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GENERAL COMMITTEES

Public Bill Committee

TOBACCO AND VAPES BILL

Third Sitting

Thursday 9 January 2025

(Morning)

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CLAUSE 1 under consideration when the Committee adjourned till this day
at Two o'clock.

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

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Monday 13 January 2025

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The Committee consisted of the following Members:

Chairs: PETER DOWD, † SIR ROGER GALE, SIR MARK HENDRICK

- | | |
|---|---|
| † Ahmed, Dr Zubir (<i>Glasgow South West</i>) (Lab) | † Osborne, Tristan (<i>Chatham and Aylesford</i>) (Lab) |
| † Al-Hassan, Sadik (<i>North Somerset</i>) (Lab) | † Owatemi, Taiwo (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Barros-Curtis, Mr Alex (<i>Cardiff West</i>) (Lab) | † Rankin, Jack (<i>Windsor</i>) (Con) |
| † Bool, Sarah (<i>South Northamptonshire</i>) (Con) | † Stafford, Gregory (<i>Farnham and Bordon</i>) (Con) |
| † Chambers, Dr Danny (<i>Winchester</i>) (LD) | † Stainbank, Euan (<i>Falkirk</i>) (Lab) |
| † Cooper, Dr Beccy (<i>Worthing West</i>) (Lab) | † Whitby, John (<i>Derbyshire Dales</i>) (Lab) |
| † Dickson, Jim (<i>Dartford</i>) (Lab) | |
| † Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | |
| † Gwynne, Andrew (<i>Parliamentary Under-Secretary of State for Health and Social Care</i>) | Chris Watson, Kevin Candy, Sanjana Balakrishnan,
<i>Committee Clerks</i> |
| † Jarvis, Liz (<i>Eastleigh</i>) (LD) | |
| † Johnson, Dr Caroline (<i>Sleaford and North Hykeham</i>) (Con) | † attended the Committee |

Public Bill Committee

Thursday 9 January 2025

(Morning)

[SIR ROGER GALE *in the Chair*]

Tobacco and Vapes Bill

11.30 am

The Chair: Good morning, ladies and gentlemen. To those to whom I have not already had the opportunity to say so, happy new year.

Let me first set out a few housekeeping arrangements. Please switch off all electronic devices. We do not want phones ringing; I hope mine is off. No food and drink is permitted during sittings, apart from water. If anybody needs anything else, will they please leave the room and obtain it from the usual places? If Members have speaking notes, they are always useful to *Hansard*, particularly if they refer to a name or a business in a constituency or anything like that. That just about deals with that bit of it.

We are about to begin line-by-line consideration of the Bill.

Dr Caroline Johnson (Sleaford and North Hykeham) (Con): On a point of order, Sir Roger. Good morning; it is a pleasure to serve under your chairmanship. I rise on a point of order about the groupings for our discussions today. They are normally provided in good time, but at about 9 o'clock last night my team were provided with two versions that differed slightly: one from the Government and another from the Clerk. That did not give adequate time for the groupings to be properly considered. As you know, Sir Roger, this Bill is really important to me, but it is also important to the House and to our constituents. It aims to revolutionise their health and wellbeing. It is really very important that we get it right.

Another set of groupings has now been provided this morning. It was not delivered until about 9.30 am, and it is different from both the sets delivered last night. I think only the Minister, the Government Whip and I are the only Committee members who were MPs before July last year. I seek your guidance, Sir Roger, on how we can ensure, particularly for new Members, that there is proper time to scrutinise and appraise each clause and each group properly before the debate.

The Chair: Exceptionally, this is a matter for the Chair—normally, points of order have nothing to do with the Chair at all.

First, I have a note prepared by the Clerks, which I will read because it is relevant to part of what has been said. The Clerks in the Public Bill Office work on behalf of the Chairs—my colleagues and me—to prepare a provisional selection and grouping of amendments. It is very important that that is accurate. For those who have not served on a Bill Committee, I will come on to why that is done, which may help further downstream to explain the process of line-by-line scrutiny.

This is a very big Bill. A significant number of amendments have been tabled. Not entirely unusually, the Committee took oral evidence on Tuesday. Inevitably, such situations generate the late but timely—in the sense of being within the time limit—tabling of amendments.

Where the Clerks have to preside over the oral evidence sessions as well as trying to do all the rest of the work, it inevitably places a great strain on the system. It is no criticism whatever of the Clerks, who are formidable in the work that they do, that this has pushed it right up against the wire.

I know that the Government and, I believe, the Government solicitors and the Opposition received notice of the provisional selections fairly late last night. That is regrettable. It is always the case in such Committees that wherever possible all members, particularly the Government Minister and the Opposition Front-Bench spokesman, should get material in as timely a fashion as possible. That is a given, but there are exceptional circumstances, and these were exceptional circumstances.

I can only apologise on my own behalf—because my colleagues and I are ultimately responsible for the selection—for the fact that the grouping was late. I appreciate that that has created some difficulties, although not insuperable ones. If anything arising from that requires attention, we will deal with it as we go along, because part of our job is to be as flexible as we reasonably can.

I will seek advice on the hon. Lady's second question about the groupings.

Dr Johnson: Further to that point of order, Sir Roger. There is a second point that I want to raise; I have given notice to the Chair. Because of the aforementioned delay in getting the groupings, I have not had time to scrutinise all the clauses of this very big Bill, as you have described it, but it strikes me as unusual that amendments 75 and 76 have been linked with clause 1.

In my experience, it is unusual to discuss amendments to one clause while considering another. My amendments 75 and 76 would amend clause 69 on page 36. Clause 69 is essentially a relative of clause 2, in so far as it tries to make things equivalent across the United Kingdom. I therefore wonder whether as Chair you might agree that amendments 75 and 76 would instead be best considered at the same time as clause 2.

The Chair: I thank the hon. Lady; that is very helpful. I fully understand what she is saying. This is an arcane process and it is an art, not a science. Personally, I am more than willing to consider grouping amendments 75 and 76 under clause 2 rather than clause 1. Because the selection list has been published, that requires the leave of the Committee. If the Committee is happy to do so, I am minded to accept the suggestion.

As I hear no objections, the hon. Lady has won her case. Amendments 75 and 76 will therefore be taken under clause 2 with amendments 58 and 59.

Dr Johnson: Further to that point of order, Sir Roger—

The Chair: Don't push your luck!

Dr Johnson: It is a point for the Chair, and it is procedural. I have not seen this sort of thing happen before. Normally, we agree the groupings and then they just flow.

I have not had the opportunity to go through all the pages and pages of the Bill and see whether there are other issues like the one with amendments 75 and 76. Will there be a further opportunity to amend the sequencing as we go?

The Chair: There will be a further opportunity to raise a point of order. It will be up to whoever is in the Chair at the time to decide whether to take the kind of action that, on the Clerk's sound advice, I have just taken. I appreciate that this is a complex Bill and we may well find that one or two amendments are more comfortably located under other clauses. If that is so, sensibly and flexibly, we will endeavour to accommodate that.

The Parliamentary Under-Secretary of State for Health and Social Care (Andrew Gwynne): On a point of order, Sir Roger. The loop system in this room does not appear to be working, at least not for my hearing aid. I do not know whether somebody can get it switched on or, if not, whether Members could please amplify when they speak.

The Chair: That request, I understand, has been remitted. We will do the best we can. Will hon. Members be kind enough to ensure that they speak clearly for the sake of the Minister and anybody else in a similar position? Exceptionally, I am more than prepared to make sure that the person speaking is addressing the Minister rather than the Chair, as would normally be the case, because sometimes in these circumstances it helps to see somebody's lips. Again, I can only apologise that the system ain't perfect.

I am well aware that there are hon. Members present who have not taken part in the Bill Committee process before. First, on code of dress, it is fine if anybody wishes to take their jacket off. You have the permission of the Chair to do so. You are supposed to seek the consent of the Chair before doing so; you have that consent.

Hon. Members who wish to intervene may do so in the same way as on the Floor of the House. It is up to the Member who has the Floor whether to give way, but it is customary in Committee. Unlike on the Floor of the House, it is not uncommon for a Member to seek to intervene more than once on the same subject for further clarification, if necessary. That is a given. I trust that Members are aware that—again, unlike on the Floor of the House—they are permitted to speak more than once during the debate on each grouping.

That brings me on to the groupings, about which we have had quite a lot of discussion already. This is an arcane process. Groupings on amendments and new clauses are tabled out of sequence, but in recognition of the subject matter under discussion. You will find that there are groupings with a lead amendment, which is the only one that will initially be moved. It is not uncommon for hon. Members to say, "Hang on a minute, I want to move that other amendment." The answer to that is, "Later." You move the amendment

when we reach the appropriate point in the Bill; amendments are not necessarily moved immediately. If anybody wishes to press an amendment that is listed, but that is not immediately called as the lead amendment, will they please let the Chair know? It is not our job to try to prevent you from causing a Division if you choose to do so, but we do need to know. Otherwise, it may not get called.

Government amendments and some new clauses will be called in sequence as we work through the Bill. Although they may be debated this morning, they might not be called to be voted on—divided on—for two or three weeks. If you are in any doubt, ask. That goes for anything else as well. This is a difficult process to master. Whoever is in the Chair will be more than willing, if we do not know the answer, to take advice—the Clerk always does know—and make sure that you get the answers you want. In other words, if in doubt, ask. Do not sit there floundering.

That was intended to be helpful. I do not know whether it was or not. We will now commence line-by-line scrutiny of the Bill.

Clause 1

SALE OF TOBACCO ETC

The Chair: We begin with the group led by amendment 17. The hon. Member for Epsom and Ewell (Helen Maguire), who tabled all the amendments in the group, is not a member of the Committee and therefore cannot move them. Is there anybody present who has taken ownership of the amendments and wishes to move the lead amendment on behalf of the hon. Member?

Dr Johnson: I beg to move amendment 17, in clause 1, page 1, line 5, leave out "born on or after 1 January 2009" and insert "under the age of 25".

This amendment makes it an offence to sell tobacco products, herbal smoking products and cigarette papers to a person under the age of 25, rather than to people born on or after 1 January 2009.

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

Amendment 18, in clause 1, page 1, line 13, leave out "shown on that document was before 1 January 2009" and insert

"showed that the purchaser was not under the age of 25".

This amendment is linked to Amendment 17.

Amendment 22, in clause 5, page 3, line 8, leave out "born on or after 1 January 2009" and insert

"under the age of 25".

This amendment is linked to Amendment 17.

Amendment 23, in clause 6, page 3, line 30, leave out "born on or after 1 January 2009"

and insert

"under the age of 25".

This amendment is linked to Amendment 17.

Amendment 24, in clause 6, page 3, line 32, leave out “a anwyd ar neu ar ôl 1 Ionawr 2009” and insert “dan 25 oed”.

This amendment is linked to Amendment 17.

Amendment 44, in schedule 5, page 132, line 2, leave out

“a anwyd ar neu ar ôl 1 Ionawr 2009” and insert “dan 25 oed”.

This amendment is linked to Amendment 17.

Amendment 48, in schedule 5, page 132, line 7, leave out from “berson” to end of line 8 and insert “dan 25 oed (“B”)”.

This amendment is linked to Amendment 17.

Amendment 45, in schedule 5, page 132, line 12, leave out from “person” to end of line and insert “dan 25 oed”.

This amendment is linked to Amendment 17.

Amendment 46, in schedule 5, page 132, line 38, leave out from “rhoi” to “a” in line 39 and insert “yn 25 oed neu drosodd”.

This amendment is linked to Amendment 17.

Amendment 47, in schedule 5, page 133, line 2, leave out from “person” to end of line 3 and insert “dan 25 oed”.

This amendment is linked to Amendment 17.

Amendment 39, in schedule 5, page 133, line 16, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 40, in schedule 5, page 133, line 21, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 41, in schedule 5, page 133, line 26, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 42, in schedule 5, page 134, line 9, leave out

“born before 1 January 2009” and insert “over the age of 25”.

This amendment is linked to Amendment 17.

Amendment 43, in schedule 5, page 134, line 14, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 25, in clause 50, page 25, line 30, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 26, in clause 50, page 25, line 33, leave out from “substitute” to end of line 34 and insert “under the age of 25 (‘the customer’) to be aged 25 or over”.

This amendment is linked to Amendment 17.

Amendment 27, in clause 50, page 25, line 37, leave out

“born on or after 1 January 2009” and insert “under 25”.

This amendment is linked to Amendment 17.

Amendment 28, in clause 50, page 26, line 1, leave out subsection (3).

This amendment is linked to Amendment 17.

Amendment 29, in clause 50, page 26, line 28, leave out from “substitute” to end of line 29 and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 30, in clause 50, page 26, line 30, leave out from “substitute” to end of line 31 and insert “under 25”.

This amendment is linked to Amendment 17.

Amendment 31, in clause 50, page 26, line 33, leave out from “substitute” to end of line and insert “under 25.”.

This amendment is linked to Amendment 17.

Amendment 32, in clause 68, page 35, line 28, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 33, in clause 68, page 35, line 37, leave out

“shown on that document was before 1 January 2009” and insert

“showed that the purchaser was not under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 38, in clause 72, page 37, line 28, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Amendment 49, in title, line 2, leave out

“born on or after 1 January 2009” and insert “under the age of 25”.

This amendment is linked to Amendment 17.

Dr Johnson: The amendments do not stand in my name, and they are not amendments with which I agree, but they relate to a very important part of the Second Reading debate that goes to the heart of the principles behind the Bill. I have moved the lead amendment so that the debate can be heard in full and so that hon. Members can establish for themselves whether they wish to support the amendments.

I will refer to these amendments as the Maguire amendments, if that helps, as they were all tabled by the hon. Member for Epsom and Ewell, who is not on the Committee. It is, of course, the Whips who choose who goes on the Committee—[*Interruption.*] Sorry, can you hear me?

Andrew Gwynne: I can hear you.

11.45 am

Dr Johnson: Thank you. I am aware that the Whips choose who gets to go on Committees. Sometimes that is a blessing; sometimes it can be less welcome, particularly if it is a long Committee that goes on for months. For someone who is passionate about a cause, but is not aligned with the Whips' view and is not chosen for a Committee, it can be frustrating not to have something discussed that they believe important. We are all here to represent our constituents and to think carefully about the legislation in front of us. Although the amendments were tabled by a Member who is not a member of my party, and I do not actually agree with them, I want to ensure that they get a proper hearing.

Amendments 17 and 18 would amend clause 1, which will introduce a prohibition on selling tobacco products, herbal smoking products and cigarette papers to any individual born on or after 1 January 2009. The Government's intent is to create a tobacco-free generation by progressively restricting access to tobacco-related products for younger age groups as they age. This is a measure that was first discussed in the Khan report and was brought forward in the previous Tobacco and Vapes Bill, which was introduced by the Conservative Government under my right hon. Friend the Member for Richmond and Northallerton (Rishi Sunak), who wanted to ensure that we eliminate smoking as far as possible, for people's health, but that we would not impose a criminal penalty on people who already smoke and thereby criminalise an addiction that is so difficult to give up. That is the reason for the rolling sale.

Under clause 1, sellers will be required to verify the buyer's age using acceptable identity documents, which are listed as being passports, UK or EU driving licences or proof-of-age identity cards, known as PASS cards. If the seller relies on valid-looking ID showing that the buyer was born before 1 January 2009, or if they can demonstrate that they took all reasonable steps to avoid an offence, they have a legal defence against prosecution. Violating the clause is an offence punishable by a fine of up to level 4 on the standard scale; I am sure we will come on to what that means later. It is currently capped at £2,500.

This measure is part of a broader strategy to combat smoking by reducing access among younger generations and curbing the initiation of tobacco use. By enforcing strict age verification and imposing financial penalties, the clause aims progressively to eliminate tobacco use, contributing to long-term public health improvements.

New clause 17 would leave out

“born on or after 1 January 2009”

and insert in its place

“under the age of 25”.

That would make it an offence to sell tobacco products, herbal smoking products and cigarette papers to a person under the age of 25, rather than to a person born on or after 1 January 2009.

The Chair: Order. For the sake of clarity, we are referring to amendment 17, not new clause 17.

Dr Johnson: Thank you, Sir Roger. I am very grateful for your guidance. I think spending much of the night trying to get to grips with the various drafts has left me

a little tired. I appreciate the difference. As you said, the process is somewhat confusing, but at least we are moving through it steadily.

Amendment 17 would significantly alter the scope of clause 1 by replacing the birth date-specific restriction of 1 January 2009. Instead of targeting individuals born on or after that date, the new provision would make it an offence to sell tobacco products, herbal smoking products or cigarette papers to anyone under the age of 25. That modification would shift the focus from creating a tobacco-free generation to implementing a uniform age limit similar to the one that we have already.

Jack Rankin (Windsor) (Con): My hon. Friend knows that we disagree on the principle of clause 1, and my objection is primarily to creating two tiers of adults. One of the benefits of the Bill, as it is currently written, is that it is at least a time-limited measure. In other words, when that generation dies out, every adult will be one tier again. With amendment 17, however, we will effectively have two tiers of adults forever, so a 19-year-old will always—or until we change the law again—be able to drink but will not be able to smoke, and that will be set in stone. Does my hon. Friend agree that, even if she thinks we should create two tiers of adults for public health purposes, we should try to delimit that as much as possible, and therefore the principle of the amendment should not be accepted by this Committee?

The Chair: Order. Another thing colleagues might notice is that that was quite a long intervention. Customarily in Committee, as opposed to on the Floor of the House, it is not unusual for a Chair to allow a fairly long intervention, because quite often that obviates the need for a speech later. Be aware of that flexibility.

Dr Johnson: Once again, Sir Roger, I am very grateful for your guidance to the Committee. I was explaining the change in amendment 17, and my hon. Friend, like the very wise chap that he is, brings something forward that I had not really considered, despite my attention to this Bill over some time—and Members will be very much aware it is something that I have taken a long interest in.

My hon. Friend is absolutely right: some people argue that the Bill creates two tiers of adults—some who are allowed to smoke and some who are not. In fact, that is exactly what it does. Eventually, of course, people get older and older. I saw that the oldest person in the world sadly passed on in the last week or so, and she was 116. I am not quite sure about the age of the current oldest person in the world, but I suspect their age is similar. Therefore, I suspect that it will take quite a long time before my hon. Friend's ideal of all adults being treated the same is once again achieved. I suspect that I will certainly be long gone before it does, and I anticipate that the rules we are proposing will last the rest of our lifetimes here today.

This modification shifts the approach from creating a tobacco-free generation to implementing a uniform age limit that applies universally, regardless of the buyer's birth year. That simplifies enforcement because sellers would need only to confirm whether a buyer is under 25, and they would not need to do the mental arithmetic

[*Dr Caroline Johnson*]

in their head that says, “Okay, that is their birthday, but how old would that make them?” The Minister, in his questions on Tuesday, raised the point repeatedly with one of our witnesses about whether it is simpler to have a date of birth or an age. My understanding is that a lot of tills nowadays will give a prompt to the person working behind the till to say, “If you are born before or after this date, that is where the 18 cut-off is.”

Sadik Al-Hassan (North Somerset) (Lab): Will the right hon. Lady give way?

Dr Johnson: I thank the hon. Gentleman for the promotion—I shall mention it the Chief Whip and see how that goes!

Sadik Al-Hassan: My training and experience as a pharmacist over two decades involved working with systems such as tills that teach people how to ask for age verification. Does the hon. Lady agree that the Minister is spot on and that actually this is a moot point, because the software, support and training is already there across the country, including in independent shops, and age verification is quite easy to do?

Dr Johnson: I think it is straightforward to have an age and a date of birth to check. It could become more confusing if we ended up with a range of age-restricted products and the age for each of them was different, as that would require people to look at a whole spreadsheet of dates of birth.

Sadik Al-Hassan: Software systems I have worked with already have the facility to differentiate by product, including for razor blades and alcohol products. That already exists across retail and in a variety of retail premises.

Dr Johnson: The hon. Gentleman’s intervention highlights the fact that in Parliament we benefit from the experience of so many different people. Each of us comes to this place with our own history, backstory and experience of working in a whole range of different professions and jobs. That is one of the reasons why we go through these Bills line by line. It may seem to some extent slow and plodding to go through things so methodically, but that means that each person can, as he has, bring their experience forward and explain the ways that tills and such things work, which is really beneficial. I thank him for that intervention.

Jack Rankin: I slightly disagree with the hon. Member for North Somerset. It seems to me that over time, we have been getting more consistent in our understanding of what an adult is. Obviously, I am quite a young man, but when I turned 16, I could buy a lottery ticket, I could get married without my parents’ permission and I could join the Army. I could then learn to drive at 17. Many of those have been regularised in the last few years, so the age for buying lottery tickets is now 18 and one cannot get married before 18 either. That is part of ensuring consistency about what an adult is.

It may well be true that pharmacies have such technology, and I understand why, but most cigarettes are bought in small newsagents and I would not necessarily expect them to have the same technology. We should be supporting consistency in what an adult is—that is the direction in which legislation has been moving—and not creating added complexity.

Dr Johnson: I thank my hon. Friend for his helpful intervention. I do not know whether any Member present has worked in a small corner shop and could tell us whether they have the same level of technology. Perhaps the Minister or his officials know whether the same level of technology is used in shops across the board. I am afraid that I do not know the answer to that.

Gregory Stafford (Farnham and Bordon) (Con): On that point, will my hon. Friend give way?

Dr Johnson: Yes; if my hon. Friend knows the answer, I would be delighted to hear it.

Gregory Stafford: I do not know the answer to that question, although I suspect that many such shops do not. Although I agree with my hon. Friend about the thrust of the Bill, something that does concern me comes not from the retailer point of view but the consumer point of view. At the moment—please do not disabuse me of this view—when I go and buy a bottle of wine or a pint of beer, I am very rarely, if ever, IDed. But I accept that if, on the rare occasion that I am IDed, I do not have a form of identification, it is not the biggest problem in the world. Most of the time, however, people can see that I am over the age of 25 or over the age of 18, so it does not happen.

If the Bill were to go forward in its current form, every smoker would essentially have to carry a form of ID all the time. Some, especially the older generation, might not have a suitable form of identification and some—if they are, like me, a civil libertarian—might not want to carry ID, so how do we get around that point in the Bill to ensure that we do not end up having ID cards for older people by the back door?

12 noon

Dr Johnson: My hon. Friend makes an important point. Some people are averse to carrying ID—it is not something that bothers me personally, but I am aware that for some people it is a sticking point. In a previous debate before the election, the former Member for Norwich North, Chloe Smith, made the point that not all adults will be affected by this legislation, but only a relatively narrow band of them.

The last time I was carded for ID, I was 38. I was not buying the typical basket of a 17-year-old; I was buying flowers—orchids—and a bottle of champagne for someone’s housewarming, as well as some strawberries, because she had phoned to ask me to get some when I was on the way, as she was running out at the housewarming party. I was IDed, so I was not able to buy the champagne for her, because the supermarket would not let me. That was disappointing for both of us, but I accepted the fact that if ID could not be shown and they genuinely believed that I looked under 25, that was the law and it had to be accepted. That is not universally the case, and

I am aware—as we heard in evidence—that retailers can sometimes receive significant verbal and occasionally violent abuse when they ask for ID in that way.

Andrew Gwynne: Will the Minister give way?

Dr Johnson: I keep getting promoted!

Andrew Gwynne: The shadow Minister is having a good morning, having not had a particularly great evening last night. With no disrespect to the hon. Member for Windsor, who made this point in his intervention, by the time that the age of sale is legally his age, we hope that smoking prevalence in that age group will be next to zero, and therefore it will not be an issue.

Dr Johnson: I thank the Minister for his intervention, although I am not sure what he is implying about the age of my hon. Friend the Member for Windsor—

Gregory Stafford: Wisdom!

Dr Johnson: Wisdom or age, but I shall be cautious not to answer too closely.

Dr Danny Chambers (Winchester) (LD): I accept the view that having to provide ID will be inconvenient and frustrating for some people, but all the expert witnesses on Tuesday pointed out that many smokers do not wish the younger generation to continue smoking. I think that most of them would probably be of that view that the slight infringement of their civil liberties in having to carry ID is a small price to pay for the knowledge that they are preventing smoking from being taken up.

Dr Johnson: The hon. Gentleman is right that the measures have broad support. Certainly, the pollsters who have investigated people's views of this legislation—that proposed by the previous Government and the legislation as it is now, with some tweaks to it—have found the public to be overwhelmingly positive. We legislate because we are elected by those people. On the basis of their opinions and given that policing in this country is done by consent—

Jack Rankin: On the civil liberties point, I disagree with my hon. Friend entirely, as she well knows. The point about civil liberties is that they need protecting not when the majority agree, but when the majority do not agree. The hon. Member for Winchester made the point that all the experts agreed. We listened to a cohort of experts who were from a variety of fields, but they were also all in some way paid for by the state and had some vested interest in the Bill—they were not retailers, consumers and so on— *[Interruption.]* We had one person out of 15. It was really not a well-balanced affair at all, so I disagree with that point.

Dr Johnson: I think that comes back to the issue of choice. The chief medical officer said that the only choice we make is the choice to have that first hit of nicotine; after that, our choice is taken from us by the profound addiction that we experience. One of the challenges with stopping smoking is that people get powerful cravings. Despite their overwhelming desire to

stop, the cravings drive people to have a cigarette that they do not really want or would rather not have because of their addiction.

Tristan Osborne (Chatham and Aylesford) (Lab): May I de-aggregate the two separate, distinct points about the age that will be defined on a driving licence or passport versus the concept of having ID?

On the first point, most identity documents will contain a defined birth date, which makes it easier for a retailer or sales individual to check the date. They do not contain an age, per se, but they have the date of birth, which creates an easier means of assessment.

The second point about having ID is a separate, distinct issue. In some countries in Europe, they put identity cards on the back of credit or debit cards, for instance. The question of how we would define that identity is a separate element or, perhaps, a separate amendment to the clause that may expand the list of identity that would be bona fide, but we nevertheless use the concept of identity already in many cases to purchase products.

If we are against identity cards or any form of identity, how are we supposed to look at any product with regard to sales, including ones that we might be challenged on, such as when the shadow Minister was purchasing her orchid in a venue? We accept the premise of identity when we sell any licensed product at the present time, so we are merely extending the same premise.

Dr Johnson: I thank the hon. Gentleman for his thoughtful contribution. I should be clear that I do not have an issue with carrying my driver's licence or ID with me, although I am aware that some people genuinely do. If he wants to intervene again, I would be interested to hear whether that means that he is comfortable with voter ID, because his party, prior to the general election—I appreciate that he would not have voted on it, because he was not—

The Chair: Order. I have been fairly lenient up to now, but you are pushing your luck.

Dr Johnson: I merely make the point that ID is used for purposes other than to buy cigarettes and tobacco, Sir Roger.

I want to return to a point raised in an earlier intervention about the group of people who would be asked to carry ID. If somebody's birthday is, like mine, in 1977, it is sadly unlikely that anyone will think that I was born in or after 2009. The cohort affected will be those born around 2006 or 2012. I do not see this as an ID for old people through the back door, because, as I view it, there will be a cohort of people within five or even 10 years on either side of the 2009 boundary who will find themselves required to carry ID if they wish to smoke. If they do not wish to smoke or use any tobacco, cigarettes or smoking products, they will not be affected.

Jim Dickson (Dartford) (Lab): Will the right hon. Lady give way?

Dr Johnson: I keep getting promoted—that is fine.

Jim Dickson: Sorry. Does the hon. Lady accept that the changes that have resulted in significant decreases in smoking prevalence over the last 20 years have all been about imposing additional burdens on those who wish to smoke, such as on where they can smoke and how

[*Jim Dickson*]

they can buy the products, which are now in lockable cupboards rather than out on display in shops? Asking someone who wishes to smoke to carry ID is an increased burden—a very small one, but an increased burden none the less—and it is all part of the policy family that has enabled us to reduce smoking prevalence from between 25% and 30% 20 or 30 years ago to 12% now, and that will hopefully help us reduce it to 5% or 0% in the future.

Dr Johnson: It is certainly the case, as I am sure we will come to when we discuss clause 1 itself in more detail, that where tobacco control measures have been brought in—on place, price, display or age group—they have led to a fall in smoking, which is a welcome and intended outcome.

I have been lumbered with a lot of interventions and I did not get to answer one point in full, which was on the issue of adult consistency. Amendment 17 would create two groups of adults—those aged between 18 and 25, who would be unable to smoke or use tobacco products, and those over 25, who would. The previous Government sought to say, “This is when you become an adult—when you turn 18. Before that, you are a child, and we will use child protection and safeguarding measures, so you cannot get married or buy a lottery ticket.” We sought to create consistency across the board, because consistency helps people to understand what the law is, which makes it easier for them to follow it and give a greater level of consent to it.

Let me turn back to the amendments. I cannot speak directly for the hon. Member for Epsom and Ewell, who tabled the amendments, but one of the reasons that has been given to me for increasing the age to 25 is that people normally begin smoking when they are young. Most people begin before they are 16, and many more before they are 21. That means that in principle, if we raised the age to 25, we would find that people did not start smoking in any great numbers, because their brain and their thinking process would be more mature, so they would be less likely to start. It is also the case that if someone starts smoking at a younger age, they are more vulnerable to the addictive properties of nicotine, as we heard in the impact assessment and in medical evidence.

Tristan Osborne: One of the challenges with introducing an age restriction of 25 is that a 19-year-old can smoke today, but that rule would suddenly take away a right that they previously had. However, the proposal on the table is for a sliding scale, whereby they will never have had the right to smoke. We are not taking away a right that someone might have had previously. Does the hon. Lady accept that there is a slight difference between having an age restriction of 25 and a sliding increase in age?

Dr Johnson: The hon. Gentleman is exactly right, in my personal view, to say that. As we heard before, the previous Government wanted to ensure that in bringing forward a Bill, they were not going to criminalise people with an addiction to a product that they could not quit, and therefore leave them in a situation where they could no longer buy the product they needed to feed that addiction. Obviously, we want them to stop, but we do

not want to make them stop by making them criminals. So, yes, I would be concerned that sticking in a sudden increase to 25 would mean that any smokers legally accessing tobacco products between the ages of 18 and 25 would find themselves somewhat stuck. That is not something I would wish to see.

Gregory Stafford: As a point of clarification, what the proposals in the Bill, and indeed the amendment, deal with is the selling of tobacco products, not the consumption. So when we are talking people not being able to smoke, they would be able to, but a retailer would not be able to sell them tobacco products. I say that just so we are clear what we are talking about.

Dr Johnson: According to clause 1, my hon. Friend is right.

Gregory Stafford: Yes, under this clause.

Dr Johnson: Under this clause, it is true that somebody would not be able to purchase tobacco, but clause 2 means that somebody cannot purchase tobacco on behalf of somebody else. It would not be possible legally for somebody under the age of 25, if the clause was amended, or somebody born after 1 January 2009, if it was not, to buy tobacco, but it would also be illegal for them to use it because, under clause 2, which provides for proxy purchase, the person who gave the younger individual tobacco would themselves have broken the law.

12.15 pm

Earlier this week, the hon. Member for Eastleigh asked the chief medical officer why he supported the rolling change in the age for purchasing tobacco, rather than a new cut-off of 21 or 25. He explained that young people have been specifically targeted by the tobacco industry. With regard to vaping specifically, we have heard examples in evidence of attempts to entice children to use vapes. However, that is also the case for tobacco products. On Amazon—other sites are available, Chair—people can buy cigarette papers that are bubble gum-flavoured, that have pictures on them of apricots, bubbles and cherries or that are pink, blue, green, orange and yellow. Are those designed to attract adults? I am not so sure.

The chief medical officer sounded a note of caution about the tobacco industry and the fact that it tends to move quickly to maintain its market when the law is changed. As I understood it from him at the beginning of the week, if we changed the age of sale to 25, people may be less prone to taking up tobacco products and less prone to addiction if they do, but the risk is that the industry would regroup around the new age of 25 and look instead at what advertising and promotion measures would most likely make 24, 25 or 26-year-olds—that generation—smoke or take up tobacco products. In a few years’ time, we would therefore be back saying, “Should we increase the age to 30?” In practice, that is what the Government propose to address by picking a defined date instead.

Euan Stainbank (Falkirk) (Lab): Can we acknowledge that youth initiation often starts before the age of 18? Moving the age to 25, as this amendment proposes,

would not automatically shift the dial on when youth initiation starts by seven years. The Bill permanently demarcates a smoke-free generation that we are specifically targeting.

Dr Johnson: When Parliament brings in any law of any kind, most people will follow it—the vast majority of the public are law-abiding citizens who want to know what the law is and obey it. However, whatever law we bring in, there will always be people who will disobey it. Even if cigarettes were completely banned, people would buy them. Many products—cocaine and heroin, for example—are banned, but some people still access and purchase them, so the Bill would not eliminate the issue completely.

Perhaps I could answer the hon. Gentleman with a couple of statistics. According to the Government impact assessment, 66% of smokers begin smoking before they are 18, and 83% before they are 20. Yet the research shows that three quarters of those smokers, were they to have their time again, would prefer never to have started smoking.

The hon. Gentleman may be aware that the age of sale for cigarettes was previously 16 and that a previous Government made it 18 instead. The effect was reviewed by scientists at University College London in 2010, and we saw a fall in smoking in all age groups. That is in line with what we have seen across a lot of the western world: smoking rates have declined. Actually, if we look at the difference between the younger and the older people, that fall was 11% in those in the 18 to 24 age group, but 30% in those aged 16 to 17. That meant that the age group targeted by the ban was much more likely not to start smoking. That is the start of the smoke-free generation, and we hope that a similar pattern will be seen and roll forwards.

Sarah Bool (South Northamptonshire) (Con): On that point, according to Cancer Research, about nine in 10 people start smoking before the age of 21. Surely, if we increase that to 25, by default we are preventing more people from starting by that point. Going back to enforcement, I think that 25 is more of an age by which we have caught the youth and stopped them from starting.

Dr Johnson: I understand that opinion, and I guess that is what is behind amendment 17, which was proposed by the hon. Member for Epsom and Ewell. The evidence—certainly that which we heard on Tuesday from the chief medical officer and others—suggests that raising the age as far as 25 will help, and the Government’s impact assessment says they considered that option; they thought it would help to reduce smoking levels, and I think that that is true. However, it does bring the risk of either creating a great delay in bringing these measures in, because we want to wait until all current 18-year-old smokers are 25, or criminalising people who are currently legal smokers. If we still ended up with people starting smoking at 25, we would have not created that smoke-free generation, because we would not have brought those rates of smoking down as close to zero as possible. Given the harms caused by smoking—I am sure we will go through them in the debate on clause 1—it is important that we do all we can to reduce the number of smokers.

Jim Dickson: On the point made the hon. Member for South Northamptonshire, a common maxim applied to our public policy on harmful substances is that we permit. Even having a permission to smoke and buy cigarettes after the age of 25 means that society is effectively saying that that is fine to do, albeit harmful. We do not do that with very many other harmful substances, so it would seem odd to do it with cigarettes.

Dr Johnson: I think this comes down to the libertarian argument. Someone can be an adult either because they are over the age of 25, as per amendment 17, or because they are born before 1 January 2009, as per clause 1, unamended by amendment 17. Essentially, whichever type of adult someone is, we would normally say, “If you are an adult, you make an informed choice about which substances to take and what risks you want to take with your life.” But two thirds of people who take cigarettes will die as a result.

There are other substances that we do ban, and there is a scale. There is the libertarian who would have us make all drugs—whether cannabis, cocaine or heroin—free for everyone to use and to buy as they choose. That is not a position I subscribe to, but it is a position that some subscribe to. There are also those who would go further and ban many more substances, such as certain foods that are particularly sweet or fatty but otherwise enjoyable. There is a spectrum, and I think—society probably agrees—that the judgment is that tobacco is very harmful to those who consume it, and potentially to those around them, in a way that does not offer them any significant benefit. I am a doctor, and when we prescribe medication, we look at the risk balance between the benefits of the substance that we are giving somebody and its potential harm. However, with smoking, as far as I can tell, there are no real benefits, other than an emptier pocket—because an individual has spent so much money—worse lungs and worse health.

Sarah Bool: Just to play devil’s advocate, there will be some who will say that they have a cigar from time to time, and that will be caught by this legislation. Cigars are not used in the same way as cigarettes, and they are not seen to be as highly addictive. People do not chain smoke cigars. Is it fair in that instance to remove their liberty to smoke a cigar? I am just pointing that out as a non-smoker.

Dr Johnson: I will come back to that point when we get to the debate on clause 1 and tobacco products. It is an important point, but I am aware of the Chair’s tolerance, and the discussion at the moment is on amendment 17.

On the rise in age of sale, I talked about research that UCL did in 2010. Further research done in 2020 looked at the effect of raising the age of sale from 16 to 18 and found that the rates of ever smoking—people who had ever had a cigarette—had declined more among those aged 16 to 17 than among those aged 18 to 24. That supports the position that if access is restricted for younger people, they are less likely to smoke, which goes back to the point that most people are law-abiding citizens and wish to follow the rules. Restricting sale also emphasises the dangers to people in their own minds, which is a point we will come back to in the discussion on vapes.

[Dr Caroline Johnson]

Let me move on to amendment 18, which is linked to amendment 17. It would leave out the words

“shown on that document was before 1 January 2009”

in clause 1 and insert the words

“showed that the purchaser was not under the age of 25”.

This is a technical point to allow the ID to reflect the principle of who is allowed to purchase tobacco. It is a broad shift. In the view of the proposer, transitioning from a birth date-specific restriction to a general age-based restriction simplifies compliance for sellers by focusing on the current age. In my view, it actually makes it more complicated, because there is more mathematics to do in one’s head. If one is fortunate enough to work in a pharmacy, as the hon. Member for North Somerset discussed, it requires two dates in the computer, which is more difficult than one.

Sarah Bool: I understand the point about the potential complexities, but there is a risk on enforcement that whenever anyone goes to buy cigarettes in the future, they will have to have some form of ID. That creates a distortion: someone could just be assumed to be over the age of 25, whereas under the Bill they will always have to be checked.

Dr Johnson: My hon. Friend is making a point about ID for purchasing things. It is reasonable to ask people to have ID when they go and collect a parcel, to make sure that they are getting a parcel for the right address. In my view, it is reasonable—I do not think my hon. Friend voted for it, but I suspect she would support the idea—to provide ID in order to vote to maintain our democratic process. Having ID to buy an age-restricted product does not seem overly burdensome. I accept that it makes it more difficult for people below that age, because it provides a hurdle for them to overcome, in terms of potentially accessing some sort of fake ID. Most people want to obey the law, and that is an extra step in breaking the law that they would have to take, which they would not wish to do. I think we may have to agree to disagree on this point.

Amendment 22 would amend clause 5, substituting the words

“born on or after 1 January 2009”

with the phrase

“under the age of 25”.

That is consistent with the changes that would be made by amendment 17 to clause 1. Amendment 23 would make a similar amendment to clause 6, again changing the date. The other amendments in this group are amendments 24, 44 and 48, which is in Welsh—I trust that it says the same thing, but since I do not speak any Welsh, I cannot be clear on that. This group also includes amendments 46, 47 and 39 to 43. Again, they all seek to change the thrust of the Bill away from a rolling smoke-free generation to a fixed age of 25.

12.30 pm

The same applies to amendments 25, 26, 28 to 33, 38 and 49. In summary, we have had the opportunity to debate the amendments tabled by the hon. Member for Epsom and Ewell, who is not a member of the Committee, but I do not wish to push them to a vote.

The Chair: Before we proceed, I shall not be in the Chair this afternoon, but I would be grateful if the shadow Minister could indicate whether she wishes to press amendment 18 as well as amendment 17, whether it is only amendment 17, or whether she may decide in due course not to press either. That is a matter for later, but it would be helpful to know if she wishes to press either.

Dr Johnson: It was my intention to ensure that the debate, even if it is on issues I do not support, got a hearing and that Members of the House who wished to contribute were able to do so. The purpose was to allow the amendments to be debated. I do not intend to push any of them to a vote.

Jack Rankin: I would like to support those amendments, if that changes anything, Sir Roger.

The Chair: We will have a debate first. The hon. Gentleman is in a position to push the amendment to a Division if he chooses to do so, but not yet.

The only other thing I need to know before I call the Government Whip, which I assume is my next move, is to say that, ordinarily, when I am in the Chair, we have a thing called a clause stand part debate at the end of each clause—on the question that the clause, as amended, if it is amended, stand part of the Bill. I have always taken a fairly relaxed view: you can have a debate on clause stand part or you can debate clause stand part during all the amendments, but you cannot do both; you cannot have two bites of that cherry and just say the same thing all over again.

Ordinarily, under these circumstances, my impression already would be that by the time we have been through all these amendments, there would be no need for a clause stand part debate. I would then move straight to putting the question that the clause stand part of the Bill, but—I am afraid it is a big “but”—in this instance, the clause stand part debate is linked with two new clauses and two more stand part debates, so we will have to have it at the end. I would urge—and I expect that my colleague who takes over in the Chair this afternoon will wish to observe this—that we do not repeat the arguments that have been made on clause 1 stand part during the bigger debate at the end. I hope that is clear. If not, Members should, again, seek advice.

Ordered, That the debate be now adjourned.—(*Taiwo Owatemi.*)

12.34 pm

Adjourned till this day at Two o’clock.