

## **Explanatory Memorandum to The Environmental Protection (Single-use Vapes) (Wales) (Amendment) Regulations 2025**

This Explanatory Memorandum has been prepared by the Climate Change and Rural Affairs Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Environmental Protection (Single-use Vapes) (Wales) (Amendment) Regulations 2025. I am satisfied that the benefits justify the likely costs.

**Huw Irranca-Davies MS**

**Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs**

**18 June 2025**

## **PART 1**

### **1. Description**

- 1.1 The Environmental Protection (Single-use Vapes) (Wales) (Amendment) Regulations 2025 (“the amending Regulations”) amend The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024 (“the 2024 Regulations”) which came into force on 1 June 2025. The amending Regulations confer a new power, to allow local authority (“LA”) enforcement officers to retain seized products for the purposes of disposing of them as waste as directed under Regulation 12 of the 2024 Regulations.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1 In accordance with s.11A(4) of the Statutory Instruments Act 1946, the Llywydd has been notified the amending Regulations do not adhere to the 21-day convention.
- 2.2 Under s.140(6) of the Environmental Protection Act 1990 (“EPA 1990”), the Welsh Ministers are required to adhere to notification requirements for the amending Regulations. These have been adhered to and resulted in a response from Natural Resources Wales regarding the disposal of seized vapes. No amendments were required to the legislation. We note that under s.140(7) of the EPA 1990, the Welsh Ministers may choose not to observe the notification requirements if there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.
- 2.3 The Welsh Ministers have considered s.140(7) and concluded that the absence of the new power for the short period of time whilst the notification requirements are adhered to would not create an imminent risk that serious pollution of the environment would be caused. In the absence of a power to retain products in order to dispose of them as waste as directed, the Welsh Ministers would not expect LA enforcement officers to dispose of these products in such a way as to cause serious pollution of the environment. However, the Welsh Ministers consider that it is important to ensure that those regulating the ban have all the powers they need to be fully effective from the earliest possible date. This is why the amending Regulations observed the notification requirements, but did not adhere to the 21-day convention.

### **3. Legislative background**

- 3.1 The Welsh Ministers make the amending Regulations in exercise of the powers conferred on them using powers under s.140(1)(c) and (d), and 3(c) of the EPA 1990.

3.2 The EPA 1990 allows the Welsh Ministers to prohibit the use, supply, and storage of specified articles to prevent them from causing pollution of the environment and harm to the health of animals. It also allows them to confer powers corresponding to those under section 108 of the Environment Act 1995 on authorised persons, including the retention of documents which are seized.

3.3 The amending Regulations are made under the negative procedure.

#### **4. Purpose and intended effect of the legislation**

4.1 The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024 (“the 2024 Regulations”), made on 27 November 2024 subject to the affirmative procedure, banned the supply of single-use vapes (both the nicotine and non-nicotine versions) and came into force on 1 June 2025.

4.2 Regulation 10 of the 2024 Regulations contains powers of entry and examination, including the search for, seizure and retention of single-use vapes, and components of single-use vapes.

4.3 Regulation 12 enables the Welsh Ministers to direct LA enforcement officers to dispose of single-use vapes seized and retained, as waste.

4.4 During the complex UK wide drafting process, a specific provision was omitted from the 2024 Regulations. This provision would empower regulators to retain single-use vapes, that they have seized, to comply with a direction under Regulation 12. This means that although the Welsh Ministers can direct LA enforcement officers under Regulation 12, the LA enforcement officers lack the ability to retain single-use vapes, that they have seized, in order to comply with such a direction. These amending regulations confer the powers necessary for LA enforcement officers to enable them to fully comply with a direction, and to align with similar provisions included in the equivalent English and Scottish regulations.

#### **5. Consultation**

5.1 As the proposals given effect to in the 2024 Regulations were subject to a formal public [consultation](#), and the provisions of those Regulations were subject to the scrutiny and approval of the Senedd, a consultation for the amending Regulations did not take place.

#### **6. Regulatory Impact Assessment (RIA)**

6.1 The RIA which was published alongside the 2024 Regulations considered the enforcement powers available to Local Authorities, and is available [here](#).