New Nicotine Alliance calls for repeal of EU e-cigarette regulation and snus ban

written by Clive Bates | 2 October 2016



New Nicotine Alliance proposes that the forthcoming Great Repeal Act is used to repeal pointless, burdensome and restrictive EU regulation of e-cigarettes and to lift the illegal, unethical and anti-scientific ban on snus. This may be a 'quick win' from Brexit at the point of the departure of the UK from the EU. The government will need to show that there are at least some benefits.

The Great Repeal Act will not actually repeal that much of substance. It will mainly just convert the vast body of EU law that applies in the UK to domestic law. But there is scope for some crowd-pleasing repeals of especially poor regulation, of which the TPD provisions related to tobacco harm reduction are the most obvious candidate.

Here is the NNA letter to Secretary of State, Jeremy Hunt.

View letter as a PDF.

Rt. Hon. Jeremy Hunt MP
Secretary of State for Health
Ministerial Correspondence and Public Enquiries Unit
Department of Health

Richmond House
79 Whitehall
London
SW1A 2NS

2nd October 2016

Dear Secretary of State

Re: Great Repeal Bill: proposal to repeal EU e-cigarette regulation and snus ban

We recognise that the primary purpose of the Great Repeal Bill to be announced in the 2017 Queen's speech is to bring most of the body of European Union law into UK law substantively unchanged. However, we hope that ministers will consider actually repealing some of the worst examples of European Union Law, especially where a domestic approach would have multiple benefits to health, wellbeing, commerce, personal freedom and competitiveness.

To that end, we wish to propose that the government repeals those parts of the European Union Tobacco Products Directive (TPD) 2014/40/EU and the related Tobacco and Related Product Regulations, 2016 that regulate electronic cigarettes and novel tobacco products, and prohibit oral tobacco. These should be replaced with a light-touch domestic regulatory regime.

This would allow England, and the Devolved Administrations if they choose, to develop world-leading exemplary policies in tobacco harm reduction – a public health strategy endorsed by Public Health England, the National Centre for Smoking Cessation and Training and The Royal College of Physicians.

The relevant sections are respectively:

- ***Electronic cigarettes:*** *TPD Article 20 and The Tobacco and Related Products Regulations 2016 Part 6, Part 7, and Part 8 as it applies to e-cigarettes.*
- ***Novel tobacco products****: TPD Article 19 The Tobacco and Related Products Regulations 2016 Part 4 Section 22.*
- ***Snus ban:*** *TPD Article 17 and The Tobacco and Related Products*

> *Regulations 2016 Part 3 Section 17 and Part 8 as it applies to smokeless tobacco. Note that repealing this could possibly resolve the current legal case against the UK government challenging the snus ban with what appear to be unanswerable legal and public health arguments.*

The overall policy aim should be to bring the regulation of nicotine products that have at least 90% lower risk than smoking under a purpose-built domestic regime. This would allow removal of those aspects of the European Union Tobacco Products Directive that will have perverse unintended consequences or amount to a regulatory protection of the incumbent cigarette trade. Most of these parts of the Directive consist only of pointless restrictions, burdensome obligations that achieve little, and costs that will cripple many small and medium sized UK businesses. We can certainly do much better with domestic regulation that focuses on consumer protection and realising public health opportunities. On 26 April 2016, we wrote to the Department's officials detailing concerns with the Directive and making proposals for the next Tobacco Plan. We attach that letter for background.

That would be a worthwhile way to recognise the benefits of the UK's exit from the European Union and likely to be popular with the nation's 2.8 million vapers. We suggest you consider our proposal as a potential 'quick win' for Brexit.

We would welcome the opportunity to discuss this proposal both at a political level and with officials. Please let us know when and if it would be possible to meet.

Yours sincerely

Sarah Jakes	**Clive Bates**
On behalf of New Nicotine Alliance	Associate, New Nicotine Alliance

The New Nicotine Alliance advocates for consumer interests in new nicotine technologies and is completely independent of commercial interests in the relevant industries (e-cigarettes, tobacco, pharmaceutical companies, etc).

Clive Bates is Director of Counterfactual, which is a sustainability consulting and advocacy practice. He is an Associate of the New Nicotine Alliance. He has no competing interests with respect to any relevant industries.

Attachment: *Letter to Department of Health – Assessing and mitigating unintended consequences of policies for vapour technologies and other low risk alternatives to smoking, 29 April 2016.*