similar for nicotine and vaping products.

I fully appreciate the concern of the hon. Member for Harrow East that enforcement will be crucial to the Bill's success, but my view is that our priority must be to make a success of the enforcement regime that the Bill introduces before considering the case for further regulation. There probably will be a case for further regulation in future.

Dame Andrea Leadsom: I am grateful to my hon. Friend the Member for Harrow East, and to the hon. Member for York Central, who proposed a similar licensing scheme; other amendments that have not been debated also proposed the creation of a licensing scheme.

I was frank this morning, and I will be again: the proposal sounds like a licence for those with licences to squeeze out those who cannot get licences and therefore to build more market share for themselves, enabling them to funnel their energy into getting more children addicted to nicotine. That is my personal view. We can debate whether that is the likely result, but it seems extraordinary that the vaping industry should be so in favour of licensing when, on the face of it, it is so clearly against its interests. I find its backing of it quite cynical.

From a practical point of view, His Majesty's Revenue and Customs already operates a track and trace system for tobacco products, which tracks their movement from supply through to sale. Every business involved in the supply of cigarettes and hand-rolling tobacco must be registered on the tobacco track and trace system, and HMRC can penalise businesses for non-compliance, including by removing their ability to legally buy or sell tobacco products, in the most serious of cases.

As Members will recall, in oral evidence the Chartered Trading Standards Institute told the Committee that HMRC's track and trace scheme gives many of the same benefits as it would want from a licensing scheme. The Government also plan to introduce a new excise duty on vaping products. HMRC is currently consulting on the new vaping duty, and that consultation has a question about whether to introduce a track and trace system for vaping products to regulate the supply chain. That consultation will close on 29 May, and I feel it

would be inappropriate to bring forward a licensing scheme for vapes when the ability to track these products from supply to sale is currently under consideration.

2.45 pm

More widely, as we have heard in Committee, trading standards already has a range of levers with which to tackle illicit tobacco and vapes and under-age sales, and to punish those irresponsible retailers that do not follow the rules, and that includes imposing a restricted premises or sales order for repeat offences. As hon. Members know, that would prevent businesses or individuals from selling tobacco or vaping products for a set amount of time. To strengthen this deterrent, the Bill also introduces fixed penalty notices, which we have already debated. The measures provide benefits similar to any proposed licensing regime, so we do not think that licensing is necessary or proportionate, and in fact, as I have said, my concern is that it would encourage the vaping industry to improve its profitability.

Finally, the new clauses may impact on current adult smokers. When designing the Bill, we have been careful not to penalise current adult smokers. Instead, we are taking strong action to help current smokers to quit, including by providing an additional £70 million a year to local authority-led stop-smoking services, investing in a new incentives programme to support pregnant women and their partners to quit, and providing £15 million a year for stop-smoking campaigns. For those reasons, I ask my hon. Friend not to press his new clauses to a vote.

Bob Blackman: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 9

PROHIBITION OF SPONSORSHIP: VAPING SUBSTANCES CONTAINING NICOTINE

“(1) A person who is party to a sponsorship agreement is guilty of an offence if the purpose or effect of anything done as a result of the agreement is to promote a vaping substance containing nicotine in the United Kingdom.

(2) A sponsorship agreement is an agreement under which, in the course of business, a party to it makes a contribution towards something, whether the contribution is in money or takes any other form (for example, the provision of services or of contributions in kind).

- (3) A person does not commit an offence under this section—
- where it is alleged that the purpose of what was done as a result of the agreement was to promote a vaping substance containing nicotine in the United Kingdom, if the person did not know, and had no reason to suspect, that that was its purpose, or
 - where it is alleged that the effect of what was done as a result of the agreement was to promote a vaping substance containing nicotine in the United Kingdom, if the person could not reasonably have foreseen that that would be its effect.

(4) A person does not commit an offence under this section if he did not know and had no reason to suspect that the contribution referred to in subsection (2) was made in the course of business.

(5) This section comes into force on such day as the Secretary of State may by order appoint.

(6) The day specified may not be later than 1 June 2026.”—(*Kirsten Oswald.*)

Brought up, and read the First time.

Kirsten Oswald: I beg to move, That the clause be read a Second time.

As Members can see, new clause 9 seeks to stamp out the advertising of vape products in sports. We can all—or perhaps just those who spend more time than we should watching football—think back to days in the past when our favourite football teams ran about the park with cigarettes advertised on their shirts. We would find that quite unthinkable now; it would just be unacceptable. Similarly, we would find it unacceptable if our sports stadiums were named after tobacco companies or cigarette brands, but it is still possible—in fact, it is happening—that sports kits and sports grounds are sponsored by vape companies. I cannot think that should be acceptable when we look at the comparators, and I do not think sports is an appropriate place for vape advertising.

In the evidence sessions, experts told us about the deeply challenging impact on young people of vapes and vaping. We know that it impacts on their education as well as on their health. We heard this morning in the recent statistics from ASH that a very significant proportion of our young people are vaping. We need to deal with that. The vast majority of those young people have never been smokers, so this is not vaping for the purposes of smoking cessation, but a new addiction that has taken hold. It is our responsibility to try to deal with that. We will have to deal with it while being aware of the incredible and fast-moving marketing and product development that the industry has shown it is all too capable of bringing to bear. We also heard from the chief medical officers, who were uniformly keen that sports should be a positive influence. Anyone can go back and read the transcripts to see how they variously described it, but that was certainly the order of the day.

Smoking cessation is important, and smoking cessation and sport are things that can be positively connected, but that is very much not what is happening. We need to be clear that young people are seeing sports and vaping together, when we really should be taking steps to prevent young people who have never smoked from seeing vaping as something they may want to do. I have heard others say that now is not the time to do this—that we should not use this Bill. I have to say that yes, this is absolutely the time for us to do it. If it is not this Bill, then I really begin to wonder what on earth would be the vehicle for us to take this step. This is the time.

People may be fed up of me speaking about this—I am almost fed up of me speaking about this. I have spoken about this for years, on and on and on, but I am going to keep speaking about it until it is fixed. I want the Committee to think carefully about it. I am sure Committee members may have noticed that, through whatever stroke of good luck, I have had the first question in the last two Prime Minister's questions, and I have asked the Prime Minister to think very carefully about this issue. It is something that is very important for all of us in this place to do. I hope we are now getting to the point where we agree that it is time for us to act, that this is the vehicle where action is best placed and that we should put a stop to vape advertising in sports, once and for all.

Bob Blackman: I thank the hon. Lady for tabling the new clause. We will come to further new clauses that deal with advertising for vaping products. We are clearly now in the position whereby if anyone suggested that

football teams should have tobacco advertising on their shirts, they would be laughed out of court. That is equally true in all the other circumstances that the hon. Lady described.

I have a lot of sympathy with this proposal, but I am slightly concerned that it is limited to particular sporting events. In my view, we need a comprehensive ban on the promotion of vaping products. When the chief medical officer gave evidence to the Committee, he rightly said that if you smoke, it is safer to vape, but do not take up vaping. We should not be allowing vaping companies to advertise their wares, particularly to younger people. As I said this morning, 7.6% of young people aged 11 to 17 are regularly vaping. That is a serious concern, because they will be addicted to nicotine and will probably have to escalate their nicotine demand as time goes on.

My concern is that the new clause does not go far enough. The hon. Lady has raised the issue on several occasions, and is rightly banging the drum. I agree with her: it is a disgrace. I think I am right in saying that Blackburn Rovers football club just agreed a sponsorship deal for their shirts with a vaping product, which is a great shame, but it has chosen to do that.

The chief medical officer also said that, right now, the vaping industry does not have a product that doctors could prescribe to help people to quit smoking. That is a challenge for the industry. If it is serious about encouraging people to quit smoking, it needs to develop a product that doctors can prescribe and help people to quit smoking. If it is not going to develop that product, that demonstrates that all it is trying to do is to hook people on to nicotine.

Kirsten Oswald: The hon. Gentleman is generous in taking my interventions. I am not entirely sure that these two things are totally connected. He is quite right that the vaping industry has questions to answer, but I do not think that has anything at all to do with whether it should be okay to advertise vaping companies and vaping products on football shirts, on sports stadiums or in any other way that is proximate to sport. We need to be clear that this practice specifically needs to be stamped out. On the questions the vaping industry has to answer, I am sure that the hon. Gentleman and I have the same ones; we can crack on and get them answered, but let us not not do this.

Bob Blackman: I have a lot of sympathy with what the hon. Lady asks for. I ask my right hon. Friend the Minister, in dealing with this new clause and the other new clauses about advertising, to go away and come up with a comprehensive series of amendments that will ban advertising for vaping products in their entirety—not just in sports stadiums and not just on sports shirts, but comprehensively, right across the piece. We can then all support that and make sure we deliver it in the Bill.

Preet Kaur Gill: I thank the hon. Member for East Renfrewshire for tabling the new clause. We absolutely share her concern: we must ensure that children are not exposed to marketing and branding that encourages them to vape. I echo the comments of the chief medical officer: if you do not smoke, do not vape. These are not products for children, and we are determined to crack down on companies trying to addict a new generation to nicotine. The principle that the hon. Lady has raised

is really important, which is exactly why the previous Labour Government legislated to end sponsorship by tobacco companies.

Although sponsorship for vapes is not prohibited outright, as it is for tobacco, there are clear restrictions on how vapes and nicotine products can be marketed at and advertised to children. For example, the 2016 regulations prohibit e-cigarette product placement or any sponsorship promoting e-cigarettes on radio and TV programmes, where they are most likely to be widely seen. Most crucially, they ban ads for nicotine-containing vapes from most online media, including social media. The very limited exception to that is factual, not promotional, claims on companies' own websites.

Why has the Minister not aligned the legislation in this respect with the extension of other regulations that we have discussed in Committee? Elsewhere, non-nicotine vapes and other nicotine products are essentially treated under the same regulations as those that affect nicotine vapes.

I again thank the hon. Member for East Renfrewshire for sharing her concerns, which I fully appreciate. I hope the Minister takes this proposal away and looks at it more closely. The restrictions on broadcast sponsorship aside, I would have expected her to be able to share more comprehensive data from the regulators showing what children are being exposed to and where. Will she address that head on and write to us with more detail if she needs to? In the meantime, my greatest concern remains promotions in store and on social media.

Kirsten Oswald: The hon. Lady says that Labour is determined to crack down; well, here is her opportunity. She is not cracking down if she does not deal with this issue. She says there are clear restrictions on how these products can be advertised or marketed to children, but children can see football strips and sports stadiums. I do not know about anybody else's children, but mine watch football on the television, and they can see what is advertised on football strips. I would like her to take that thought away with her.

Preet Kaur Gill: I thank the hon. Lady for that intervention, but as I said my greatest concern remains promotions in store and on social media, because that is where lots of young people consume this information. My view is that we need to get on with cracking down on the companies that deliberately sell these products to children in the first place.

Nickie Aiken (Cities of London and Westminster) (Con): I fully support what the hon. Member for East Renfrewshire says about sports marketing and vape companies. I pay tribute to my hon. Friend the Member for Sleaford and North Hykeham for the work that she has been doing in this policy area, and I fully support what my hon. Friend the Member for Harrow East just suggested.

With this Bill, we have perhaps a once-in-a-lifetime opportunity to send a clear message to the tobacco companies. More importantly, we can say to young people, our children and parents generally, "Do not take up vaping." Vaping has always been meant to be about stopping smoking, but sadly it has become a stand-alone product. I was shocked when I walked

through my neighbourhood of Pimlico last week and saw that we now have a huge stand-alone vape shop that sells only vapes.

The new clause seeks to do the right thing, but it does not go far enough, so I ask the Minister whether we can step back, before Report, to understand what the Government can do to send a clear message about all advertising, marketing and sponsorship across the whole nation, whether it is TV or radio advertising or any form of sports sponsorship. We have to treat vapes as we treat tobacco.

Dame Andrea Leadsom: I thank all hon. Members for this discussion. I have to say that I agree with them. It is extraordinary that vapes are advertised and promoted in places that are seen by children. I pay tribute to the hon. Member for East Renfrewshire for her determination on this matter. She and I were discussing earlier the fact that we both know teenagers who tell us that in many cases it is not one in five vaping but more like four in five. I think that will resonate with a number of hon. Members, so we have to do everything we can.

I also pay tribute to my hon. Friend the Member for Sleaford and North Hykeham, who I believe is the only paediatrician in the House. She has done so much to seek to improve all health issues for children, but she is particularly passionate about this area. She is away on a trip with the Health and Social Care Committee, quite rightly, but I regret that she cannot be here to debate this issue. I know that she would have strong views; I have heard her speak powerfully about the need to clamp down on advertising and sponsorship.

3 pm

I agree with those who say that new clause 9 looks at sponsorship only. New clauses 15, 19, 20 and 21, tabled by my hon. Friend the Member for Sleaford and North Hykeham, look at the whole issue of tobacco and vape advertising, as well as sponsorship. New clause 9 would make it an offence to knowingly enter into a sponsorship agreement that promotes vaping substances containing nicotine in the course of a business.

I am sympathetic to the intent of the hon. Member for East Renfrewshire. However, she will appreciate that the advertising and promotion of nicotine vapes is already heavily restricted by existing regulations, including a ban on advertising on television and radio, and through the internet or commercial email. We know that vaping products can still be promoted in some places, such as billboards or posters, but that marketing activity must adhere to strict codes set out by the Advertising Standards Authority. For example, it must be socially responsible and not target, feature or appeal to children—cue a round of laughter. I have written recently to the ASA to ensure that it is enforcing the existing regulations, and I have sent a copy of the reply to all Committee members.

However, I am mindful of the Committee's clear desire for the rules on advertising and sponsorship to be equally strong for both tobacco and vapes. Building on the stringent restrictions already in place, I commit right now to explore formal steps we can take to further restrict vape advertising and sponsorship, in line with the spirit of new clause 9 and the others I just mentioned. I will revert with further updates on proposals on

Report and Third Reading in the Chamber. With that, I hope that the hon. Lady does not wish to push her new clause to a vote.

Kirsten Oswald: I am grateful to the Minister for what she said. I am not unsympathetic to how she has set out her logic, but I would be more comfortable if there was something more than a commitment to explore formal steps to impose further restrictions. What does that mean? I do not know whether the Minister is able to tell me or whether it is in order for me to ask. I want it banned. [HON. MEMBERS: “We all do.”] I want it banned in the field of sports, and I am open to it being banned in all the other fields that have been mentioned. Committing to explore formal steps to further restrict it seems slightly less than certain to me. Is the Minister able to give me a little more certainty? I would be happy to withdraw the new clause if I were certain that it was going to be contained in a Government amendment, for instance. I just want to make sure that the issue is dealt with once and for all.

Dame Andrea Leadsom: I would like to give the hon. Lady the reassurance that I will be coming forward with proposals from the Government to address the issues that have been raised.

Kirsten Oswald: On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 11

TESTING OF SAMPLES OF NICOTINE-CONTAINING E-CIGARETTE PRODUCTS

“(1) Regulation 36 of the Tobacco and Related Products Regulations 2016 is amended as follows.

(2) At end insert—

“(12) The Secretary of State may—

- (a) approve and monitor one or more laboratories (“approved laboratories”) which must not be owned or controlled directly or indirectly by the tobacco or e-cigarette industry; and
- (b) arrange for an approved laboratory to verify the product requirements referred to in this regulation.

(13) For the purposes of enabling the Secretary of State to perform functions under paragraph (11)(b), a person who produces e-cigarettes or nicotine-containing liquids, or manufactures e-cigarettes or nicotine-containing liquids for export must provide to the Secretary of State (or to such person as the Secretary of State may specify) such samples, at such times and intervals and from such sources, as the Secretary of State may reasonably require.”

(3) The Secretary of State may by regulations make provision that is consequential on this section.”—(*Preet Kaur Gill.*)

This new clause enables the Secretary of State to approve laboratories for the purpose of testing product requirements of nicotine-containing vaping products set by the Tobacco and Related Products Regulations 2016 and to require manufacturers to provide samples for testing.

Brought up, and read the First time.

Preet Kaur Gill: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 13— *Report on the powers of the Medicines and Healthcare products Regulatory Agency: vaping and nicotine products*—

“(1) Within 12 months of this Act receiving Royal Assent, the Secretary of State must lay a report before Parliament examining the case for giving the Medicines and Healthcare products Regulatory Agency (the MHRA) the explicit power to—

- (a) request samples and test vaping and nicotine products as part of the notification scheme; and
- (b) recall and remove from the list of notified products vaping and nicotine products which do not comply with product standards.

(2) The report should also examine the case for a requirement for local trading standards authorities to notify the MHRA of any instances where vaping or nicotine products are being sold which—

- (a) have not been notified to the MHRA; or
- (b) do not comply with product standards.

(3) The Secretary of State may by regulations give effect to any recommendations made in the report.

(4) Regulations under this section—

- (a) shall be made by statutory instrument; and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

Preet Kaur Gill: I rise to speak to new clauses 11 and 13 on the testing of nicotine-containing vape products. Earlier we debated clause 73, which will allow Ministers to create new exceptions to publication as part of the notification scheme. We of course welcome those new powers, which represent a concession on the Minister’s part. However, the current notification process, which is what products must go through to get on to the UK market, is not as robust as it should be for nicotine-containing vapes.

As we have said, youth vaping is a serious 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 ASH, the number of children aged 11 to 17 who are vaping regularly has more than trebled to more than 140,000 British children. Meanwhile, one in five children have now tried vaping.

This issue is not only a concern in itself, but there is the issue of whether all these products are safe and whether they are what they say they are. I have raised serious concerns, for example, about the fact that children are puffing on 0% vapes that actually do contain nicotine, which gets them accidentally addicted. This is something that we discussed at the evidence session and that goes to a fundamental question about the MHRA’s role in the regulation of vapes. Is the MHRA really only the administrator of the notification scheme, or should it have a clearer responsibility to regulate and to take responsibility for the safety of vaping products?

Clause 73 indicates that the Minister agrees that it should. This is something one would expect the MHRA to take an interest in. Vapes are a product with clear consequences for the health of the population. There are risks, and some of the long-term health consequences of sustained vape use are not properly understood, but the Government’s policy is effectively to recommend this product as a stop-smoking aid. The Government, therefore, have a responsibility to be able to say with

confidence that the products they legally allow on to the market are what they say they are and are safer than smoking.

We heard evidence from Dr Squire, the chief healthcare quality and access officer at the MHRA. It was an interesting discussion but, when it came to the notification process, what I took away was the fact that she could not say, “This is an absolutely robust system that keeps everybody safe,” and, “That is why the Bill is important.” I supported clause 73 to provide exceptions to publication, which would allow policies to be set where the MHRA would refuse to publish the notification for products that would make them available for legal sale. My concern, however, is about what is missing from the legislation to give the MHRA the information it needs to say confidently whether a product is actually safe.

I want to be clear in case the Minister raises it: new clause 11 is not about undermining the enforcement role of trading standards teams. After a product gets to the market, trading standards proactively ensure that potentially dangerous products are not stocked on shelves, and we have the yellow card scheme for customers to report an adverse reaction to a vaping product. Who is monitoring the long-term risks of these products? I doubt they would be caught by either trading standards or the yellow card scheme, but that is another question.

In relation to new clause 11, however, what I am talking about is the screening of products before they get to the UK market to enable the MHRA to have the information it needs to refuse a notification publication, even if the company has, on paper, met the requirements. I appreciate that the exceptions in clause 73 are not yet defined, but the MRHA does not have the powers to gather the information it needs in the first place in order to make those exceptions. As Dr Squire admitted herself, there are cases right now of products getting on to the market that do not match the product registered through the notification scheme. Those products could have tank sizes that are too large; they could include dangerous chemicals or include dangerously high nicotine strengths.

Our fundamental concern is that these products are now extremely popular with children. That is why I contend that the MHRA should have additional powers to test a proportion of products to ensure that they comply with their notifications. I think any outside observer would contend that that is common sense. The Secretary of State has testing powers for tobacco products, so why not for vapes? Will the Minister therefore support my new clauses, which seek to address that through this Bill? This is not just about the market as we know it today; this is about safeguarding the future of vapes to ensure that consumers can have confidence in those products and that we, as legislators, can have confidence in the products that we are recommending as stop-smoking aids. That is why I commend new clause 11 to the Committee.

Finally, new clause 13 would require the Secretary of State to report on some of the new powers on testing that I have just described, as well as on another power that the MHRA does not have at present, which is to remove notifications from publication. Currently, this power rests with the Secretary of State in the Tobacco and Related Products Regulations 2016 to recall a product if it is deemed to pose a serious risk to human health. This is a high bar. It is my concern that in practice the emergence of such risk can be a slow process.

I have told the Minister before how the limitations of this power were made clear the other year when Elf Bar, which is perhaps the market leader in this space, was found to be selling vapes with tank sizes that were larger than allowed. The responsibility to remove those products from the market actually lies with the producer—quite rightly—but this issue is about the recourse that the Government have when a threat is urgent and a company does not comply.

New clause 13 would also examine the case for a duty to be applied to trading standards that would be similar to the duty on councils in Northern Ireland to share intelligence on non-compliant and illicit products, so that we can better join up the enforcement response at the national level. Once again, I urge Members to support these new clauses and I commend them to the Committee.

Dame Andrea Leadsom: I am grateful to the hon. Lady for bringing these issues before the Committee. These new clauses seek to give more powers to the MHRA to introduce a testing regime for vaping and nicotine products, and to ensure that the laboratories conducting the testing are independent of the tobacco industry. They also aim to give the MHRA powers to remove notifications and thus prohibit the sale of products if they are found to be non-compliant.

New clause 13 would require the Secretary of State to produce and lay before Parliament a report to consider whether the MHRA should be given new powers to request and test samples, and to remove vaping and nicotine products from the list of notified products. The report would also have to examine the case for a requirement for local trading standards authorities to notify the MHRA of any instances where vaping or nicotine products are being sold that have not been notified or are non-compliant.

I am very sympathetic to the aims of these new clauses, but the current notification system is not an enforcement tool and should not be viewed as such. It is the responsibility of trading standards to ensure compliance of vaping products and to remove non-compliant—that is, illicit—vapes from the market and stop their sale. It is also the responsibility of trading standards to test a product if they believe that it contains illegal substances or too much nicotine. The MHRA supports this work by providing intelligence from the notification system.

New clause 11 would facilitate the previous new clause by giving powers to the Secretary of State to approve, as part of the testing regime, certain laboratories that are not in any way funded or controlled either by the vaping industry or the tobacco industry.

The Secretary of State can already commission independent laboratories to undertake the testing of vapes, in order to check and confirm that they meet our regulatory standards as set out in the Tobacco and Related Products Regulations 2016. We can also produce relevant guidance to support this work, so the new clause really is not needed. Trading standards, supported by the MHRA, work with local scientific services that are independent of the tobacco and vaping industry in order to test vapes and to take action where non-compliance is found. These testing facilities support our enforcement programmes.

[*Dame Andrea Leadsom*]

In fact, last year the Prime Minister visited an independent lab in Kent that checks for specific ingredients and harmful substances. The Prime Minister, who was accompanied by the chief medical officer, Sir Chris Whitty, described the laboratory as “a centre of excellence” and said that it was at the frontline of testing, providing vital information in the campaign to tackle illegal vaping.

In summary, although I completely understand and support the aims of each of these new clauses to ensure that products are rigorously tested, adhere to our regulations and do not pose additional risk or harm, we can already test products, and indeed do, using quality-assured laboratories for this work. In addition, there are tough penalties in place for those who break our rules, including unlimited fines and prison sentences. As hon. Members know, we have also provided new funding and support to help local trading standards to enhance their enforcement capacity and to test products. For those reasons, I ask the hon. Lady not to press her new clauses to a vote.

3.15 pm

Preet Kaur Gill: I say to the Minister that my concern is about certain products entering the UK market in the first place. If the MHRA is the only organisation that can test what has been notified, it will be supplied to us, but we know that what arrives is sometimes not actually what is in the notification process. If they were testing before the product came into the UK, that would be the point at which we want to try to address the growth in the illicit markets. I hope the Minister will consider this, especially before Report.

I will not push new clause 13 to a vote, but I would like to push new clause 11 because it is really important. The point is about what comes into the country. The MHRA in evidence actually said that it recognises that what is notified that eventually enters the UK is not exactly what is on the notification process.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 4]

AYES

Charalambous, Bambos	Glindon, Mary
Foy, Mary Kelly	Oswald, Kirsten
Gill, Preet Kaur	Wakeford, Christian

NOES

Aiken, Nickie	Harrison, Trudy
Baker, Duncan	Leadsom, rh Dame Andrea
Bell, Aaron	Richardson, Angela
Blackman, Bob	Tuckwell, Steve
Cameron, Dr Lisa	

Question accordingly negatived.

New Clause 14

APPLICATION OF THE PART I OF THE HEALTH ACT 2006
TO VAPING

“(1) The Health Act 2006 is amended as follows.

(2) After section 1 (Introduction) insert—

‘1A Application of restrictions on smoking in public places to vaping

- (1) In this Part, and in any regulations made under this Part, where a provision applies to smoking, it should also be taken to apply to vaping.
- (2) For the purposes of this section, “vaping” means the use of a vape or vaping product to vaporise a vaping substance.
- (3) For the purposes of this section, “vape”, “vaping product”, “vaping substance” and “vaporises” have the meanings given in section 69 of the Tobacco and Vapes Act 2024.”—(*Trudy Harrison.*)

This new clause would amend the Health Act 2006, which banned smoking in public places and certain vehicles, to include vaping.

Brought up, and read the First time.

Trudy Harrison (Copeland) (Con): I beg to move, That the clause be read a Second time.

I am channelling my hon. Friend the Member for Sleaford and North Hykeham and her passionate work as a consultant paediatrician or, as she would say, the children’s doctor in the House. I regard her experience highly. As technology evolves, so do our habits. This new clause seeks parity for smoking and vaping, so that the same rules that apply to smoking in public places will also apply to vaping, thereby protecting non-vapers from exposure to harmful substances.

As the Minister put it, we know that vapes are not harmless, but we think that they are less harmful than smoking cigarettes. I acknowledge that there is a lack of evidence—we heard this in the evidence session last week—but I think there is also a lack of research into the evidence on the impacts of vaping. Could the Minister reassure us that evidence will be sought on the impacts of vaping, not just on those who are vaping but those who are in the vicinity of vaping products? We should be trying to prevent the normalisation of vaping products, particularly among children and other impressionable audiences. We have heard much about the principle of polluter pays, which I absolutely agree with, but it is equally important to prevent the pollution and avoid promoting polluting substances to the potential polluter. That was an awful lot of Ps.

Mary Glindon (North Tyneside) (Lab): I thank the hon. Lady for giving way. She makes a strong argument but, on the other hand, Cancer Research says that there is no comparison between passive vaping and passive smoking. I know many former heavy smokers who have given up smoking and now vape, and that is one of the reasons why I am such an ardent supporter of vaping as opposed to smoking. It is awful for those people to have to go outside and stand with smokers. If people are not allowed to vape indoors, there should be a separate area for vapers. Does she not agree that such a situation sends out the message that vaping is dangerous when we need heavy smokers to give up smoking, and vaping is the best way for many of them to do that?

Trudy Harrison: I welcome that intervention, but we cannot ignore the trebling of the number of 11 to 17-year-olds who are starting to vape. However much the Minister says that people who are not smoking should not vape, and that no children should be vaping, that is not the reality in the communities that we serve. It is certainly not the reality in my Copeland community.

I think the hon. Lady is saying that vaping helps us to fix the problem, but I am equally keen to prevent the problem. The rate at which young people are taking up vaping needs serious consideration, but we also need serious evidence-gathering to understand not only the harms that could be caused by those who are vaping in the vicinity of others, but nicotine addiction.

Dr Lisa Cameron (East Kilbride, Strathaven and Lesmahagow) (Con): My hon. Friend is making a very passionate speech on behalf of herself and my hon. Friend the Member for Sleaford and North Hykeham, who I am sure will be very pleased with the contribution. However, I have to say that I agree with the hon. Member for North Tyneside because the evidence that we heard strongly suggested that smoking and vaping are not commensurate. My hon. Friend the Member for Copeland is entirely right that we need further evidence, but perhaps we should be looking at evidence-based policy making so that we make the policy when we have the evidence. The best way forward would be to seek such evidence.

Trudy Harrison: My hon. Friend makes an excellent point. That is really what I am calling for, although it does not detract from the need to prevent the normalisation of vaping. However, I repeat the request for more in-depth research into the impacts of vaping and nicotine addiction on children.

Preet Kaur Gill: Most public places are already smoke free on a voluntary basis. We do not believe it is necessary or proportionate to make such a legal requirement, which would risk increasing the widespread misperception that vaping is as harmful as smoking. In the United Kingdom, vaping is already prohibited on a voluntary basis in most, if not all, places visited by children; public transport—trains, airports, planes, buses, coaches and ferries—most, if not all, sports stadiums; music venues; many hospitals or hospital grounds; restaurants and cafes, at least definitely those used widely by children; and a lot of pubs and bars. As was discussed in last week's evidence sessions, the health harms underpinning the smoking ban are not proven for vaping, and such an approach would be hard to justify on health grounds. This would be a complicated piece of legislation to introduce, and now is not the time at which, and the Bill is not the place in which, to do so.

Dame Andrea Leadsom: I am grateful to my hon. Friend the Member for Copeland for moving the new clause tabled by our hon. Friend the Member for Sleaford and North Hykeham. I think all hon. Members are keen to see much more evidence on this issue, and I absolutely share that concern. I have urgently commissioned research into the impact of vaping on both the vaper and those second-hand breathers-in. As we all heard during the public evidence sessions, and as my hon. Friend the Member for East Kilbride, Strathaven and Lesmahagow set out, we do not have the evidence. We therefore need to provide evidence-based regulation as a matter of urgency, and I absolutely assure hon. Members that that will be forthcoming.

It is certainly the case that the ban on smoking in indoor spaces has been a great public health success story since its introduction in England in 2007 and

across the UK from 2006. There is no doubt that the ban has protected many adults and so many children from the harms of passive smoking; it will have saved lives.

We know that vaping is less harmful than smoking, and indeed is a very effective quit aid for adult smokers. Although I have grave concerns about whether we err too far on the side of saying "Vaping is much better than smoking," and are therefore inadvertently saying to young people that it is fine to vape, which of course it is not, that is why we also always say, "If you don't smoke, don't vape, and children should never vape."

Although smoking in a public place may be seen as a nuisance by some, and there is some evidence that it can trigger asthma attacks, in the same way that pollution or car exhaust fumes can, there is very limited evidence of the potential harms of vaping in enclosed spaces, and simply none to suggest that it is at all similar to tobacco smoking. Vapes emit vapour, not harmful tobacco smoke. Vaping does not burn tobacco or produce tar and carbon monoxide—two of the most harmful elements in tobacco smoke. Evidence of the harm from exposure to second-hand tobacco smoke is well established, and because of its carcinogenic content, there is no safe level of exposure. It is totally incomparable to vaping, where there is very little evidence to suggest that second-hand vapour is anything more than an irritant. I repeat: that is not to say that vaping is good for anyone or a good thing to try. It absolutely is not. We know it is extremely harmful to children, whose lungs and brains are still developing.

In addition, many businesses, venues and spaces have already introduced their own bans on the use of vapes where smoking is prohibited, such as on public transport, on work premises and in many restaurants and bars. In 2016, Public Health England produced guidance regarding the use of vapes in public places and workplaces, which has helped businesses to make informed decisions on their vape-free policies, but given the lack of evidence of any harm from second-hand vapour and the way that the majority of businesses, restaurants and bars self-regulate and have vape-free policies in place, as well as the fact that vaping in enclosed spaces was not raised in our call for evidence as a major issue to address youth vaping, we just do not feel that the new clause is necessary at this time.

We will of course keep this under review and continue to monitor the evidence base. As I said, I have urgently commissioned proper research into the effects in the short, medium and long terms, and I hope to make further announcements on exactly what I am doing during the Bill's passage.

Angela Richardson (Guildford) (Con): Sometimes I think that when people listening to this debate hear the words "no evidence" or "lack of evidence", they assume that that means there is nothing at all wrong with vaping. Will my right hon. Friend make it clear to anyone listening that there is a difference between not having done sufficient studies to gain the evidence and having no evidence of any harm?

Dame Andrea Leadsom: Yes, I am very happy to do that. My hon. Friend is exactly right: saying that we do not have the evidence right now is not the same as saying that vaping is not harmful. As I said, the chief medical

[Dame Andrea Leadsom]

officer has said that although we can be fine consuming strawberry sherbet ice cream in our tummies, it may not be so good to inhale it. We simply do not know what the truth is. We do believe that carcinogens may be innate in some flavours, and we know that vape products can contain heavy metals in the coils. We know that there can be significant harms from vaping, especially to children. I am happy to state once again, “If you don’t smoke, don’t vape, and children should never vape.”

With those remarks, I hope that my hon. Friend the Member for Copeland will not press the new clause to a vote.

Trudy Harrison: There could be no better Minister to convince me of her concern for babies, children and young people. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: I am flying a bit free here, but new clauses 16, 19, 20 and 22, all tabled by the hon. Member for Sleaford and North Hykeham, may have been caught by the Minister’s commitment to look deeply into the advertising issue and might therefore not be moved. However, I want to give Members the opportunity to do so if they wish.

It appears that the Minister’s reassurance has convinced the Committee.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Dame Andrea Leadsom: I rise to thank all Members, on both sides, for their time, their focus, and their really well thought through and considered contributions in

this Committee. The scrutiny has been carried out in the best traditions of this place, aiming to achieve something that this Parliament can be proud of.

I also thank you, Sir Gary, for your excellent chairmanship—[HON. MEMBERS: “Hear, hear!”]—and all the other Chairs who have taken us through this life-changing Bill, as well as the officials and civil servants who have supported us, and the Bill team, who did extremely well in putting this together. Finally, I thank the Clerks, who always brilliantly support everything that goes on in this place.

Preet Kaur Gill: I echo the Minister’s thanks. This Bill implements a flagship public health policy, and all of us are privileged to have taken part in the passage of this world-leading legislation. It is really important that we have heard so many powerful testimonies about the health impacts of smoking, but parents are also worried about the increase in youth vaping, so the fact that we are to ban the marketing and sale of vapes to children will be welcomed by many people across the country.

I put on record my thanks to you, Sir Gary, for brilliantly chairing our sittings, and to the Minister, who has been very gracious in her responses. I thank colleagues on both sides of the Committee; it has been brilliant to work with them all and to reach a degree of consensus, although I have no doubt there will be many more things to discuss on Report. I also thank the Clerks and everyone on the Bill team. It has been a privilege.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

3.32 pm

Committee rose.

Written evidence reported to the House

TVB 40 Arcus Compliance Ltd

TVB 41 Cancer Research UK

TVB 42 HM Revenue & Customs

TVB 43 Asthma + Lung UK

TVB 44 British Heart Foundation

TVB 45 Philip Morris Limited

TVB 46 National Fire Chiefs Council

TVB 47 Institute for Social Marketing and Health,
University of Stirling

TVB 48 The Children's Commissioner

TVB 49 Correspondence submitted by C.Gars Ltd (on
the composition of the membership and selection of
witnesses)

TVB 50 Correspondence submitted by Daniel Freeman
- Director - James J Fox (on the composition of the
membership and selection of witnesses)

TVB 51 Correspondence submitted by the Imported
Tobacco Products, Advisory Council (on the composition
of the membership and selection of witnesses)

TVB 52 Correspondence submitted by Rupert Lewis,
Director, Tobacco Manufacturers' Association (TMA)
(on the composition of the membership and selection
of witnesses)

TVB 53 Correspondence submitted by the Association
of Independent Tobacco Specialists (on the composition
of the membership and selection of witnesses)

TVB 54 Correspondence submitted by John Dunne,
Director General of the UK Vaping Industry Association,
to George Howarth MP, (on incorrect information
presented to the Tobacco and Vapes Bill Committee)

TVB 56 Mental Health and Smoking Partnership (MHSP)

