



HOUSE OF LORDS

Select Committee on the Constitution

House of Lords
London
SW1A 0PW

Tel: 020 7219 1228
constitution@parliament.uk
www.parliament.uk/lords

Baroness Merron

Parliamentary Under-Secretary of State for Patient Safety, Women's Health and Mental Health

Department of Health and Social Care

30 April 2025

Dear

Dea Gillian,

Tobacco and Vapes Bill

I write on behalf of the Constitution Committee about the Tobacco and Vapes Bill.

Our concern is in relation to the powers in clauses 13, 14 and 102, which allow for the creation of new criminal offences by regulations. Unlike other offences which are created in the Bill, there is no certainty about whether the offences created by regulations under these clauses would include a defence of reasonable excuse.

We have previously raised constitutional concerns about the creation of new offences via regulations. In this instance, we acknowledge that the regulations would be subject to affirmative procedure and that the maximum penalties for the offences are set out on the face of the Bill. Therefore, we are writing specifically to ensure that the offences created by these regulations will have sufficient safeguards.

We consider that certainty over the availability or otherwise of a defence of reasonable excuse is especially important when the requirements of the offences are not set out on the face of the Bill. **Please can you provide assurance that any criminal offences created by regulations under these clauses will include a reasonable excuse defence? We recommend that, in doing so, the Bill be amended to clarify this position.**

Yours,

*Yours ever,
Tom*

The Rt Hon. Lord Strathclyde CH
Chair of the Constitution Committee