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22 April 2025

Dear Edward,

**Environmental Protection (Injurious Articles) (Fixed Penalty Notices and Miscellaneous Amendments) (Scotland) Regulations 2025**

Thank you for your letter dated 11 March 2025 concerning the above instrument. I am happy to provide further information in relation to your points raised. Please accept my apologies for the delay in getting this response to you.

You highlighted concerns that large-tank vapes may not be covered by the ban, and there may be other unintended loopholes in the Regulations.

If a large-tank vape contains a coil which cannot be replaced, it will be considered single-use and not reusable, regardless of how it is advertised. The definition of a single-use vape is set out in regulation 3 of the Regulations. The definition requires that the coil must be separately available and replaceable in the normal course of use, otherwise the vape will be considered not to be rechargeable, and therefore will be single use. This definition has taken into account feedback from Trading Standards and other stakeholders, and is consistent across the UK. We have prepared guidance for enforcement officers and are working with UK counterparts to ensure there is practical business guidance on the definition.

You also requested information on how enforcement will operate in practice, including the roles and responsibilities of enforcement officers and how compliance will be monitored.

Enforcement will be undertaken by local authority enforcement officers, normally Trading Standards Officers. They will be authorised by the local authority to determine whether an offence has been or is being committed. Enforcement officers are also responsible for enforcing existing tobacco and vapes regulations, including the seizure of illicit vapes.

Enforcement officers will be authorised by local authorities to exercise the enforcement powers contained within the Part 3 of the Environmental Protection (Single-use Vapes)

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(Scotland) Regulations 2024, including the new powers on fixed penalty notices inserted by the Environmental Protection (Injurious Articles) (Fixed Penalty Notices and Miscellaneous Amendments) (Scotland) Regulations 2025.

These include the power to enter premises to investigate; to issue fixed penalty notices for offences under the regulations; and to report cases to the Crown Office and Procurator Fiscal Service for prosecution.

Officials are engaging with Trading Standards to determine how compliance will be monitored. Further details will be published in the Strategic Environmental Assessment Post-Adoption Statement once the ban has come into force.

Yours sincerely,

**GILLIAN MARTIN**

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